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European Union Studies Association

EUSA REVIEW

From the Chair

Liesbet Hooghe

WELCOME TO THE FIRST online edition of the EUSA Review! This version has been sent to every current EUSA member. We will continue to upload past issues on our website. Going online gives us greater flexibility in length and format, and it allows us to introduce interactive features. It is also more economical and environment–friendly.

This edition contains an interview of European Commission President José Manuel Barroso by John Peterson (University of Edinburgh) in July of this year. Those of you who attended the EUSA conference dinner in Montreal will remember President Barroso's address to EUSA members. Barroso—an EU scholar turned practitioner—pleaded for a lively dialogue between theory and praxis. John Peterson took Barroso at his word, and asked him to read and comment on five scholarly pieces which EUSA members had selected. Barroso reflects on these pieces and more in an exclusive interview.

Two interest sections—law and political economy––report in this Newsletter. From the Law section, there is an article by Karen Alter on Euro-Law associations and European integration. In the Political Economy section Erik Jones reports on the vices and virtues of size of states. Andy Smith has coordinated several book reviews. And finally we introduce one of our most prominent sister organizations, the University Association for Contemporary European Studies. UACES kicks off a new feature, an "EU Studies Corner."

In the previous EUSA Newsletter I made five proposals for revitalizing EUSA: one, decentralize the program committee; two, lift EUSA beyond area studies; three, accommodate more conference participants through poster sessions or ASA–style roundtable sessions; four, stimulate group discussion and networking through APSA–style working groups; and, five, reach out through teacher–workshops. I would like to renew my invitation to respond. Please don't be shy! Send your ideas/ proposals/ comments to eusa@pitt.edu. Your comments will appear in the next newsletter.

Liesbet Hooghe

EUSA Review Forum

Q and A with President Barroso

FOLLOWING HIS PLENARY ADDRESS to the EUSA biennial conference in Montreal in May, the President of the European Commission met with John Peterson of the University of Edinburgh on 17 July 2007 as part of the 'José Manuel Barroso = Political Scientist' initiative launched within the EU-CONSENT Network of Excellence. Their conversation focused on 5 major pieces of academic research on European integration chosen in an open poll of EU scholars. President Barroso's 'reading list' consisted of:

1. Liesbet Hooghe and Gary Marks "Unravelling the Central State, but How?" American Political Science Review, 2003
2. Ian Manners "Normative Power Europe" Journal of Common Market Studies, 2002
3. Andrew Moravcsik The Choice for Europe (Chapter 1) Cornell University Press, 1998
4. Mark Pollack "Delegation, Agency, and Agenda Setting in the European Community" International Organization (1997)
5. Fritz Scharpf "The European Social Model: Coping with the Challenges of Diversity" Journal of Common Market Studies (2002)

The full transcript of the interview (along with full data on the open poll results) is available at http://www.eu-consent.net/DEFAULT.ASP). An excerpt from the interview follows.

[In his answer to a previous question, President Barroso spoke of 'the issue raised by [Fritz] Scharpf – the question about asymmetry between economic and social Europe'.]

JP:

You mentioned Fritz Scharpf's piece: he's written very perceptively on the European social model and was presented with a lifetime achievement award at the same [EUSA] conference at which you spoke in Montreal. I asked him and all of these authors what I should ask you, and he wondered – and here we're asking you to be a visionary – could you imagine a day when we might have common European minimum standards for social assistance and, say, minimum wages (perhaps defined relative to each country's GDP or average wage level).

EUSA Review

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The simple question, I guess, is can social Europe ever be Europeanised in that way?

JMB:

It depends on the decisions of the member states. We certainly would not object. But, not in the foreseeable future, honestly, because today some of the member states in Europe – not only the new ones, but also some of the older ones – resist the temptation to harmonize in principle. And this is very, very deep. So what we can do, in fact, is what we are doing so far.

In terms of principles, just look at the debate we've had on the Charter of Fundamental Rights. The opposition coming from Britain was because of the social aspects of it, we know that, more than any other consideration. Yes, we can agree on some principles, but to have regulations that impose a minimum set of standards that are very different from the standards that we have now? Honestly, I don't think that is likely because we don't have the consensus for that at the European level. And some people don't think it would be desirable even if it were possible, and there are contradictory reasons for that. Some of them are opposing because they don't want to go further with integration, and it is not a question of them being more or less social. It's about giving more or less to the European Union and concerns about the principle of subsidiarity – that's a factor. And in other cases, it's because of competitive reasons and concerns about competitive advantages of their countries in terms of the fiscal systems and the labour legislation they have. So what we can use are soft instruments: from benchmarking to the Open Method of Coordination, which Fritz Scharpf writes about in his article.

By the way, since he wrote this article, we've made a lot of progress, since it was written during the initial phase of the Lisbon strategy. Now, in fact, we have enhanced this Open Method of Coordination regarding Lisbon because now we have national reform programmes – OK maybe it's not enough, according to some – but it is the first time ever in economic history that you have 27 countries willing to submit their national reform programmes at the same time to a common, independent institution. We have the national reform programmes, we have the so-called Mr or Mrs Lisbon – so, a special appointment in all of the member governments in Europe, sometimes at a senior government level; so a sort of focal point – and we have the reporting to Brussels with some kind of collective monitoring. So, we have reinforced the Open Method compared to the initial phases of Lisbon, including on social matters. For example, we now have – it was our initiative – a debate on 'flexicurity' based on our communication and, in fact, we are pushing the member states to reflect on whether

we can do more and come up with new ideas for reform of their social systems. Some kind of benchmarks have been established. But, to answer very candidly your question, I don't think in the foreseeable future that we will have this kind of hard legislation, if I may use that word, or regulation from Brussels.

JP:

Well, we're welcoming you back to the academy today. But you're also the President of the European Commission. You mentioned the Lisbon process and monitoring and benchmarking, none of which is about the Commission proposing legislation using its traditional monopoly on the right of initiative. You've seen our colleague Mark Pollack's piece, which tries to identify both the sources of the Commission's power and authority, as well as the limits on that power and authority. Do you think the Commission has lost power and authority over time?

JMB:

No. I think it has been, indeed, reinforced. And for a very simple systemic reason. Today we have 27 member states plus the Commission – that's the composition of the Council. So what happens is that the more you enlarge, the more the institutions at the centre naturally have a more important role even in discussion. I can make the comparison because I was Foreign Minister in the early 1990s and was participating in many European Council meetings then. When we were 12 member states, sure, the Commission was making a very important contribution but then the member states – at the European Council level – could change positions more easily and be more decisive in the discussion itself. Today, together with Council Presidency, the Commission really helps set the agenda. And the conclusion is that it has a much greater say in the shaping of the outcome because with 27 Member States and the Commission around the table, honestly, you cannot follow with the same degree of attention 28 speakers. You cannot. So you have to concentrate on what comes as an initiative from the Presidency and the Commission. The central role of the Commission is, indeed, reinforced. And it is reinforced also because of the new member states: they look at the Commission as the honest broker and the fair partner. So this is why the Commission gets, I think, more attention today and why the focal point dimension is reinforced.

The dimension factor, from that point of view, works in favour of European decisions. This is sometimes counterintuitive. Some of the analysis that I've seen assumes that it is now much more difficult and much more complex because we are too many. Yes and no. In a way, it is easier. For instance, in the Commission itself: in some ways decision-making is easier because to get a majority against a proposal is much more difficult. Let's put this frankly and put this almost mathematically: if you have around the table 12 or 27, if one makes a proposal it is easier to have a minority against – a strong minority against – if you are 12 than if you are 27. So if a member of the Commission comes with a proposal that is supported by the President of the Commission, to find a strong majority that objects is very difficult. Paradoxically, it is easier to take a decision now. So far, we have not had a single vote during the present Commission – but that is another story. To tell you the truth, I believe the same reinforced role applies to the Council. The European Council has become a more decisive institution in terms of orientation, giving impulse, putting things in motion. It may also become easier to take decisions in the Council at the level of Heads of State and Government, particularly if the Presidency and Commission work well together.

But the role of the Commission is being reinforced now, with 27, compared with previous years. It is true that we have had some rough history and in the past there were some problems that, honestly, were used by some to undermine the very authority of the Commission. Of course, I'm not best to judge this – I am not speaking here as someone who is politically objective – but when I make a serious introspection and look at the role of the Commission, then I believe it's the real 'stable' power in the European Union. Precisely because we now have more countries in the EU, we need to reinforce the institutions. It's a systemic demand. Of course, we need to see afterwards what is the concrete outcome in terms of issues. But systemically I think the role of the Commission is reinforced by enlargement.

JP:

One of the most important works on European integration is Andrew Moravcsik's The Choice for Europe, an excerpt from which you have read. Following Moravcsik, do you think European integration can be explained as a result of rational choices made by national political leaders?

JMB:

First of all, I know the works of Moravcsik and have met him personally once. I think he has made a very interesting contribution both to EU studies as well as the debate about Europe. And not just with his book but also a number of articles, including a very interesting one that I remember in particular in Prospect magazine about the constitutional settlement. I want to congratulate him not just for his academic work but also his contribution to the debate. Now, if you ask me if I'm an intergovernmentalist or a supranationalist, I think we have both. If I understand him correctly, I think Prof Moravcsik's point of view is that we have rational

choices and institutional rational choices. It starts with national preference formation, then interstate bargaining followed by institutional choice…

JP:

Good student!

