

**Beyond Interdependence:  
The European Union, the United States,  
and the Idea of an External Constituent**

Paper prepared for EUSA Biennial Conference, Los Angeles, April 2009

\

Hans Schattle

Yonsei University, Department of Political Science and International Studies

[hschattle@yonsei.ac.kr](mailto:hschattle@yonsei.ac.kr)

## **I. Introduction: The changing, ambiguous position of the United States: Between an 'external stakeholder' and an 'internal constituent'**

Transatlantic economic and political integration has become so tight in recent years that the relationship between the United States and the European Union has evolved into a more advanced state than interdependence. With its government and corporate sectors increasingly on the receiving ends of European Union regulations, policies and standards, the United States has become not just an external stakeholder of the European Union but something more: an emerging external constituent of the European Union. In other words, American multinational corporations and, in some instances, the United States government are so significantly impacted by decisions from European Union institutions that the fate of the United States is inescapably bound up with the European Union.

To classify the United States as an external constituent of the European Union might strike some skeptics, at first glance, as a bold exaggeration or even a contradiction in terms. Normally the idea of a 'constituency' would seem to require, by necessity, an *internal* political relationship between a particular subset of a political community, such as a territorial district or a key interest group, and the larger political community itself. The idea of constituency also implies full membership within a clearly defined and bounded political community. But just as the European Union has so often evolved in ways that defy conventional political terminology, the same holds true for the relationship between the European Union and the United States. In this paper, I wish to expand upon what I mean by 'external constituent' and illustrate the concept with recent examples – relating to competition policy, environmental standards and monetary policy – that provide us with some early signs that an external constituency relationship between the European Union and the United States is now in the making.

## **II. The elements of an external constituency relationship**

While in this paper I will constrain my analysis of an emerging external constituency to the transatlantic relationship between the United States and the European Union, the term 'external constituency' can be applied more generally as a concept applicable to any set of actors that have progressed into a relationship more closely linked than interdependence.<sup>1</sup>

---

<sup>1</sup> The conditions described in this section aim to illustrate how the relationship between the United States and the European Union has become closer than even the characteristics of "complex interdependence" as conceptualized by Robert Keohane and Joseph Nye, in their classic text *Power and Interdependence*. For Keohane and Nye,

What conditions, exactly, serve to render one political community (Polity B) an external constituent of another (Polity A)? I would tentatively submit for consideration the following dynamics, all articulated here in general terms but nevertheless based on actual developments in United States/European Union relations in recent years:

1. Polity B gradually becomes a regulation taker of Polity A, with key government officials and corporate executives finding themselves increasingly on the receiving end of regulations put forth by Polity A. At times, decisions taken by Polity A might even curtail the plans and activities of multinational corporations based in Polity B. We can label this dynamic *external oversight*.
2. Partly in an effort to anticipate (and ward off) external oversight, executives from multinational corporations based in Polity B find themselves voluntarily modifying their own respective standards and practices in order to bring them in harmony with laws, policies and regulations formulated and implemented by Polity A. In other words, multinational corporations based in Polity B choose to adopt, for the sake of practicality and profitability, standards set by Polity A rather than their home base of Polity B. This leaves key economic and political actors otherwise based in Polity B essentially accountable, on an indefinite, if not permanent basis, to decision makers in Polity A. We can label this dynamic *external accountability*.
3. Government leaders from Polity B, therefore, come to discover that certain key domestic standards and regulations have been superseded – not necessarily on paper, but demonstrably in practice – by standards and regulations put forward by Polity A, especially if Polity A's standards have become a powerful, even dominant influence over businesses operating in the global economy. This amounts to recognition of both the above dynamics of external oversight and external accountability.
4. Policy elites and lobbyists from all sectors (market, government and civil society) of Polity B and normally maintaining active ties in the national capital of Polity B increasingly expand their strategic efforts to the capital of Polity A, in order to cultivate ongoing relationships with (and also, in some cases, compete successfully against) other stakeholders in Polity A and attempt to gain influence with Polity A's key decision makers. We can label this dynamic *external contestation*.
5. Key government officials and business leaders from Polity B begin communicating in public a (sometimes grudging) sense of resignation that decisions from Polity A are

---

conditions of complex interdependence involve (1) multiple formal and informal channels that connect elites in government, business and civil society; (2) multiple issues on the agenda of interstate relations that "are not arranged in a clear or consistent hierarchy; (3) an absence of military force used by governments toward other governments within the relevant group of countries. (Robert Keohane and Joseph Nye, *Power and Interdependence*, 3<sup>rd</sup> ed. (New York: Longman, 2001) 21-22.)

