What Is "Multilateral"?

By JOHN VAN OUDENAREN

IN RECENT YEARS unilateralism has emerged as the most contentious issue in U.S.-European relations. Europeans have complained about what they see as a U.S. go-it-alone approach to foreign policy, one said to contrast with a European tendency to emphasize "negotiation, compromise, and the virtues of agreed constraints."[1] These criticisms, already common during the Clinton years, intensified during the early months of the Bush administration when they were fueled by U.S. rejection of the Kyoto Protocol and the threat to withdraw from the ABM treaty. After a lull following the September 11 terrorist attacks, they rose to new heights as Europeans protested the U.S. failure to use NATO in the war in Afghanistan, the treatment of captured al Qaeda suspects in Cuba, Washington's sidetracking of the Biological

[1]Nicole Gnesotto, "An End to Introversion," *WEU Institute for Security Studies Newsletter* 34 (July 2001).

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Weapons Convention (BWC) review conference, and the U.S. campaign to exempt itself from jurisdiction of the International Criminal Court (ICC).

For all its fervor, however, the transatlantic debate over unilateralism has been intellectually rather superficial, with little serious discussion of the political, economic, and legal questions that arise in connection with the practice of multilateralism in a world of sovereign states. Political rhetoric has tended to obscure the fact that there is no consensus in either the academic or policymaking communities about how multilateralism should be defined; about when, if ever, unilateral action is acceptable; or about such issues as the relationship between regional multilateral cooperation, such as has unfolded in Europe for the past 50 years, and the kind of global multilateralism embodied in the United Nations.

For all its fervor, the transatlantic debate over unilateralism has been intellectually superficial.

Multilateralism is easiest to define in economic affairs, where it remains the bedrock on which the international financial and trading systems are built. As codified in the IMF Articles of Agreement, monetary multilateralism traditionally has meant the convertibility of national currencies on a non-discriminatory basis and rejection of the currency blocs and competitive devaluations that characterized the interwar period. As enshrined in the General Agreement on Tariffs and Trade (GATT), trade multilateralism has meant application of the most-favored-nation principle on a non-discriminatory basis. In both the IMF and GATT/World Trade Organization (WTO) systems, offenders against agreed multilateralist principles have been countries *within* these organizations that have failed to observe these principles. Nonmember countries do not take on the obligations or receive the benefits of membership, but the stigma of unilateralism has not attached to nonmembership.

In the political sphere, multilateralism is embodied in the universally accepted obligations contained in the U.N. Charter, the provisions of international treaties, and customary international law. Given the somewhat schizophrenic character of the charter's attitude toward the state, unilateralism is both absolutely prohibited (Article 25, obligation to carry out the decisions of the Security Council) and absolutely protected (Article 51, inherent right to self-defense; Article 2, sovereign equality and sanctity of domestic jurisdiction).

A third and increasingly contentious area in which multilateralism applies is in regard to global issues such as arms control, the environment, and human rights. In these areas, unilateralism tends to be associated with nonparticipation in or nonratification of agreements, as in the U.S. rejection of Kyoto and the ICC. It is not clear, however, when a nonuniversal agreement to cooperate in a particular issue area should acquire the same multilateral

status as, for example, the U.N. Charter or whether a state exercising its traditional sovereign right not to sign such a treaty should be branded as unilateralist.

Against this background, it is worth identifying some of the key conceptual issues that might be used to frame a more productive transatlantic discussion of multilateralism. Five in particular stand out: the importance of norms versus numbers, universal versus non-universal arrangements, the problem of "dysfunctional multilateralism," enforcement and the role of international organizations, and the relationship between multilateralism and European integration.[2]

Norms vs. numbers

NUMBERS HAVE TENDED to dominate recent discussions of multilateralism. The Kyoto, land mine, ICC, and Comprehensive Test Ban (CTBT) treaties all were signed by well over 100 states, with unilateralist or quasi-"rogue" status attaching to those countries refusing to sign or to ratify. There is an older diplomatic tradition that regards multilateralism more as a matter of norms than of sheer numbers. The Concert of Europe operated in accordance with a set of unwritten rules that the five great powers tacitly observed. One was that no great power would act alone; unilateralism was strictly proscribed. Another was that no great power could be isolated or humiliated and that under no circumstances would four of the powers gang up on one of the others; nor would they consider mobilizing the smaller members of the system against one of their number.