JMB:

…but he explicitly says that he prefers to speak about a framework instead of a model or theory. This is certainly a very interesting perspective but it is not the perspective. Why? If I want to understand what's going on about any subject at play in Europe, the logical place to start is to ask: what does Germany or France or Britain want? What does Portugal want? There clearly is a system of national preference formation in each state, which is important to know and understand. It affects how states negotiate with each other and how much and what kind of shaping of the result can be done by the EU institutions. That is a point of observation, and very interesting one from a realist or classic international relations point of view. From that perspective, it is probably the most accurate.

But we can also take another perspective. We can also think systemically – we can look at the system and ask how it integrates contradictory demands. The problem with the choice of perspective, as you know, is that the perspective also creates sometimes the topic, the subject, the language, the discourse – this is one of the problems we have in social sciences generally. The choice of terminology is not neutral, is never pure. That is why we need to take different perspectives and to have intellectual mobility. For me, as a scientific or academic work, the book of Moravcsik brings me more knowledge and brings to my attention factors that I had not understood or thought about. From that point of view, Moravcsik's work is inspiring. But if you ask me my view of what academic concept tells us the most about political and social reality, it is the idea of unintended consequences. I think it was Weber who said there is a very important fact of life in politics, and that is that the final result very rarely corresponds to original intentions. And in the EU, this is even more true. If one country wants something, it has a strategy. But that strategy often conflicts (or may correspond with) 26 other strategies. And the Commission and Parliament also have their strategies – and even inside the institutions, there are even different strategies. Take the European Parliament – you have committees within the EP that are highly autonomous, such as the budgetary committee. So we are talking about a highly differentiated, highly complex, multi-layered system of decision-making in which it is almost a miracle when we arrive at a final outcome or resolution that is exactly as it was originally planned. The EU lacks a clear system of leadership. There is no directoire, there are only shifting coalitions. I prefer to look at the EU as a very complex reality or system in which governments make what they believe to be rational choices but that afterwards enter into a highly complex system of unintended consequences and feedback, and in which the institutions themselves have a lot of autonomy.

One of the other articles talks about the autonomy of the institutions – the Pollack article – and from my own experience, the EU's institutions are far more autonomous than institutionalist theory (much of it focused on the American institutions) would lead one to believe. Much, much more. Of course, we are acting in a system in which the member states are the most powerful stakeholders. I'm too young to write my memoires, but I have already had some of the heads of state or government asking me or pressuring me, saying you have to do this, and we did exactly the opposite….

JP:

Can't wait for that book!

JMB:

We are independent. And the institutions are more independent than people usually think. Take the example of DG Competition, and its well established track record of independence. The level of sophistication and autonomy is straight out of Almond and Verba. They consider that the level of autonomy of the system (amongst other things) is a signal of development. From that point of view, the Commission is one of the most developed political and administrative systems in the world. The Pollack article is very interesting where it speaks of the 'in theatre' agent – I would suggest that we are actually more autonomous than this article suggests. But of course we are working in a system in which the constraints exist systemically but afterwards in concrete decisions, the decision is to a large degree autonomous.

JP:

Is there any plausible rational choice explanation for the Reform Treaty?

JMB:

Yes, because of the costs of not having a Treaty. One of the biggest reasons why we need a Treaty is to put to an end to all this discussion about the Treaty.

JP:

So it is a rational thing to agree to end that discussion.

JMB:

It is a rational thing. There is, of course, one view held by those who were less enthusiastic about the Treaty

that 'oh, the Treaty is not important, the important things are delivery for the citizens'. I agree, that's part of my own discourse, about a Europe of results. But precisely because of that: please, help us solve it, because otherwise we're going to spend 4 more or 5 more years discussing the same institutional issues. It's a rational thing to have a Treaty. Apart from that, I believe the Treaty we've agreed represents progress principally in terms of clarification of competences. It is an improvement on the current situation in terms of institutional decision-making, qualified majority voting, also in the external field if we create a high representative who is also Vice-President of the Commission, it will give us the opportunity to do precisely what others are asking of us: to act more coherently globally as the EU.

John Peterson *is a professor in the School of Social and Political Studies at the University of Edinburgh*

Introducing UACES: Europe's Leading European Studies Association

UACES - the University Association for Contemporary European Studies - has pioneered European Studies since 1969. Based at University College London, our members are drawn from across Europe and beyond. We are highly interdisciplinary (principally political science, law, economics, history and sociology), and also have an active practitioner membership, for whom we are undertaking new initiatives such as our lunchtime seminar series in Brussels

In terms of research and networking opportunities, we have a new on-line Directory – www.ExpertonEurope.com. This allows members to find research partners, and also enables non-academics to trace experts on particular issues when they need advice.

Our Annual Research Conference is a major academic event: the 2007 conference in Portsmouth attracted roughly 230 delegates from 22 countries, and in recent years the conference has been held in Hungary, Croatia and Ireland. The 2008 venue is Edinburgh; the 2009 venue is Angers, in France's magnificent Loire Valley.

We also fund conferences, workshops and study groups, considering bids three times annually. Our Scholarships programme enables scholars, and particularly research students, to undertake fieldwork in a country other than their place of domicile. Our work with the graduate student community is deepened by and through our Student Forum, which focuses on both research and professional development.

Finally, UACES publications offer a range of opportunities to both established and up-and-coming scholars to share their research findings. JCMS: Journal of Common Market Studies, of course, is a UACES journal, but there is also the Contemporary European Studies book series with Routledge and the Journal of Contemporary European Research, an on-line peer-reviewed journal.

Regular reports on UACES activities (with features on research, events, issues for the profession, details of EU funded research networks and projects, new publications and the Student Forum) can be found in our quarterly newsletter, UACES News. Both back copies of this and more information about future events, can be found at www.uaces.org.

I very much hope to welcome you to a UACES event in the future, and wish all EUSA members a successful academic year 2007-8.

Alex Warleigh-Lack
Chair, UACES

INCLUSION IN LEADING DATABASE OF EXPERTISE ON EUROPEAN INTEGRATION

UACES, the University Association for Contemporary European Studies,operates a successful, multi-disciplinary and international on-line Directory of expertise on European integration, www.ExpertonEurope.com. Used by academics to find research contacts, and by both policy-makers and the media to find advisers on EU issues, it is a valuable resource. UACES would like to offer free inclusion in this directory to EUSA members, for a trial period lasting until December 2008. To join the directory for this free trial, email the EUSA office (eusa@pitt.edu).

Jurist Social Movements in Europe: The Role of Euro-Law Associations in European Integration (1953-1975)[1]

Karen J. Alter

IT IS WELL ESTABLISHED that the European Court of Justice transformed the original European Community legal system through the creation of revolutionary legal doctrines, and that this transformation created the bases for the ECJ's expanded political role in European politics (Weiler 1991; Burley and Mattli 1993; Alter 2001). This essay contextualizes these well-known legal developments, arguing that the isolated "entrepreneurs" discussed in the literature are really part of a transnationally connected social movement. I argue that the jurists movement contributed three elements to legal integration in Europe: 1) the jurist movement created cases the ECJ could use for institutional development; 2) being part of a movement emboldened individual actors because it reassured them that others would play their part in promoting legal integration; 3) the movement created the appearance of momentum, which muted critics. I then examine legal integration absent a social movement by examining the ECJ's separated at birth twin—the Andean Community Tribunal of Justice. I conclude by speculating that transnational law may need social movements to flourish.

1. National Euro-law Associations and the Fédération Internationale de Droit Européen (F.I.D.E.)- 1952- 1975

Euro-law associations formed in each European Community member state in the 1950s up through 1961.[2] Their nearly simultaneous emergence was not directly coordinated, but it was a natural outgrowth of practices within national legal communities, given European diplomacy in the 1940s and 1950s. Lawyers had been actively involved in national and international legal developments in the 1940s and 1950s. Antonin Cohen and Mikael Rask Madson note that many ties held this "European legal field" together— members had been active in the resistance, worked together in national governmental ministries, participated in the construction of the legal order for the Council of Europe, and participated in drafting the United Nations Charter, the Council of Europe, and the European Coal and Steel Community (Madsen and Vauchez 2005).

Forming an organization dedicated to a particular legal topic was hardly novel and in some respects the activities undertaken by Euro-law associations were within the normal range for the European legal profession. But Euro-law associations had a specific political objective of promoting the larger European project of integration (which included the work of the Council of Europe). The French *Association Française des Juristes Européen* (AJE's) stated goal was to "help those outside of the organization understand the necessity of creating Europe and to identify the role jurists can and must play in the creation of a United Europe."[3] The common objectives united the members into a largely homogenous "policy community" all working in the same direction (Schepel and Wesseling 1997).