- forcing substantial changes in behavior and/or public policy from Polity B. This, too, confirms the existence of all the dynamics outlined above.
6. Government and business elites from Polity B call for better coordination with Polity A on key standards and policies affecting both political systems. (In other words, if you can't beat (or trump) Polity A, then join them!)
  7. Recognizing growing influence beyond their borders, key government officials from Polity A embark upon outreach efforts in order to attain a greater sense of global justification or even a mandate of global (democratic) legitimacy for their increasingly powerful standards. Officials from Polity A and Polity B also willingly collaborate in efforts to harmonize standards and attempt to minimize incompatibility and divergence across both political systems. We can label this dynamic *external validation seeking*, and the language in *The New Transatlantic Agenda* agreement signed in 1995 between the United States and the European Union provides a good representation of the relevant principles.<sup>2</sup>

Of all the above conditions – which, in my view, amount to indicators of an external constituency relationship in the making – perhaps the most indispensable dynamics are external oversight and external accountability, as they both provide confirmation that Polity B has indeed become a regulation taker of Polity A. The dynamics of external oversight and external accountability also suggest that rather than an evenly balanced relationship of interdependence between two polities, that Polity B has instead become at least partially *dependent* upon Polity A. While the dynamics of external contestation (mainly on the part of interest groups from Polity B) and external validation seeking (among policy elites from Polity A) are also important, these are observable implications of the external constituency relationship – and do not provide, in themselves, sufficient evidence of the relationship itself. The ultimate litmus test of a prospective external constituency relationship is confirmation that key government and business actors of Polity B have changed their practices out of the imperative to conform to (or abide by) standards upheld by Polity A – in other words, the factors of external oversight and external accountability.

How, then, have these proposed conditions of an external constituency relationship actually emerged in recent years between the United States and the European Union? In the next section of the paper, I wish to illustrate how the above conditions and dynamics have

---

<sup>2</sup> As stated in the document: “We will strengthen regulatory cooperation, in particular by encouraging regulatory agencies to give a high priority to cooperation with their respective transatlantic counterparts, so as to address technical and non-tariff barriers to trade resulting from divergent regulatory processes. We aim to conclude an agreement on mutual recognition of conformity assessment (which includes certification and testing procedures) for certain sectors as soon as possible.” (US/EU: *The New Transatlantic Agenda*,” The United States Mission to the European Union, accessed online on 19 April at [http://useu.usmission.gov/Dossiers/TransAtlantic/Dec0595\\_NTA.asp](http://useu.usmission.gov/Dossiers/TransAtlantic/Dec0595_NTA.asp)

indeed taken hold by highlighting specific examples that amount to manifestations of the emerging external constituency relationship between the United States and the European Union. In particular, I will examine developments in competition policy, namely landmark cases involving Microsoft and the aborted General Electric/Honeywell merger; environmental and product safety standards, namely the recently enacted REACH regulations governing the labeling of chemicals; and monetary policy, namely the strategy, profile and impact of the European Central Bank amid the ongoing global economic crisis. These examples serve to underscore the growing dependence of the United States upon European public policy measures. First I will highlight examples of external oversight and external accountability and then shift to examples of external contestation.

### **III. External oversight and external accountability**

As noted above, sometimes sentiments of outrage and protest from the United States government provide the most vivid evidence that the United States has become, at least to a limited extent, a regulation taker of the European Union. Consider, for example, the angry reaction from then-United States House Speaker Dennis Hastert in early 2004, after European Union Trade Commissioner Pascal Lamy managed to pressure the U.S. government to eliminate a large tax break for American exporters after an EU-sought decision from the World Trade Organization led the European Union to move toward imposing tariffs against a wide variety of exports from the United States, ranging from textiles from North and South Carolina to steel from West Virginia to citrus fruit from Florida. In Hastert's words: "My gut feeling about this is we fought a revolution 230 years ago to stop Europeans from telling us how we have to tax in this country, and it puts the hair up on the back of my neck that we have to consider this at all. But we have to do it."<sup>3</sup>