Euro-law associations were immediately successful in organizational terms. In a relatively short period of time national associations attracted an active group of participants which included important legal and political figures. The *Wissentschaftliche Gesellschaft für Europarecht* (WGE) reached 200 to 300 members by the early 1960s,[4] with a core membership of 30-40 practioners including academics, in house lawyers for large corporations, members of European and national governmental institutions, and interested professionals. By 1963 the AJE had seventy active members, including an Avocat General of the ECJ and the Secretary of the European Commission on the Rights of Man (Maurice Lagrange), 34 lawyers, 11 French judges, 5 members of the Conseil d'État, 8 professors of law, the president of the *Tribunal de commerce de la Seine*, and a variety of notoraries from government and the private sector (Vauchez 2007b). In Belgium association meetings also regularly drew fifty participants.[5] With financial support from the European Commission, organizations were able to host a number of conferences which were well attended. Hans Peter Ipsen identifies forty-one scholarly meetings of the WGE, FIDE and a number of institutes from 1961 to 1973 (Ipsen 1972).

Scholarly associations became fonts for briefs about European legal developments. Within a little more than a year of the ECJ's seminal Van Gend en Loos decision scholars published at least 13 notes in national legal publications discussing the ruling, many if not all of which were written by association members. That there were so many legal venues to report in is already a sign of the existing legal infrastructures European law associations could use to their advantage. With seed money from the Commission, associations founded European law journals including: *Rivista di dirritto europeo* (1961), *Common Market Law Review* (1964)—*Cahiers de droit européen* (1965), *Revue trimestrielle de droit Européen* (1965), *Europarecht* (1966).[6] The journals provided a venue for discussion of European legal issues (including human rights law).

The longer essay documents the extensive Com-

mission strategies to facilitate the work of Euro-law associations, efforts that allowed associations to be more active than they otherwise could have been. Commission and ECJ outreach efforts also lent momentum to Euro-law social movements. ECJ Justices' participation in association events gave an insider air of importance to meetings. Association members could learn about new legal developments before they were known, query Commission officials regarding their interpretations of the law, and get a sense of what types of cases would be helpful for the ECJ. Members could also offer opinions on developing doctrine, and thus see themselves as part of a larger historical moment. Through these connections, and the prodding of members of Community institutions, association members were encouraged and inspired to take their project into their offices, and thus to directly participate in the process of European legal integration.

2. The Impact of Euro-Law Social Movements On European Legal Integration

Jurist social movements facilitated legal integration. It was not so much in the ideas these associations advocated, which were never fully embraced by outsiders (Alter 2001), but rather the cumulative effect achieved as Association members used their offices to aid the building of a European legal system. Because members were writing, litigating, or judging in their individual capacities, many have referred to Euro-law pioneers as "legal entrepreneurs." Such a view underestimates the importance of individuals being part of a larger movement. Working together as associations contributed three concrete elements to promoting legal integration.

1. Creating test cases for the ECJ to use to develop legal doctrine. The vast majority of cases referred to the ECJ in the 1960s concerned the complicated formula for calculating social security benefits for migrant workers and the classification of customs categories. These spontaneous cases were not per se helpful in building the ECJ's authority as an important legal and political actor. The references asking constitutional questions, and thus provoking rulings of doctrinal significance, took orchestration by association members.

The longer paper documents how many of the early legal integration rulings were created, framed, or argued by pro-Europe association members. It also shows how the Commission helped mobilize lawyers and build support for substantive European Community rules by calling for input on draft legislation for a variety of legal issues—common patent rules, tax rules, agricultural policies, trade in services etc. The Commission also used association meetings to leak to lawyers details of the compromises it made. For example, the ECJ's Lütticke ruling came from an infringement suit that the Commission had settled out of court.[7] The same situation occurred a number of years later where a German lawyer had been told that the Commission had settled a case involving the French liqueur Annisette, even though Commission officials believed the German law in question remained illegal. Gert Meier, the in-house counsel for Rewe Zentrale, worked with food industries to find cases that would work. He simply changed the type of liqueur and brought his own test case, which ultimately became the ECJ's famous Cassis de Dijon decision establishing the legal precedent of mutual recognition. In total Meier brought twelve cases that were ultimately referred to the ECJ. Meier estimated that national judges referred only 10% of the cases where he argued that European law was relevant. But, where Meier's goal was to have a case referred to the ECJ, Meier estimated that he succeeded ninety percent of the time because he would bring the case to sympathetic judges. Sometimes judges even asked Meier to find cases to address issues. These types of requests, he noted, usually were made at FIDE, WGE and *Gesellschaft für Lebensmittel* conferences.[8]

2. Associations served as the ECJ's kitchen cabinet, inspiring and emboldened association members. The term "kitchen cabinet" refers to President Andrew Jackson's practice of circumventing his real cabinet (the one approved by the Senate) to instead plan policy with like-minded friends. National associations served this function, bringing together like-minded individuals who were in positions to facilitate legal integration. Working collectively was especially important given that the ECJ's revolutionary doctrines cut against prevailing international law interpretations, and given that in the 1960s national political leaders were challenging the supranational aspects of European integration.

It took not only audacity and courage, but also a sense that one's behavior would gain broader support for the ECJ to issue its Van Gend and Costa rulings. Hans-Jürgen Rabe recalled a conference in Vienna, shortly after the ECJ's Van Gend en Loos decision where conversation kept returning to the Van Gend ruling. Even though the Advocat Général in the case had pointed out that a finding that European law created direct effects implied that European law was also supreme to national law, Rabe recalls that the ECJ's president André Donner vigorously denied the link between direct effect and supremacy. Rabe interpreted Donner's denial as an effort by the ECJ to tread carefully. Inspired by the exchange, the WGE's leadership put the issue of supremacy on the agenda for its next meeting, held July 10, 1964. The date proved highly fortuitous. On 24 June 1964, just two and a half weeks before the WGE's conference, the ECJ's Advocat Général Maurice

Legrange made his oral argument on the Costa case. Lagrange supported what was a fairly widespread position that national judges should find ways within their constitutions to give effect to European law, or national governments should change constitutions to facilitate legal integration (Ipsen 1964). At the July 10 meeting, Ipsen critiqued Lagrange's widely shared perspective, urging instead that ECJ judges should find that the Treaty of Rome itself implied European law supremacy. The advantage of this interpretation was that the Treaty of Rome was already part of national law. Also, basing EC law supremacy on the Treaty ensured that the origin of the supremacy doctrine was uniform and independent from national constitutional limitations. Rabe notes that three European judges were at the meeting "listening with red ears," wanting to know if the leading academics of EC law would accept Ipsen's argument. Five days later, the ECJ issued its famous Costa ruling, going beyond LaGrange's argument to base the supremacy of European law in the Treaty of Rome.[9]

3. Creating the perception of a momentum in favor of European legal integration. European law was more frequently ignored than followed in the 1960s and 1970s. National judges unaffiliated to Euro-law movements were reluctant to refer cases to the ECJ, there were national high court rulings that seemed to contradict ECJ doctrine, and the common market objectives of a free movement of goods, services, capital and people remained a distant dream. Euro-law movements sought to change the legal perception regarding European integration while the political will and thus the political reality of European integration lagged. The longer paper returns to some of the early national cases that were never referred to the ECJ, showing how these cases represent association members using their office to create salient pro-Europe national legal rulings. Pro-Europe national court decisions were trumpeted by European officials and legal scholars as signs that the European legal system was beginning to take hold. Really, what was happening is that activists were creating cases that could then be pointed to as signs of progress. Pro-European decisions were then lauded in the scholarly press. The overall effect was intimidating.

German judge Helmut Friedl was not a member of the WGE. As a tax judge, Friedl believe he was obliged to refer to the ECJ questions that concerned European tax directives. Friedl said that the supremacy doctrine crept up on national judges who did not pay much attention to the ECJ's rulings or the pro-Europe doctrine. Friedl was aware of the ECJ's Costa decision, but he emphasized that the ECJ had said that the ruling applied as far as European law was concerned. But by 1970 there was a "governing opinion" in the literature supporting EC law supremacy. Judges, he said, avoided the criticism that would come with contradicting the governing opinion by sidestepping the issue, which was easy to do since few cases involved an issue of European law supremacy. Friedl also observed that after 1968 there was not nearly as much literature challenging the supremacy doctrine, surmising that authors were avoiding being labeled "anti-European."[10]

3. Imagining Legal Integration Without Jurist Associations—The Case of the Andean Community Tribunal of Justice[11]

If a tree falls in the forest, does anyone know? Absent Euro-law associations, ECJ decisions would have been trees that fell largely without notice. There also would have been fewer big trees felled in the 1960s, and thus less to fill treatises about European law. A brief comparison with the Andean Court of Justice—the ECJ's twin—reveals how a lack of social movement support inhibits supranational doctrinal development.

The Andean Community Tribunal of Justice (ACJ) was created in 1981, twelve years after the creation of the Andean Pact. The ACJ was explicitly modeled on the ECJ, including among other similarities an infringement process and a preliminary ruling mechanism (Keener 1987). Andean legal integration was in some ways advantaged in that all member states shared a common language and the ACJ had the model of the ECJ to emulate. But the ACJ has lacked cases raising significant constitutional legal issues, Andean law has been slow to penetrate national legal systems, and the ACJ has itself been timid about asserting its authority or developing significant legal doctrines.