Perhaps the single most dramatic illustration of the European Union's increasing external oversight with considerable impact on the United States came in 2001 when the European Commission rejected a proposed merger between two multinational giants, General Electric and Honeywell. The European Commission's rejection of the U.S. \$ 45 billion merger bid instantly became a watershed moment in transatlantic relations: sending a clear message to corporate America that international business endeavors could be curtailed at the hands of European Union regulators. It was not the first time the Commission had forced American multinationals to alter their plans; indeed, the Commission in June 2000 rejected an even larger U.S. \$ 146 billion merger bid between then-telecommunications giants WorldCom/MCI and

---

<sup>3</sup> Dennis Hastert, quoted by Nicholas Kulish, "Euro Brash: Why George W. Bush Takes Orders from Pascal Lamy," *Washington Monthly*, 15 April 2004.

Sprint. While the United States Department of Justice also went to court in June 2000 to block the WorldCom/MCI merger,<sup>4</sup> the GE/Honeywell case had already gained approval quite smoothly from the antitrust division of the United States Department of Justice. Not only had the European Commission spurned one of America's mightiest corporations, but the Commission also had overturned, in essence, a decision from the United States government. In this case, General Electric had held itself to be externally accountable to the European Union, and the European Commission had responded with a vivid and vigorous exercise of its oversight authority.

Also notable was the sense of resignation from Jack Welch that the rejection from the European Commission would be final. In the aftermath of the decision, Welch admitted publicly that he had not anticipated resistance to the merger from the European Commission. What he found was that the usual way of satisfying cautious antitrust officials in the United States – making agreements to sell off specific units of a newly merged business in order to preserve competition for particular product lines – would not satisfy regulators in Europe, who were concerned with the sheer enlarged size of a newly-merged company and its impact upon competitors. Although the European Commission decision generated much political football in the United States, with various outraged members of Congress and the U.S. Secretary of the Treasury claiming that European regulators had no right to impose its own antitrust rules on two American corporations, the outgoing chief executive of General Electric, Jack Welch, did not take the bait. During a television interview on the American MSNBC television network (owned, coincidentally, by General Electric), Welch stated: “We have to do business with Europe, so we have no choice but to respect their laws. That really is just the way the world works now.”<sup>5</sup> While some American politicians and commentators took offense to the fact that an American merger could be shot down in Brussels, Welch maintained that the sheer size of the European market, with its population in excess of 500 million and accounting for nearly 25 percent of worldwide purchasing power, now requires American corporations to defer to European Union guidelines. As a postscript, subsequent to General Electric's failed merger bid, the company landed into a disagreement with the European Union over the permissible amount of radiation that a patient could receive from X-ray machines manufactured by General Electric – and GE agreed to adopt a higher European standard for all its X-ray products.<sup>6</sup>

While General Electric abandoned its merger bid after the European Commission's rejection, another marquee United States corporation has steadfastly fought, at great expense,

---

<sup>4</sup> John Borland, “DOJ Files to Block WorldCom – Sprint Merger,” CNET, 27 June 2007, accessed online on April 15 2009 at [http://news.cnet.com/DOJ-files-to-block-WorldCom-Sprint-merger/2100-1033\\_3-242457.html](http://news.cnet.com/DOJ-files-to-block-WorldCom-Sprint-merger/2100-1033_3-242457.html)

<sup>5</sup> Jack Welch, quoted by T. R. Reid, *The United States of Europe: The New Superpower and the End of American Supremacy* (New York: Penguin, 2004) 105.

<sup>6</sup> *Ibid.*

punitive measures of external oversight from the European Commission. In 2004, the Commission ordered Microsoft to pay € 497 million (approximately U.S. \$ 600 million at the time) and also required the company to modify the Windows operating system in ways that would no longer 'bundle' into the Windows operating system various Microsoft products (namely, Windows Media Player) that the Commission maintained stifled competition.<sup>7</sup> Since the 2004 ruling, the Commission has continued repeatedly to issue fines against Microsoft based on allegations that the company has consistently failed to comply fully with the Commission's 2004 ruling.<sup>8</sup> The Commission fined Microsoft an additional € 280.5 million in July 2006 and an additional € 899 million in February 2008 – which broke the 2004 record for the largest fine ever imposed by the European Union. Microsoft lost an appeal to the Commission's 2004 ruling in the Court of First Instance in September 2007 – and initially did not appeal the case any further – but then filed yet another appeal in May 2008 after the Commission imposed the much larger € 899 million fine.<sup>9</sup> Microsoft went down in history as the first company fined by the European Commission for its alleged refusal to comply with a previous antitrust ruling issued by the Commission.

For its part, the European Commission has only escalated its ongoing investigation into Microsoft. In May 2008, the Commission announced it was launching an inquiry into provisions related to Microsoft Office software, and in January 2009, the Commission stated that it was investigating the bundling of Internet Explorer within Windows operating systems and alleged that Microsoft's continued bundling "harms competition between web browsers, undermines

---

<sup>7</sup> Unlike the case of General Electric, the European Union's investigation of Microsoft unfolded as the U.S. Department of Justice also investigated the corporation on similar issues related mainly to the bundling of software, namely Internet Explorer. In the United States case, however, Microsoft and the U.S. Department of Justice reached a settlement in November 2001 in which Microsoft agreed to share some of its "application programming interfaces" with competitors and open some of the company's systems, records and "source code" to government inspection. The U.S. government did not require Microsoft to change any of its "source code" or prevent Microsoft from bundling any of its software to the Windows operating system. While nine states and the District of Columbia appealed the settlement and argued that the agreement did not sufficiently address Microsoft's anti-competitive business practices, the appeals have been rejected on several occasions by federal judges. ( Stephen Labaton and Steve Lohr, "Justice Department and Microsoft Are Seen in Tentative Settlement," *The New York Times*, 1 November 2001, C1; "Settling the Microsoft Case," *The New York Times*, 5 November 2001, A16; and Patrick Thibodeau, "Judge Rules on Microsoft Case, backs DOJ settlement," *Computer World*, 1 November 2002, retrieved online on 14 April 2009 at <http://www.computerworld.com/action/article.do?command=viewArticleBasic&articleId=75570> )

<sup>8</sup> To be more specific, the Commission has accused Microsoft of failing to provide the public with the necessary information at a fair cost for competing networking software to interact fully with computers and servers running on the Windows operating system

<sup>9</sup> This appeal remained under consideration as of April 2009. "Microsoft Gets Mother of All EU Fines," *Forbes*, 27 February 2008, accessed online on 15 April 2001 at [http://www.forbes.com/2008/02/27/microsoft-eu-fines-markets-equity-cx\\_po\\_0227markets08.html](http://www.forbes.com/2008/02/27/microsoft-eu-fines-markets-equity-cx_po_0227markets08.html) and Jennifer L. Schenker, "The EU's New Heat on Microsoft," *Business Week*, 27 February 2008, accessed online on 18 April 2009 at [http://www.businessweek.com/technology/content/feb2008/tc20080227\\_967982.htm](http://www.businessweek.com/technology/content/feb2008/tc20080227_967982.htm)

product innovation and ultimately reduces consumer choice.”<sup>10</sup> While Microsoft has objected to the way the Commission has handled the case and the fines the Commission has imposed,<sup>11</sup> Microsoft has not questioned the jurisdiction of the Commission to initiate the case in the first place – namely the Commission’s right to external oversight. Likewise, Microsoft’s partial steps toward compliance with the Commission’s rulings, its payment of the initial fine levied in 2004, and the corporation’s willingness to work through the European appeals system, confirm an important measure of external accountability on the part of Microsoft toward the European Union. Similar to General Electric, Microsoft essentially has conceded that the corporation must subject itself to the scrutiny and jurisdiction of the European Union in order to maintain access to the European market.

The cases of Microsoft and General Electric/Honeywell serve as examples of coercive authority projected by the European Commission.<sup>12</sup> But in many other cases, American multinationals have acknowledged a sense of external accountability to the European Union simply by defaulting to European Union standards again out of concern for preserving unfettered access to Europe. Not long after the GE/Honeywell merger was blocked, *The Wall Street Journal* published an article that brought home to an American public normally oblivious to the processes of European Union policy making the extent that more and more rules governing the global economy are now set in Brussels, not Washington – and how American businesses are changing their operations and modifying practices in order to maintain access to the European market. The anecdotal evidence in the article included an Indiana farmer avoiding the use of insect-resistant, genetically modified corn seeds, the McDonald’s Corporation’s decision to stop including plastic toys in its Happy Meals, and United Technologies Corporation’s redesign of its air conditioners to meet more stringent European Union environmental standards on recycling. As Maja Wessels, a lobbyist based in Brussels (at the time with United Technologies) told the Journal: “Twenty years ago, if you designed something to U.S. standards, you could pretty much sell it all over the world. Now the shoe’s on the other foot.”<sup>13</sup> There is also growing recognition in international business circles that