The ACJ initially lacked cases. In the 1980s member states refused to authorize the Andean legal secretariat to proceed with cases, even the type of technical non-controversial cases the European Commission raised in the 1960s. The ACJ received some preliminary ruling references, which it used to put forth broad principles. In a 1987 preliminary ruling decision (1-IP-87) the ACJ explained the preliminary ruling process, and using terminology that was nearly identical to the ECJ's it asserted that Andean rules created direct effects and are supreme to national rules. Its decision 2-IP-88 explicitly embraced the ECJ's Costa and Simmenthal jurisprudence. Neither ruling turned on these assertions, rather the ACJ took the opportunities of cases to instruct Andean courts on the legal system, using the ECJ's language to insist that the relevant national agencies were required to refer cases and enforce Andean rules. The ACJ followed with numerous other decisions where it reasserted these principles within the ruling—though none of the cases actually turned on constitutional issues related to the ACJ's pronouncements.

The Andean doctrines fell into almost complete silence. One can find a few articles on the Andean legal system, almost all of which are penned by lawyers with degrees in Europe or the United States where publishing articles is part of a scholarly professional life (Rodriguez Lemmo 2002; Baquero-Herrera 2004; Tremolada 2006). Given the lack of scholarship, one presumes that there are few means or benefits associated with publishing articles about Andean jurisprudence. The result is that the Andean legal system is largely unknown within larger national legal and political systems.

In Europe, EEC officials were a large source for scholarship on legal integration. ACJ judges and members of the legal secretariat have written articles, but mainly for books commemorating their years on the Court. Some have written Treaties on Andean law, but legal writings are short on doctrinal analysis, and they are technocratic, including mostly legal texts and descriptions of rules and processes. Andean officials have also taught courses on Andean integration at local universities, but they haven't created a burgeoning field of integration studies populated by their students. Andean officials have also served as lawyers bringing cases involving Andean law. But Andean actors have largely failed to connect to broader legal and political interests in Andean polities.

This different context changes how the actors perceive and play their roles. Gallo Pico Mantilla was President of the ACJ when the court first asserted the supremacy of Andean rules (1987), and he served on the ACJ until at least 1992. A gentleman-politician lawyer, Mantilla sought to emulate the European legal integration strategy. Mantilla was committed to Andean integration as an end in itself, having been a participant in negotiations involving Andean integration and in the founding of the Andean Court. As President of the ACJ, Mantilla probably penned the 1-IP-87 ruling, and he wrote a Treatise on Andean Law published in 1992. Mantilla helped convince the first Ecuadorian courts to start making references to the ACJ. Mantilla was an integration activist, but he had few interlocutors to work with.

Juan Vincente Ugarte del Pino is more typical of appointments to the ACJ. Ugarte del Pino was the Peruvian judge on the Andean court from 1990-1995, overlapping at least two years with Mantilla. Ugarte del Pino came from the judiciary in Peru where serving as a diplomat of the law is not a common practice, but he had taught a course on Andean integration and wrote a treatise on the Peruvian constitution. Ugarte del Pino did not put his energy into the Andean integration system. For example, he did not work to educate the Peruvian judiciary on their responsibility to refer cases to the ACJ, nor did he write any treatises on the Andean system for Peruvian lawyers and judges. To some extent, his lack of energy is understandable. Uguarte del Pino recounted the basic struggles he faced as a judge on the Andean Court—since the Ecuadorian government did not supply a building, judges had to spend time finding a building to work in. Andean judges lacked a staff or a system of Avocat General to help them analyze legal issues or draft decisions, and early on the Andean court spent time dealing with labor disputes from employees whose contracts were never fulfilled because promised resources were not supplied by Andean governments. The picture one gets is of a judge lacking the basic means to do his job.[12] Time has overcome these logistical difficulties, but still ACJ judges remain relatively inactive legal diplomats.

The lack of a larger movement perhaps contributes to making the ACJ less bold than its European counterpart. The ACJ's 1-IP-87 preliminary ruling decision was written in bold terms, but the ACJ has hesitated to innovate through legal doctrine or to encourage more entrepreneurial legal behavior by lawyers and national judges. It seldom rewards litigants who try to use the Andean system to challenge national practices. This is in part because the ACJ has defined the division of labor between national and Andean jurisdictions much more narrowly than its European counterpart, refusing to suggest the implication of Andean law and ACJ doctrine for national law or for the case at hand. This interpretive style makes ACJ rulings abstract and largely unhelpful to lawyers and litigants, and it limits the legal and political significance of ACJ doctrine.

The ACJ also shies from being interpretively bold when it comes to its own jurisdiction and authority. The ACJ's ruling of 2-IP-90 refuses to assert a doctrine of implied powers—ruling instead that where Andean rules are not clear or complete, legal and political authority resides at the national level. In 3-IP-93 the ACJ made it clear that states cannot modify duty levels of products included in the Free Trade Program, but it left for national courts the task of examining reservations and exceptions lists to determine if a product is included in the Free Trade Program. When in 1999 the Peruvian intellectual property agency INDECOPI asked the ACJ to consider a legal question sent by itself, the ACJ refused because INDECOPI was not part of the Peruvian judiciary. In refusing this case, the ACJ shut off an avenue for requests involving Peru—and indeed it took until 2005 for Peruvian courts to start regularly sending references to the ACJ. In Decision 87-IP-2002 the Andean Court excluded from its jurisdiction practices that, even though restrictive, do not create external effects involving other member states.

Many elements keep Andean judges from more assertively developing and expanding their authority. The

ACJ and the whole Andean integration process remain under-resourced. The ACJ's narrower interpretations may well be the intent of member states, written more clearly into Andean legislation. Most Andean countries also lack powerful constitutional courts that are willing and able to challenge political authority. Some of these limitations existed in Europe in the 1960s too. It is easy to forget that European founding states were all civil law countries, formally committed to the principle that judicial rulings apply only to the case at hand, and with limited traditions of judicial review. While European Treaties were more ambiguous than Andean law, providing lacunae the ECJ could and did exploit, the ambiguity existed because the international legal practice of the time expected that powers not clearly transferred to international bodies resided in national jurisdictions. The ECJ broke out of the legal tradition of its time. Being embedded within a broader movement of national jurists who were willing to challenge the status quo through aggressive legal interpretations helped the ECJ, providing test cases it could use and reassuring justices that audacious pro-integration rulings would be well received.

I do not mean to suggest that there are no social movements for law in the Andean context or that there are no significant ACJ rulings. One can find social movements in a few areas of law. The Comisión Andina de Juristas (not linked to Andean integration or the Andean Community per se)[13] is a transnational social movement of jurists using law to promote principles for democracy and the security of human rights and development.[14] It is interesting to note that unlike Europe, the objectives of promoting the rule of law, democracy, security and development do not seem to be ideologically attached to the Andean integration project per se. There are also human rights movements in the Andean context. And indeed the Colombia Constitutional Court, created in 1991, has issued a number of doctrinally and politically bold decisions, many of which are related to the Inter-American Human Rights system. But the only area where there significant legal and political developments through Andean Community legal integration is in the area of intellectual property, where the World Intellectual Property Organization has long facilitated trans-national exchanges and supported the activities of national legal actors involved in intellectual property issues.

External factors led to the reinvigoration of the Andean integration process in the mid 1990s, at which point the General Secretariat was far more willing to pursue infringements. Where Andean rules are clear, the ACJ has been willing to assert its authority, even in the face of political counter-pressures. The ACJ has issued over 1200 rulings, including ruling on over 60 infringement cases, and its rulings are generally followed. But the lack of a jurist social movement attached to the integration process Andean Court's continues to keep Andean legal doctrine underdeveloped and largely unknown beyond the few insiders who work in the system or who are involved in intellectual property law litigation.[15]

4. Does Transnational Law Need Social Movements to Flourish?

It is well established that social movements use litigation domestically and internationally to promote their causes (Harlow and Rawlings 1992; Cichowski 2007), and that cause-lawyers actively promote political agendas (Sarat and Scheingold 2001). It is also well established that EC officials have been quite entrepreneurial in their strategies to promote European integration. This article's contribution is to connect the pieces to think about how social movements matter in the creation of bold legal doctrine, and in the incorporation of international rules within domestic legal systems. This analysis suggests that building a rule of law requires more than information and opinion exchange. In Europe, jurist social movements connected actors personally, ideologically, and strategically. The comparison to the Andean context suggests that social movement support may be a necessary condition for international legal systems to flourish.

Euro-Associations also benefited from the post-WWII historical moment that allowed association members to believe they were part of a larger project of building peace. The historical moment also brought in judges, scholar and practioners uncommitted to European integration per se. The ECJ's project dovetailed synergistically with national level legal and political evolution of the times. In the 1960s European legal communities were committed to overcoming the WWII past where judges were shamefully complicit actors aiding Nazi regimes. European governments were constructing an administrative state apparatus to direct national economies, and European legal communities were building in tandem the authority of the judiciary to review the actions of government bodies. The ECJ's project fit nicely with this larger trend, as it extended to the supranational arena changes taking place at the national level (Lindseth 2002; Bignami 2005).

Euro-law associations are not unique in the history of international law. As Antoine Vauchez, Antonin Cohen, Guillaume Sacriste, and Mikael Rask Madsen have shown, the actors in Euro-law associations were part of larger movements promoting international law in the twentieth century. Yves Dezalay and Bryant Garth have also noted how groups of lawyers influenced international legal developments in Latin America and

beyond (Dezalay and Garth 2002). Given recent international legal developments, one suspects that there are movements of lawyers—in Europe and beyond—that are formally or informally working to promote the development of international criminal law, international human rights law, international environmental codes, the dissemination of best practices for economic and political transparency in governance, and the development of more complete international trade laws. It would be interesting to compare these movements, to better understand their roles in building transnational law. One cannot know from a single case, but it may well be that transnational law succeeds only where there are social networks to facilitate them, something which requires an infrastructure and perhaps even an historical moment to facilitate the larger enterprise.

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Notes

1. This essay is excerpted from a longer article prepared for a conference on The Historical Roots of European Legal Integration, Copenhagen.
2. National associations include: Wissentschaftliche Gesellschaft für Europarecht, Association Belge pour le Droit Européen, Association Français des Juristes Européen, Associazione Italian dei Giuristi Europei, Association Luxembourgeois des Juristes Européen, Nederlandse Vereniging voor Europees Recht. The Commission helped establish the umbrella Fédération International

pour le de Droit Européen (FIDE).

3. Stated in a 1994 publication about the AJE. On file with the author.
4. Based on an interview with Hans-Jürgen Rabe, the Secretary of the WGE, Brussels, January 11 1994. By 1990 it had 516 members, sixty percent of which were practioners and forty percent scholars. See: (Ipsen 1990) At p. 335
5. Interview with Michel Gaudet, Director of the Legal Services of the European Commission (195801970) 7 July 1994, Brussels.
6. Vauchez notes that association members had a wide variety of backgrounds and interests. (Vauchez 2007b, 2007a)
7. In the Lütticke hearing, the German government argued that the Commission had dropped the infringement suit after the Bundestag lowered the tax in question, which proved that Germany was now in compliance with European law. Rejecting the German government's argument, the ECJ found the German law in question violated the Treaty of Rome, creating a legal basis for private actors to challenge national taxes that functioned like tariffs.T his ruling ultimately led to the German Constitutional Court's ruling supporting the supremacy of European law. Lütticke (Alfons) GmbH v. Hauptzollamt Saarlouis, ECJ case 57/65, [1966] ECR 205. For more on the "turnover tax" debate in Germany, see: (Alter 2001) At p. 80-86.
8. Interview with Gert Meier, the in house lawyer for Rewe Zentrale, Cologne, 26 April 1993. For more on this caes see: (Alter and Meunier-Aitsahalia 1994)
9. Interview with Dr. Hans Jürgen Rabe, Secretary of the WGE, Brussels, January 11 1994.
10. Interview with Dr. Helmut Friedl, former Judge at Finanzgericht München, Clerk at the Bundesfinanzhof from 1967-1972. 22 February 1994, Füßen.
11. This section is based on ongoing research conducted in collaboration with Laurence Helfer and Maria Florencia Guerzovich.
12. Interview with Uguarte del Pino, Lima Peru, 22 June 2007.
13. The Comisión includes geographically proximate Andean countries, including Chile and Venezuela which withdrew from the Andean integration project. Its stated mission is to work within the region to promote a rule of law and the principles for democracy and the security of human rights and development.
14. This organization is hardly well known, but one could easily have said the same for Euro-law movements in the 1960s and 1970s.
15. Karen Alter, Maria Florencia Guerzovich and Laurence Helfer are researching the ACJ's role in intellectual property disputes in the Andean region. The ACJ has forced governments to renounce agreements with the United States, and it has reinforced Andean legal positions against the strong pressure of transnational pharmaceutical agencies.

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When Small States Get Larger

Erik Jones[1]

WE ARE USED TO TAKING as read that globalization is making states smaller. With the expansion in trade and capital flows, national governments are increasingly unable to control domestic macroeconomic conditions and national firms have ever less influence on market prices. Of course some countries remain global actors and others seek to assert a more prominent world role. Similarly, even the smallest countries can spawn world-class firms. Still the exceptions only confirm the rule. The expansion of global finance and commerce condemns most countries to shrink.

Being small is not all that bad. For some countries at least, small is beautiful. With cohesive societies and consensual governments, a few of the small countries in Western Europe have managed to mark up impressive gains over time. The governments of these small countries not only have generated huge improvements in income per capita, but they also have succeeded in encouraging firms to specialize in relatively secure (inelastic) niche markets and nurturing an impressive capacity for actors across the economy as a whole to engage in flexible adjustment in response to external shocks.

Lasting success in the small states of Western Europe is not due to government action alone and it is no accident that the more successful states are the more cohesive and consensual ones. Rather the people in smaller states recognize their vulnerability to world market forces. They agree to overcome their differences. And they work together to build institutions for the collective management of economic performance. Some of these institutions help to steer the economy; others help to compensate those parts of society that fall off the rails.

The more successful of the smaller West European states may even provide models for how other countries could adapt to the challenges of a global economic future. Given that the influence of globalization is manifest, people should work together to strengthen national performance. Politics should be more inclusive than divisive and markets should be more flexible than rigid. Most important, countries of all sizes should avoid becoming obsessed with facile trade-offs between states and markets. Instead they should value equity as well as efficiency–because by doing so they have a real chance at achieving the best of both worlds.

There is no easy teleology in this conventional

wisdom. On the contrary, and at its best, these insights were garnered through painstaking and original empirical research. Scholars like David Cameron (1978), Peter Katzenstein (1984, 1985), and Arendt Lijphart (1975, 1984) helped students of comparative political economy to look at the world beyond the large pattern states and to avoid focusing too narrowly on the idiosyncracies of individual country cases. They used country-specific case study material, but they showed how this material could be transformed into more general and testable hypotheses. In turn, their work attracted the attention of scholars like Jelle Visser and Anton Hemerijck (1997), Paulette Kurzer (1993), and Herman Schwartz (1994), who scrutinized the link between size and success and who tried to strike the balance between fortune, policy and context, or–borrowing from Schwartz (2001)–luck, pluck or stuck.

The resulting literature on the political economy of small states constitutes an impressive body of research with a much larger number of significant contributors than I have mentioned so far. When grafted onto a parallel and complementary literature on patterns of welfare state development, it leaves very few stones unturned and most questions answered. The answers are not all complete and there is much contention (and therefore interest) in the field. Nevertheless, it is a branch of comparative political economy that has matured nicely. The only wonder is whether there is anything we can say that is new.

Sometimes it is events rather than scholarship that point the way. While we have developed a good understanding of small country success, the small countries themselves have been experiencing periodic bouts of turmoil. Sweden and Finland went through severe economic downturns at the end of the Cold War. Denmark vetoed the Maastricht Treaty and Norway turned down European Union (EU) membership. Austria flirted with Joerg Haider's Freedom Party and the Netherlands flirted with the List Pim Fortuyn. Switzerland has seen the growth of support for its right-wing people's party and now Belgium is going through the most difficult government formation in recent memory. Indeed, there is real talk that Belgium might someday (not today, but someday) fall apart.

These episodes are not all the same and there are clear differences from one country to the next. Nevertheless, there is a common theme that unites them as well: either they reflect problems that can be traced back to globalization writ large, or they reflect a breakdown in domestic consensus; usually there is some element of both.

There is nothing surprising in the fact that the smaller countries of Western Europe have difficult moments. No-one ever suggested anything to the contrary. Bad things happen to all states, including the more successful ones. The bouts of turmoil have not been fatal to the small country model either. On the contrary, in many cases the smaller states of Europe have quickly reclaimed their reputation for success. Still the fact that these things have happened suggests that we should know more about the relationship between external vulnerability and domestic consensus. By the same token, we should also know more about what it means to be small.

There are two ways to square the circle. One is to define the size of nations in terms of vulnerability and then show the link from vulnerability to consensus; the other is to define the size of nations in terms of homogeneity and then make the link from homogeneity to consensus to vulnerability. Peter Katzenstein's work goes down the first route. Countries are small, therefore they are vulnerable and the recognition of that vulnerability fosters consensus (see also, Katzenstein 2003). Alberto Alesina and Enrico Spolaore (2005) go the opposite direction. Countries are small, therefore they are homogenous. Small, homogenous countries are not, however, self-sufficient. As these small countries look outside their borders to find things they cannot provide for themselves (or to achieve economies of scale), they become dependent upon world markets and therefore vulnerable to world market influences.

Both arguments offer important insights that help to explain small country success. Katzenstein (2003) highlights the importance of awareness. If people in small countries are not aware of their vulnerability they may ignore or overlook the advantages of consensus. Alesina and Spolaore (2005) underscore the role of diversity. If small countries are not homogenous, then they may suffer from conflicting societal preferences which in turn may make it more difficult for these countries to engage with the outside world.

At the juxtaposition of these insights, we can begin to speculate about the conditions under which small countries would experience failure rather than success. An easy formula would see small countries torn by domestic distributive conflict. As different groups mobilize around sub-national identities, political elites might become more concerned with the struggles taking place at home than with the potential threat represented by market forces abroad. In that situation, the country would not be flexible in responding to external shocks and may even break apart if enough pressure is brought to bear. Belgium might be a good example, but we could also extend the argument to more extreme cases like Czechoslovakia or Yugoslavia. The point is not that Belgium is just like these other cases. Rather, and more simply, it is that despite their populations size, geographic scale, dependence on world markets, etc.,

none of these three countries reveals the advantages of being small.