---

<sup>10</sup> “Microsoft Is Accused by EU Again,” BBC News, accessed online on 16 April 2009 at <http://news.bbc.co.uk/2/hi/business/7834792.stm>

<sup>11</sup> Microsoft has stated that the Commission’s ongoing case against the company “may limit our ability to innovate in Windows or other products in the future, diminish the developer appeal of the Windows platform, and increase our product development costs.” (“Microsoft Investor Central – Risk Factors,” accessed online on 16 April 2009 at <http://www.microsoft.com/msft/IC/RiskFactors.aspx> )

<sup>12</sup> At the same time, the cases have also motivated more cooperation between the United States and the European Union in an effort to bring incompatible standards at least into closer dialogue, if not closer together. In recent years, officials from both entities who regulate mergers have collaborated on ‘best-practice’ guidelines and agreed to share information on pending future cases in hope of avoiding future conflicting decisions on mergers. (Patrick Blum, “EU and US Regulators to Meet More Often.” *The Financial News*, 15 December 2002

<sup>13</sup> Maja Wessels, quoted by Brandon Mitchener, “Increasingly, Rules of Global Economy are Set in Brussels.” *The Wall Street Journal*, 23 April 2002.

American corporations have chosen to follow the European Union's electronic privacy standards, which are more stringent than United States standards in affirming the rights of individuals to know what data has been collected about them online and to force corporations to correct or delete incorrect information.<sup>14</sup> All of these examples illustrate how American multinational corporations – as well as American small businesses – are opting into European Union standards – and choosing to hold themselves accountable to European Union rules in order to maximize exposure to the world's markets.

#### **IV. External contestation**

From the arena of European environmental policy, the recently implemented REACH ('Registration, Evaluation, Authorisation and Restriction of Chemicals') regulations provide an example of an external constituency relationship at the nexus of external accountability and external contestation. Albeit with reluctance, at times, corporations from all over the world have modified their operations to follow the stricter and costlier REACH standards for the sake, once again, of preserving market access to European Union member states. The REACH standards require businesses manufacturing or importing large quantities of chemical substances to provide greater levels of disclosure and also to substitute some 200 highly toxic chemicals with other chemicals believed to be safer, with the aim of protecting the health and safety of employees.<sup>15</sup> Prior to the adoption of the REACH standards, Brussels became a venue of vigorous contestation between American public interest groups supporting the stricter regulations and American corporations – backed, for a time, by senior officials in the George W. Bush administration – opposing them. Indeed, public interest groups unhappy with the Washington's past reluctance to raise product safety standards regarding to chemicals refocused their efforts on Brussels out of a sense that higher standards that would otherwise be unattainable through the political process in the United States might very well be within reach *via* the European Union. American business groups, which historically have outnumbered and outmaneuvered public interest groups in Brussels, were quick to redouble their efforts in Brussels. As Mark Schapiro noted in *The Nation*, during public debate over the REACH standards:

---

<sup>14</sup> As reported by journalist and author T.R. Reid, approximately 400 large United States corporations have signed privacy agreements with the European Union guaranteeing they will abide by European Union standards regardless of what might be authorized under less stringent regulations in USA. Canada, Australia, and several East Asian and South American countries have also adopted European Union privacy standards as their respective national standards. (Reid, *supra* note 5, 235.)

<sup>15</sup> The European Commission's Web site for the REACH regulations can be found at [http://ec.europa.eu/environment/chemicals/reach/reach\\_intro.htm](http://ec.europa.eu/environment/chemicals/reach/reach_intro.htm)

The US chemical industry, like other American industries, has been discovering that a presence in Brussels is now a must – and has had to learn new ways to exert influence in a governing institution with three chambers, twenty-five countries (now 27 countries) and twenty national languages, and in which the usual cocktail of campaign contributions, arm-twisting and seduction are neither warmly received nor, in the case of campaign contributions, legal.<sup>16</sup>

The same news article quoted lobbyists from the American Chemical Council, which opposed the higher standards, conceding that although they were accustomed to focusing on individual member states within Europe, only recently had they begun monitoring and lobbying the European Union as a single entity with regulatory authority. Meanwhile, the Bush administration, with considerable backing from the business sector, opposed the REACH standards – so much so that then-Secretary of State Colin Powell sent out a cable to all United States embassies and consulates in European Union member states arguing that REACH could adversely affect the majority of the U.S. \$ 150 billion in annual American exports to the European Union.<sup>17</sup> After the Powell memo failed to sway European policymakers, the Bush administration tried again in 2006. The administration formed a coalition with numerous large external trading partners of the European Union - India, Brazil, Japan, South Korea, Malaysia, Mexico Israel and Australia, among others – to issue a statement attacking REACH as potentially disruptive to world trade.<sup>18</sup>

Supporters of the regulations, in contrast, argued that they were making their way to Brussels with public opinion on their side, and that the regulations would point to an example of globalization raising, rather than lowering, standards of conduct for corporations. In the words of Charlotte Brody of the interest group *Health Care Without Harm* ([www.noharm.org](http://www.noharm.org)), which supported REACH on grounds that the regulations would reduce toxic substances in hospital supplies: “We are putting more resources into Europe than we otherwise would have done. We desperately need the EU to be raising the bar and show what is possible.”<sup>19</sup> In addition, The United States-based *Campaign for Safe Cosmetics* ([www.safecosmetics.org](http://www.safecosmetics.org)) set up shop in Brussels specifically to lobby for approval of the REACH regulations. Even after the implementation of REACH, this wide coalition of public interest groups continues to call for American corporations to follow European Union standards prohibiting the use of known or

---

<sup>16</sup> Mark Schapiro, “New Power for Old Europe,” *The Nation*, 9 December 2004.

<sup>17</sup> Jeremy Woolfe, “Powell in Chemical Reaction as US Resists EU Pollution Drive,” *The Independent*, 28 November 2004.

<sup>18</sup> Since the launch of REACH, no such evidence has emerged. (Mark Beunderman, “EU chemicals bill under fire from US-led coalition,” *EU Observer*, 6 September 2006, retrieved online on 16 April 2009 at <http://euobserver.com/9/21813> )

<sup>19</sup> Charlotte Brody, quoted by Otto Pohl, “Advocates for Change in U.S. Environmental Law are Turning to EU,” *The New York Times*, 6 July 2004.

suspected carcinogens, mutagens and reproductive toxins from cosmetics products. Likewise, these sorts of watchdogs in Brussels also pounce readily when European Union standards lag behind standards from the United States. Recently, for example, *Health Care Without Harm* has urged European Union regulators to match United States government standards on replacing blood pressure measuring devices that use mercury with alternative devices.<sup>20</sup> The dynamics of such public interest groups gravitating to Brussels and working for the implementation and adoption of European regulations to advance their agendas provide a powerful illustration of an external constituency relationship taking hold.

At the same time, many global corporations, in anticipation of REACH, voluntarily began to conform to the proposed standards in 2004 and 2005 while they were still under vigorous debate. Among them: Nokia, which decided to phase out certain kinds of plastics in its mobile phones; Unilever, which eliminated certain hazardous chemicals from its new personal care products; and Samsung, which agreed to eliminate from its manufactured products numerous chemicals deemed hazardous by the European Union.<sup>21</sup> Once again, these sorts of corporations chose to cast themselves as externally accountable to European Union standards – or, to be more accurate, proposed standards that had yet to be formally enacted. Such measures of external accountability in the face of external contestation, with regard to European Union environmental policy, are also emerging among some governments within the United States. In March 2007, the state government of California announced it would consider a carbon “emissions trading scheme” similar to a system in use among the 27 member states of the European Union in an effort to curb greenhouse gas emissions. Cabinet members of Governor Arnold Schwarzenegger’s administration have met with officials from the European Commission and the European Parliament, and the spokesperson for California’s environmental commission has stated: “We hope that California will be able in the near future to be the first non-European region that would join the emissions trading system.”<sup>22</sup> Once again, voluntary decisions by high profile government agencies from the United States to embrace European Union public policies – that are themselves often sources of controversy within the European

---

<sup>20</sup> “New Report: U.S. Leads the World in Health Care Mercury Phase-Out – Europe Can Follow Suit,” news release retrieved online on 17 April 2009 at <http://www.noharm.org/details.cfm?type=document&ID=2031> )

<sup>21</sup> Beunderman, *supra* note 18.