Still, small multi-ethnic countries are relatively exceptional in Western Europe. Therefore, it would be useful to consider other possible negative scenarios as well. A more complicated story might start with a perceived threat to national identity. Such a threat could bring the country together, but it would be to reject rather than to embrace relations with the outside world. There would be consensus of sorts, but it would be of a different kind from that examined by Katzenstein or by Alesina and Spolaore. For examples, we could look at populists like Fortuyn or extremists like Haider, not because the two are equivalent–they are not–but because each sought to mobilize the people against a threat to their identity emanating from the outside world.

The point of such speculation is not to provide a new set of descriptive categories for current events. There is plenty that has been written on the different small countries and any thumbnail sketch of events or individuals provides an oversimplification at best. Rather, such speculation is useful because it suggests where we should focus attention in our analysis of the success and failure of small states. How sure we can be that politicians and voters in small countries pay attention to the fact that their country is small rather than being distracted by something else? Even if they are aware of their vulnerability and they choose to embrace world markets, can we be confident that world market forces will not encourage new political cleavages, enhancing domestic diversity and taking away the advantages of being small? Of course, the question can be made simpler: Small West European countries have a tradition of political consensus, but what if that situation changes?

Economic Adjustment and Political Transformation in Small States tries to suggest answers to these questions by focusing on the paired comparison of Belgium and the Netherlands. The two countries are interesting for three reasons:

- Belgium and the Netherlands are extremely open to world market forces;
- they have well established reputations for being both consensual and diverse; and,
- the political formula for managing diversity through consensus has changed significantly over time and with the breakdown in consociational democracy.

The analysis starts with an empirical question: "How did the break down of consociational democracy during the post-World War II period affect the ability of Belgian and Dutch policymakers to foster economic adjustment in response to external shocks?" My prior assumption was that once the governments of the two countries lost the means to foster consensus through the traditional practices associated with consociational democracy, then they would lose much of their leverage over the economy as well.

To appreciate the significance of the question it is necessary to introduce consociational democracy as the formula for consensus building in deeply fragmented societies. In his general elaboration of the argument, Lijphart (1969) explained how different elements in society organize in vertical pillars that institutionalize social life from cradle to grave. Each pillar is controlled by a group of political and economic elites that command the loyalty and support for their followers. Ordinary members live their lives within the groups, sharing geographic space but not social interaction with members of other groups. Meanwhile, elites must learn to cooperate across the pillars, making concessions to one another to avoid conflict breaking out between the groups. The imperative in the word 'must' derives from the vulnerability of these deeply divided societies with respect to the outside world. Elite cooperation in the consociational pattern helps to mitigate that vulnerability; any breakdown in consociationalism should therefore bring vulnerability to the external influences to the fore.

What I found out was much more complicated than I first imagined. The real world always is. To begin with, I discovered what schoolchildren in both countries learn early on: there were important moments in the post-World War II history of Belgium and the Netherlands when politicians in both countries turned away from cooperation or consensus-building long before consociationalism's demise. There were vertically integrated groups in society, but they did not work together in the common interest. For Belgium, this went on almost without stop from the abdication of King Leopold III in 1951 to the end of the schools crisis in 1958. As a result, the government's control over the economy was weak and its desire to engage with the outside world was limited. When Belgium joined the European Coal and Steel Community, for example, it demanded reassurance that it could leave again if domestic conditions required. The story is a familiar to anyone who has read Alan Milward's chapter on "coal and the Belgian nation". Nevertheless it is important as an illustration of the limits of consensus building through consociationalism.

The Netherlands experienced moments of domestic conflict as well. They were not so prolonged as in Belgium, but they were enough to underscore that consensus is a practice that politicians choose to follow. Given the right incentives political elites may also opt for conflict. As a consequence, policymakers

in both countries learned early on that their ability to foster consensus depended upon their willingness to enforce what Dutch prime minister Willem Drees once ominously referred to as "the rules of the game".

The importance of elite cooperation and consensus-building is most apparent when the focus is on the use of corporatist wage bargaining to implement price-incomes policy. Here I will provide an abbreviated version of an argument that is much more lengthy and much less formalized in the book. It starts with policy preferences for fixed exchange rates and open goods markets. These preferences are not hypothetical or arbitrary; they are real. Consecutive governments in Belgium and the Netherlands–right and left–reaffirmed their choice for both. Other options were available. Indeed the early postwar Dutch Finance Minister responsible for stabilizing the guilder, Pieter Lieftinck, was openly suspicious of the merits of free trade. In the end, the advocates of fixed exchange rates and open markets won out. And, since the two countries are small in the economic sense of the word, this means that their traded goods prices and nominal interest rates are set abroad. So the question is: How can macroeconomic policymakers influence the direction of the economy?

The fact is that neither the Belgians nor the Dutch were eager to use fiscal policy for aggregate demand stabilization. As with the promotion of free trade and fixed exchange rates, this aversion to Keynesian-style demand management was by choice and not by necessity. The preference was due in part to the recognition that trade openness tends to mitigate the influence of government spending on aggregate demand and in part due to the fear that domestic capital markets were too small and foreign borrowing is too risky. From one government to the next, politicians argued instead that fiscal deficits and government borrowing should be kept in check. Eventually, however, events overtook these assertions. From the middle of the 1970s onward, the governments of Belgium and the Netherlands experienced ever higher fiscal deficits and an exploding level of public debt.

The deficits that Belgium and the Netherlands experienced in the 1970s were not some change of heart about the merits of Keynesian-style aggregate demand management. They signaled a loss of control and not an attempt to reassert it. With the rise in unemployment and the slowdown in economic activity, the welfare state institutions created to redistribute the burdens of trading with the outside world became a source of burden–and a drain on competitiveness–in their own right.

Lacking confidence in the use of fiscal policy, the Belgians and the Dutch focused on the investment channel for aggregate demand stabilization. So the question has to be rephrased: Once having given up control over nominal interest rates, how can macroeconomic policymakers influence the level of investment?

The answer can be sketched using a very simple investment function like the one found in Gregory Mankiw's (2007: 492-493) popular textbook on macroeconomics. Firms invest when the net returns from adding to the capital stock exceed the cost of capital. If we focus on capital-per-worker, these net returns equal the marginal product of capital (MPK) times the price of manufactures (P_m) less the nominal wages paid to a single worker (W). Meanwhile the cost of capital (per worker) is the nominal interest rate (i) times the price of capital (P_k) less any change in the replacement cost (ΔP_k) plus depreciation (δ) times the price of capital (δP_k). The difference between revenue and cost is the profit (Π) from making new investments. When this profit is greater than zero, the firm will invest until the resulting decline in the marginal product of capital eliminates all profits. When the profit is less than zero, the firm will allow its capital base to deteriorate until the marginal product of capital increases to bring things back into balance. You can put everything together in a formula like equation [1]. And you can isolate the price of capital and divide by the general price level (P) to bring things into real terms in a formula like equation [2].

$$\Pi = (MPK*P_m - W) - (iP_k - \Delta P_k + \delta P_k) \quad [1]$$

$$\Pi / P = (MPK * [P_m / P] - [W / P]) - (P_k / P) * (i - [\Delta P_k / P_k] + \delta) \quad [2]$$

This is where policy preferences become important. So long as nominal interest rates (i) are set abroad, the government cannot use them to raise or lower the level of business investment. The fact that the country trades freely with the outside world means that the price of manufactures (P_m) are set abroad as well. The same is true of the price of capital (P_k) since capital goods are manufactured and traded. By implication, the rate of capital price inflation ($\Delta P_k / P_k$)is set abroad as well. The rate of depreciation (δ) is not a policy instrument. The marginal product of capital (MPK) is a function of the supply of capital and labor and so it responds to the level of investment (or net capital change) rather than driving it. That leaves only general prices (P) and nominal wages (W). Relatively high domestic prices lower the relative cost of capital (P_k / P) and the real wage (W / P), but they also lower the relative price of manufactures (P_m / P) and therefore revenues. Low prices have the opposite effect. The only unambiguous instrument, therefore, is the nominal wage rate.

If the governments of Belgium and the Netherlands want to stabilize macroeconomic performance by influencing the level of business investment, then

they have to control nominal wages. But to control nominal wages, they have to win agreement from wage negotiators–meaning employers and trade unions. In turn that means they also have to win control over prices. While the impact of relatively high domestic prices on the incentives for investment are ambiguous (for the reasons sketch in the preceding paragraph), the impact of high prices on real wages (W/P) are not. Workers lose. Therefore, they insist on using prices as a guide to wages and they will agree to moderate wage claims provided that prices changes will be moderate as well.

The trade-offs in price-incomes policy are well known. Nevertheless, the implications for small countries like Belgium and the Netherlands bear repetition. So long as everyone agrees to set wages and prices to serve the common good (meaning to stabilize aggregate demand), the government has a viable policy instrument. When either employers or trade unions refuse to go along, the viability of the policy instrument comes into doubt.