<sup>22</sup> Barbara Helfferich, quoted by Jeff Mason, “California Eyes Joining EU Emissions Trading Scheme,” Reuters, 30 March 2007. The article quotes Linda Adams, secretary of the California Environmental Protection Agency, as stating that she hopes California’s collaboration with the European Union will also help motivate China and India to move closer to European Union environmental standards. At the same time, according to the article, the track record of the European Union’s carbon emissions trading system is in doubt, with data indicating that European Union member states have provided to businesses (such as politically connected power utilities) more rights to emissions than businesses had needed. More recently, new evidence has indicated that carbon emissions among industries covered by the European Union system fell during 2008 by 4 to 6 percentage points. (James Kanter, “E.U. Carbon Trading System Shows Signs of Working,” *The New York Times*, 1 April 2009.)

Union as well as beyond its borders – lend further evidence to an external constituency relationship in the making.

Meanwhile, in the arena of monetary policy, an element of external contestation has emerged since 2007 regarding the extent of coordination between the United States Federal Reserve and the European Central Bank. At first, when the current global economic crisis first reared its head during the summer of 2007 in the form of intensifying concerns about global liquidity, with pools of lending freezing up around the world, the United States and the European Union began cutting interest rates in sync with each other to pump hundreds of billions of dollars into the global financial system. However, as the liquidity crisis in 2008 and 2009 turned into a far more severe solvency crisis, with numerous American banks and insurance companies tumbling into bankruptcy, the United States Federal Reserve repeatedly issued a series of emergency rate cuts that continued until interest rates in the United States in early 2009 were lowered essentially to zero. The European Central Bank, in contrast, held interest rates steady throughout September and October 2008 while stock markets around the world deteriorated sharply – out of concern to avoid triggering inflation. Indeed, the bank was so worried about inflation that it raised rates in July 2008 from 4 percentage points to 4.25 percentage points. The ECB's approach – which stems in part from its singular mandate to maintain price stability, rather than the Fed's dual mandates of price stability and maximum employment<sup>23</sup> – has generated controversy even within the member states, with several of the wealthier member states primarily concerned about inflation while many of the more recent entrants more concerned about economic stimuli. Still, the extent that initial American praise of the transatlantic coordination gave way to American discontent and frustration is striking from the vantage point of the emerging external constituency relationship.

Consider the contrast in tone of the commentary as the crisis worsened from 2007 to 2009. Initially, financial observers from the United States hailed the close coordination between the United States and the European Central Bank. Indeed, in August 2007, when the panic started, the European Central Bank swiftly loaned U.S. \$130 billion at a then-discounted rate of 4 percent into the financial system.<sup>24</sup> By the end of 2007, the ECB had basically matched the Fed in lowering interest rates and had poured even more money into the global financial system than the Federal Reserve – with a December injection of € 348 billion, or U.S. \$ 500 billion that was nearly double the funding that had been expected.<sup>25</sup> As one journalist noted at the time: “While the jury is still out on these coordinated efforts by the Federal Reserve and the ECB to ease the short-term liquidity squeeze, the results from the first chapter were fairly

---

<sup>23</sup> David Leonhardt and Catherine Rampell, “The Fed’s Rate Cut,” *The New York Times*, 8 October 2008.

<sup>24</sup> Jeremy W. Peters, “ECB gushes cash as credit market turmoil spreads,” *The New York Times*, 9 August 2007.

<sup>25</sup> Carter Dougherty, “E.C.B. Makes \$500 Billion Infusion,” *The New York Times*, 19 December 2007.

positive.”<sup>26</sup> By June 2008, pundits in the American financial media were asking – and lamenting in rather partisan fashion: “Could the U.S. and European central banks please get their act together? No sooner had Federal Reserve Chairman Ben Bernanke given the dollar a much-needed boost by indicating his awareness of the inflationary dangers of a weak dollar than his European counterpart, Jean-Claude Trichet, decided to trump him with an ill-timed suggestion that the ECB may raise European rates first, as soon as next month.”<sup>27</sup> In March 2009, while many European officials worried that the United States Federal Reserve’s decision to inject U.S. \$1 trillion into the financial system would exacerbate global inflationary pressures, critics of the European Central Bank continued to call for the ECB to be more aggressive in cutting interest rates and pumping still more euros into the financial system. In the words of Kenneth Wattret, the chief euro-zone economist at BNP Paribas in London: “What they are doing is simply not enough, and this is not one of those downturns that you simply work your way through.”<sup>28</sup>

One particularly telling indicator that monetary policy has become fertile ground for external contestation is that recent commentary from the United States calling for more coordination between the big central banks bears a striking resemblance to complaints several years ago, in the initial phase of the single European currency, from some national leaders of the member states who alleged that a lack of coordination with the European Central Bank was working against their national economic interests. For example, in May 2000, then-French Prime Minister Lionel Jospin, worried about a 20 percent drop at the time of the euro against the U.S. dollar, argued that the European Central Bank needed to coordinate monetary policy more closely with the 11 national governments than in the euro zone.<sup>29</sup> As a sign that the European Central Bank is highly cognizant of its global power and keen to obtain external validation for its policies, some top officials from the European Central Bank recently have stated that they are receptive indeed to working out greater global coordination in the future on monetary policy for the sake of overcoming, if not averting, global recession. In the words of Mario Draghi, for example, a voting member of the European Central Bank and governor of the Bank of Italy: “The more closely coordinated, the better... Action must focus simultaneously on the three pillars of fiscal, monetary and financial stability policies.”<sup>30</sup>

---

<sup>26</sup> Brian Bethune, “The Fed and ECB Coordinate Large Liquidity Injections,” *IHS Global Insight*, 19 December 2007, retrieved online on 13 April 2009 at <http://www.globalinsight.com/Perspective/PerspectiveDetail11249.htm>

<sup>27</sup> James B. Stewart, “U.S. and European Central Bank Need Better Coordination,” *SmartMoney*, 10 June 2008, retrieved online on 13 April 2009 at <http://www.smartmoney.com/investing/stocks/us-and-european-central-bank-need-better-coordination-23243/>

<sup>28</sup> Carter Dougherty, “E.C.B. Resists Global Rush to Crank Out More Money,” *The New York Times*, 25 March 2009.

<sup>29</sup> “France Calls for Coordination of ECB, Governments over Euro” *People’s Daily Online*, accessed online on 16 April 2009 at [http://english.peopledaily.com.cn/english/200005/31/eng20000531\\_41955.html](http://english.peopledaily.com.cn/english/200005/31/eng20000531_41955.html)

<sup>30</sup> “ECB’s Draghi: Close Coordination Best For Economic Policies,” *Dow Jones Newswires*, 21 February 2009, accessed online at <http://www.fxstreet.com/news/forex-news/article.aspx?StoryId=3410ca10-416d-4e70-9a41-3cc7ab68821c> European Central Bank council member Miguel Angel Fernandez Ordonez has also stated publicly

## V. Conclusion

By framing the idea of an external constituency relationship and illustrating examples of how the United States and the European Union have moved in this direction, I am essentially advancing three propositions. First, it is no longer enough merely to cast the United States and the European Union as interdependent political and economic actors; the transatlantic relationship has become more intertwined than that. Second, the United States has become more than an external *stakeholder* of the European Union and has taken on (or fallen into) some patterns of behavior and characteristics more commonly associated with European Union member states. Third, despite the above developments, the United States is obviously *not* at all on track toward becoming an *internal* constituent of the European Union. Just as the European Union is more cohesive than an international organization but less cohesive than a superstate, the US/EU relationship is now in a similar state of ‘betweenness’ that neither the idea of an ‘external stakeholder’ nor an ‘internal constituent’ can capture adequately.<sup>31</sup> The idea of an ‘external constituent,’ then, reflects an attempt to provide an accurate rendering of the current transatlantic state of affairs. Properly deployed, the concept is neither a boldly radical claim nor a hyperbolic turn of phrase but instead contains elements of nuance and ambiguity in relations, at present, between the European Union and the United States.

---

that more coordination is needed in global monetary policy, though Ordonez also has emphasized that the European Central bank would need to continue accounting for inflation risks when making decisions on interest rates. (Andrew Hay, “ECB’s Ordonez says cenbanks should coordinate,” *Reuters*, 7 October 2008.)

<sup>31</sup> Brigid Laffan has often emphasized this notion of “betweenness” in her conceptualization of the European Union. See Brigid Laffan, “The European Union: A Distinctive Model of Internationalisation,” *European Union Online Papers*, Vol. 1, No. 18, 1997. Accessed online 13 April 2009 at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=302709](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=302709) )