It is possible to narrate the early postwar macroeconomic history of Belgium and the Netherlands as a long attempt to get politicians to accept the principles of consociational democracy so that employers and trade unions–the social partners–could be coaxed into supporting a corporatist price incomes policy. When politicians could agree to work toward consensus and they could succeed in bringing the social partners along, then the economy could flourish. When politicians fought one-another or the social partners rebelled, that was not the end of the world. But it did mean that the government lost an instrument for aggregate demand management–which also means it lost a lever for fostering economic adjustment.

The problem with this model is that not all firms produce traded goods and so not all firms face the same incentives or constraints. For example, non-traded goods or service sector producers can have an independent domestic price (P_s). The investment formula for these firms remains much the same (see equation [3]).

$$\Pi / P = (MPK * [P_s / P] - [W / P]) - (P_k / P) * (i - [\Delta P_k / P_k] + \delta) \quad [3]$$

Nevertheless, the interpretation differs. The reason for the difference is that the general price level (P) is a composite of traded (P_m) and non-traded prices (P_s):

$$P = \alpha P_m + (1- \alpha) P_s \quad [4]$$

So long as traded goods prices are set abroad, any increase in non-traded or service sector goods prices will have a less than proportional effect on the general price level. As a result, the incentives for firms are no longer ambiguous. Higher non-traded goods prices increase revenues and any resulting increase in the general price level lowers costs–at least to the extent that it reduces real wages (W / P) and relative capital goods prices (P_k / P). Even worse, these non-traded or service sector providers may be willing to pay higher wages so long as they know they can increase the price of their outputs in domestic markets by enough to make it pay. In turn this incentive among certain employers strengthens the hands of trade union wage negotiators who are eager to secure nominal wage increases and wary that firm pricing behavior will push real wages the opposite way.

The narrative of Belgian and Dutch postwar economic history shows these adverse incentives at work. While politicians sought to cooperate with one-another in order to gain control over prices and wages, some employers and some labor organizations sought to escape from the constraints of government nurtured price-wage control. Predictably the strongest defectors came from the non-traded sectors. Their impact on prices not only aggravated domestic inflation, but also undermined confidence in the price-incomes policies as a whole.

As consociational democracy began to break down, things got immeasurably worse. Politicians stopped working together and their ability to foster effective price wage bargaining vanished as a result. This was the experience of the 1970s. During the course of that decade, wages and prices increased while investment declined. Meanwhile both unemployment and government deficits began to mount.

The problem for both the Belgians and the Dutch was two-fold. First, they could not go back and reconsider their initial preferences for open markets or fixed exchange rates. The reason has to do with European integration. Over time, the Belgians and the Dutch promoted the idea of European integration–at least in part–as a way to spread their policy preferences to other countries. They were early and staunch advocates for the customs union and the common market; and they were equally enthusiastic about monetary integration and the European monetary system (EMS).

The second problem was that efforts to get control over fiscal policy only exacerbated tensions among political elites and complicated negotiations between the social partners. Yet, as both countries learned by experience, losing control over fiscal policy is even worse. The crisis of the early 1980s was a fiscal crisis as much as anything else. Indeed real wages had already started to move in the right direction by the time the governments of either country had managed to reassert control. Even so the success of Wilfried Mar-

tens in Belgium and Ruud Lubbers in the Netherlands at reasserting effective price-wage policy is striking. It was not easy in either country, but the crisis was averted in both.

The interesting point about the early 1980s is that the adjustments made did not come about through consensus in any traditional sense of the word. They did not derive from some sort of consociational resurgence either. Instead the governments of Belgium and the Netherlands used old political institutions and relationships to intervene–or, in the Dutch case, to threaten to intervene–directly in wage bargaining, promoting competitiveness, investment, and, ultimately, economic growth. The macroeconomic results were impressive even if they took a long time in coming. The political results were not. Although Martens and Lubbers managed to avert the crisis, they left behind a legacy of bitterness among the mainstream political parties and between voters and elites.

This is a strong accusation and it may be only partly deserved. The fact of the matter is that politics was changing in Belgium and the Netherlands over the whole of the postwar period. Consociational democracy lasted much longer as a heuristic model than as a political formula and it was less a continuous experience than a set of stochastic moments. By the early 1990s, the era of consociational democracy was over and the old bonds between political elites, social partners, and the general electoral were gone along with it. The implications were felt first by the Christian Democrats, who lost power in both countries for the first time in decades. Later, these effects became more general as each of the traditional parties experienced its own personal rout.

Government control over wage bargaining has suffered as a result. Now, the Belgians depend on a law on competitiveness to try to keep relative wage growth in check. The Dutch rely on the lack of alternatives and the general fear of unemployment. Both formulas are good for maintaining the status quo. Neither is useful to foster adjustment.

Nobody seems to care much. If you look at political debates in Belgium and the Netherlands, concerted wage bargaining is not high on anyone's priority list. Instead they are focused on domestic political differences–between immigrant and national, urban and rural, old and young, or just about any one group and another. Even consensus itself has become an object of political debate. Of course there were always concerns that consensus building took too long, that decisions were only partial, and that the policy process was congested. Now, however, the fear is that consensus is elitist, unrepresentative, undemocratic, and illegitimate. Contestation is heralded as a virtue and external vulnerability is an excuse for further conflict rather than common concern.

Of course it is easy to paint a dark picture of countries that most people know little about. If you were to go to Belgium and the Netherlands, they would be likely to paint an even darker picture of themselves. Things really are not all that bad in either place. They are not all that exceptional either. And that is precisely the point. With the political transformation of the postwar era, Belgium and the Netherlands have grown up to face their own diversity. Meanwhile, the influence of world market forces have made matters worse. The division between traded and non-traded sectors is only one example. The role of immigration is another. Then too there is the selective interdependence between different parts of Belgian and Dutch society and specific buyers, suppliers, investors, or commodities that are located in particular parts of the outside world.

In a sense, interaction with the world has made Belgium and the Netherlands bigger. World markets are not the only source of change. Political transformation has purely domestic origins as well. Yet whatever the cause, consensus no longer comes so easily despite the fact that vulnerability to world market forces has increased. You can see this most easily in the immigration debate. But as writers like Cas Mudde (1999) have argued, immigration is often used as a metaphor for the multiple insecurities and divisions that have emerged in our post-industrial, globalized world. By engaging so enthusiastically in the world economy, Belgium and the Netherlands show the symptoms of this new–or newly rediscovered–diversity. For example, trade and investment lie at the heart of the division between Flanders and Wallonia just as the decline of traditional manufacturing and the rise of part-time service sector work is a defining feature of the Dutch model. Such influences are not malignant in their own right, but they do complicate consensus-building no matter what the degree of external vulnerability. Belgium and the Netherlands are no longer exceptional cases among small countries. Instead, they are more like the normal case among big countries. Government influence over the process of economic adjustment in Belgium and the Netherlands–and, arguably, across much of Western Europe–has diminished as a result.

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Notes

1. This essays summarizes the argument made in Erik Jones, *Economic Adjustment and Political Transformation in Small States*, Oxford: Oxford University Press, 2008. Ian Bruff, Aart Geens, Bryan Hoytt, and Zeynep Soyluoglu, provided useful comments on this paper in draft. The usual disclaimer applies.

Willem Maas. *Creating European Citizens***.** Lanham, Boulder, New York, Toronto, Plymouth UK: Rowman & Littlefield Publishers, Inc, 2007.

THE AUTHOR OF THIS BOOK suggests that most explanations of European integration are about how it meets the economic interests of member states, while he aims to show that developments in Europe also reflect a post-war drive to create a community of people as well as a common market. This is demonstrated, he argues, through an examination of the rise of European citizenship. Thus, the book is an account of the germination and development of European citizenship, showing that its origins long pre-date its formal inauguration in the Maastricht Treaty. The book demonstrates that the ambition for a community of people, explicitly incorporating the word 'citizenship', was already present in the 1940s and 1950s. The embryonic idea of European citizenship was central to one of the two strands of opinion on the meaning of the free movement of workers (the other being that labour was but another factor of production in a common market). The book accounts for how freedom of movement of labour graduated into freedom of movement for all persons and how this - together with attendant developments in social security, social policy and education policy - was promoted by most, but not all, national political leaders, supported by supranational political actors. Such developments were seen as being in their interests and in the interests of European integration. While acknowledging that it is generally difficult to take away rights and that the story of European citizenship is not yet finished, the author concludes that the continuation of common European

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citizenship may be at risk because, although it is said to be complementary with national citizenship, there are incompatibilities between it and national citizenship. Not least among these are the varieties of practices of national citizenship within the original member states and even more so among the new members.

In some ways the book's focus on citizenship is not especially original as others have also traced this history or these histories. But it has many strengths that mean this does not matter. For a start, it not only integrates free movement and citizenship, the book also links the story with the question whether 3rd country migrants with long-standing residence should have the same rights as community migrants – hence, tackling the issue of the relationship between citizenship rights and human rights. Secondly, the book provides an interesting discussion of the impact on European citizenship of enlargement and the interaction between European citizenship and the nationality and citizenship policies of new members – a topic that did not exist when other accounts of European citizenship were being written. And thirdly, the book provides convincing explanations of why there is also opposition among some political leaders, and their peoples, to European citizenship. Finally, the organization of the book is masterly. All these issues are woven together in a mere 120 pages of text in such a way that none of their complexity is lost while, at the same time, the book could easily be read by an interested member of the public as well as the student or scholar. The book ends with the intriguing question of why other cases of transnational integration and cooperation have not led to an interest in a socio-political dimension to such projects, as well as the economic one – in particular citizenship. The author begins to provide an answer, leaving the reader in the hope that another little book like this will be written that deals more extensively with the question and its answer.

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Dario Castiglione and Chris Longman (eds.)
*The Language Question in Europe and Diverses Societies: Political, Legal and Social Perspectives***.** Oxford and Portland, Oregon: Hart Publishing, 2007.

A NEW CONTEXT OF GLOBALISATION and the spread of multiculturalism has given renewed emphasis to the question of social communication and language politics in Europe and its diverse societies. Presenting the latest developments of this research area, and under the editorship of D. Castiglione and C. Longman, this volume contains a selection of research papers presented during the workshop series on The Public Discourse of Law and Politics in Multilingual Societies organised in Oñati (Gipuzkoa, Spain) and sponsored by the Oñati International Institute for the Sociology of Law.

As underlined by all the authors, although the European Union (EU) is not the most linguistically diverse of continents, it is the first region where language played a crucial role in nation state building. Moreover, ever since European societies initiated a process of political and economic integration, the historical use of language as an instrument of communication and as a vector of cultural values has been complexified.

Indeed, the EUs institutions seem condemned to a adopt a schizophrenic attitude. On the one hand, the EU sets out to respect equality between European languages by officially promoting "linguistic diversity" as one of its founding principles. On the other hand, the needs of European administration and the attraction exerted by the global market on consumers tend to favour the adoption of monolingualism through the diffusion of English – "or global English" – as a lingua franca.

This situation is the result of the historical (no-)decision in 1958of the first six member states to maintain four official languages as working languages. The inheritance of this statist vision of linguistic issues renders illusionary the current official recognition of twenty official languages (and maybe more with the possible integration of Turkey) in terms of translation services and transaction costs. Confronted with this linguistic opportunity structure, the authors emphasise the debate on the EU linguistic regime is intimately related to the problem of the nature of the EU as a unitary state, a union of states or as a system of overlapping subcultural areas which allows for a limited recognition of different languages in some spheres of governance, but only under the leadership of English.

As a result, this approach to linguistics tends to favour the official languages of the Union (ie. state languages) and more particularly English. Today, such languages are considered to be the working languages of the European institutions and possess great resources in order to spread themselves across the continent. As the most spoken languages within the EU, they also easily attract professionals and students. Obviously, such a linguistic regime partially acts to the detriment of co-official and un-recognised languages such as regional languages or those of immigrants.

The present volume provides ample food for thought. First, it sets out a knowledgeable and comprehensive survey of existing literature on language politics. Second, the contributions to The Language Question encompass a large range of intellectual approaches such as theories of justice and fairness, com-

municative spaces or new institutionalism in different research disciplines (anthropology, law, linguistic studies, politics, etc.). Third, clarity of analysis reflects the long pre-editing and re-writing preparatory work on the various contributions, all of which gives homogeneity to the volume.

In summary, The Language Question is a very useful textbook for students, researchers and citizens who want to learn more about this original feature of European integration. I therefore warmly recommend this book and hope it will contribute to the development of language politics' studies.

Jean-Baptiste Harguindégey
SPIRIT, Sciences Po Bordeaux

John McCormick. **The European Superpower.** Hampshire and New York: Palgrave Macmillan 2006.

Fraser Cameron. **An Introduction to European Foreign Policy.** New York: Routledge, 2007.

Jolyon Howorth. **Security and Defense Policy in the European Union.** Hampshire and New York: Palgrave Macmillan, 2007.

The Rising (super)Power

Scrap the ubiquitous description of the EU as "An economic giant but political pygmy"; it is a superpower in making. That common message emanates from three empirically rich, skillfully researched, and frequently provocative books which present the EU as a global power in ways heretofore lacking in the burgeoning literature on EU's international influence. Between Cameron's survey of institutions, actors, policies, and events, to McCormick's focus on the union's global economic influence, and rising ideational, moral and political leadership, and Howorth's demystification of the union's rapidly developing security and defense dimension, the reader is provided a comprehensive introduction to the often absurd complexity that characterizes the EU's external relations.

Though recognizing America's impressive economic and military powers, McCormick's largely comparative study presents a changing international system where Europe's success in coupling social responsibility with economic prosperity is enhancing its international influence. His argument of a European superpower rests on three pillars. First, the EU's enormous and growing economic influence is far greater than most (practitioners and citizens) recognize and appreciate. Second, EU integration, common European interests, and its institutions are mutually and perpetually reinforcing, resulting in common external interests and increased assertiveness. Rising global expectations of EU engagements in turn feed into to EU institutions and citizens, furthering a common understanding of Europe, European identity, and interests.

Yet the novelty of McCormick's intriguing and provocative study is how these developments both underpin and complement the union's growing ideational and moral leadership in areas ranging from trade to conflict prevention and resolution, to environmental policy, to migration. In our post-modern world of increasing interdependence, soft power assets are key (p.5-7), while military power has lost much credibility and influence. While "The United States has lost its position as a leader and an initiator" (p.159), states and regions around the world are increasingly following the EU's lead and emulating EU practices (16, 135 ff).

McCormick's book reads like a well articulated desperate cry for recognition of the EU's global economic, moral and political influence in a world where power is more than big bombs and tanks, and influence is wielded in multiple ways. The international system is not only more suited to this new type of multi-dimensional superpower, whose visible strengths are complemented by latent or indirect power (e.g. dominant ideas and values), but the EU is in fact shaping the international system through its actions and leadership. His overwhelmingly positive and thought-provoking assessment of the EU's international influence is tapered only occasionally by a sober realization of the EU's many remaining problems, including most of those identified by Cameron.

Premised on a broad definition of foreign policy, "all external actions taken by the actor" (p.xiv), Cameron presents an excellent survey of the EU's institutions, policies, and its geographical areas of interest. He is more critical of the efficiency of EU foreign policy than McCormick. While agreeing that integration strengthens the union's international influence by drawing on pooled or common resources and interests, its foreign policies are frequently confusing, and lacking in coherence and uniformity, and riddled with overlapping authorities stemming from inter-institutional jurisdictional and territorial squabbles. Speaking at times with one voice (trade and aid), at other times through coordination (e.g. UN, IMF), or structured cooperation (CFSP/ESDP), it leaves the EU lacking the effectiveness achievable through a unified, state-like, structure. He brings attention to lack of political will to cede more authority to truly common institutions (rather than cooperative ones), and the schisms created by member states' divergent national interests. Brief reflective case studies (e.g. on the Kosovo conflict, WTO disputes, the Iraq invasion, or Iran's nuclear program) provide valuable insight on how the EU is coping with growing expectations, while also showing how state interests and reversions to na-

tional solutions often prevent a unified European voice. Cameron also discusses the many successful aspects of EU policy, overall grading the EU as a "qualified super power", but one which still – lamentably – lacks America's military power projection capabilities.

In the burgeoning literature on the EU's CFSP and ESDP Howorth's is one the most illuminating and rewarding to date. He manages to explain, especially in chapters three and four, the inner workings of the numerous institutions and committees that make up the ESDP and clarifies how they work together in practice – showing where the real problems in daily planning and decision making lie. He tackles the many distortions, misinformation, and myths of the surrounding ESDP, effectively dismissing fears of an EU military overriding state sovereignty. Howorth explains how civilian crisis management is critically important (p.93), but that civil-military coordination, presumably EU's advantage vis-à-vis the US, still needs improvements. A lack of political will and capabilities mean that although heretofore completed ESDP operations represent significant progress, the EU is not yet a major international strategic actor (p.113), even if the emerging European strategic culture (ch.7) shows it is maturing.

All authors should be commended – Howorth in particular – for accessible writing on complex issues. These writers exemplify how one can simplify without losing substance. Each book also contains useful comparisons to US policies and leadership, and they all enlighten the reader on how, where, and why the EU's global influence has reached new heights without delving into minute details of bureaucratic intricacies or legal word wrangling. One criticism relates to the use of theory. Cameron briefly presents the dominant theories of international relations (pp.19-21), but then, contrary to his stated intentions, makes to effort to tie practice to theory, leaving that task solely to the reader. McCormick's contribution lies in his discussions of concepts such as power (ch. 1), influence, and ideas (ch.5), but there is no attempt to place the larger argument in any theoretical framework.

While those seeking theoretical explanations of the CFP and ESDP should look elsewhere, these books are deserving of a wide audience, and should be the source of intense debate on the EU's foreign policy and international influence. All these books would be suitable for courses addressing the EU's international influence, its foreign policy, or Transatlantic relations; the McCormick text also suits courses in international relations or globalization.

Johan Eliasson
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The 2007-2009 EUSA Executive Committee is pleased to announce the 2008 EUSA Haas Fund Fellowship Competition, an annual fellowship for graduate student EU-related dissertation research. Thanks entirely to contributions to our Ernst Haas Memorial Fund for EU Studies, launched in June 2003 to honor the memory of the late scholar Ernst B. Haas (1924-2003) we will offer at least one unrestricted fellowship of $2,000 to support the dissertation research of any graduate student pursuing an EU-related dissertation topic in the academic year 2008-09.

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