Some general norms, traceable to the Congress of Vienna and the Concert of Europe, have survived to the present. Article 27 of the U.N. Charter effectively establishes a norm in the guise of a number: No great power-cum-permanent member of the Security Council can be outvoted on an issue of substance before the council. If considered as a multilateral organization, the EU functions on the basis of written and unwritten rules designed to safeguard the interests of committed minorities — indeed of individual member states where vital interests are concerned. The U.S.-led post-1945 multilateral system also operated in accordance with certain norms, identified by John Gerard Ruggie as indivisibility, generalized principles of conduct, and diffuse reciprocity.[3]

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[2]A sixth issue — the relationship between multilateralism and multipolarity (and, by implication, unilateralism and unipolarity) — will be discussed in a future article in *Policy Review*.

[3]John Gerard Ruggie, "Multilateralism: The Anatomy of an Institution," *International Organization* 46:3 (Summer 1992).

In recent years the international community has devoted enormous attention to particular problems without giving much thought to *general* norms of conduct that might define relations among the great powers, between smaller states and the great powers, and between international civil society and state actors. The detailed and highly technical agreements on nuclear testing, land mines, the ICC, and global warming arguably were less expressions of accord among states than the result of efforts by some powers (and not always the same set) to exert pressure on others. In the CTBT negotiations, for example, the United States and its allies used a total ban on testing to press a would-be great power, India, to eschew its nuclear option in a way that clearly backfired. More often, the United States was on the receiving end of efforts to exert pressure through multilateral diplomacy as it was forced to chose between signing agreements that it had warned it could not accept and rejecting these agreements and being isolated.

The international community has not given much thought to general norms of conduct.

The style of diplomacy that has developed since the early 1990s both reflects and in turn reinforces the absence of consensus about multilateralism as a set of procedural norms. Key treaties have been hammered out at chaotic conferences operating against rigid deadlines in the glare of publicity. Much of the nuance and flexibility that traditionally have been associated with diplomacy and used to accommodate divergent national positions has been eliminated as governments are asked to vote on comprehensive, take-it-or-leave-it texts that bar reservations and that are made especially difficult to amend.[4] While some of this activity reflects the growth of NGO influence, much of it tends to be orchestrated by states and groups of states in what could be seen as a rather traditional struggle for international advantage.

Lack of underlying consensus about the sources of multilateral order and the reluctance of states to subordinate specific objectives to general norms also can be seen in the fate of international institutions. While U.S. unilateralism frequently is associated with "U.N.-bashing," many of the self-styled champions of multilateralism *also* have taken an essentially tactical approach to the U.N., thereby helping to undermine its authority and effectiveness. When India blocked agreement on a CTBT in the Conference on

[4]See Kenneth Anderson, "The Ottawa Convention on Banning Landmines, the Role of International Non-governmental Organizations and the Idea of International Civil Society," *European Journal of International Law* 11:1 (2000); Ruth Wedgwood, "The International Criminal Court: An American View," *European Journal of International Law* 10:1 (1999); and David Davenport, "The New Diplomacy," *Policy Review* 116 (December 2002-January 2003).

Disarmament, treaty proponents led a successful effort to transfer its consideration to the General Assembly in a way that India charged was a violation of longstanding U.N. norms and procedures. In pursuing the land mine ban, Canada and Norway invented their own negotiating forum, outside the structure of the U.N., which they then took to the U.N. as a fait accompli. Similarly, the land mine, ICC, and CTBT negotiations all became surrogate battlegrounds in which the middle powers used negotiations on unrelated issues to press their campaign to weaken the Security Council.

While it is not always the case that the United States is guided by norms and the EU by numbers (Washington is capable of mobilizing large coalitions against the EU on economic issues and has joined with Europe on issues such as nonproliferation), the two sides frequently divide along these lines. With regard to the ICC, for example, Europeans ask why the United States opposes such an obviously multilateral enterprise. From a U.S. perspective, the more pertinent question is why an organization that has not been approved by the U.N. Security Council and that is rejected by the three largest countries in the world (China, India, and the United States) should qualify as multilateral in the first place.

Universal vs. nonuniversal arrangements

CLOSELY RELATED TO the issue of norms is the question of whether international arrangements must approach universality to be considered truly multilateral. The most unambiguously multilateral arrangements are those with universal or near-universal membership, such as the U.N., WTO, or IMF. For arrangements or groupings that are less than universal, competing claims among such groupings or with third states inevitably arise. In international trade, the relationship between regional blocs such as the EU and NAFTA and the global trading order is a key economic, legal, and political issue. Economists long have worried that the internal multilateralism of the European and other regional integration projects may be achieved through discrimination against outsiders that runs counter to global norms.

While regional groupings at least have a geographic rationale that bolsters their claims to multilateral legitimacy, the same cannot be said for functionally defined groupings, which often are rather arbitrary with regard to membership and rules for decision-making. The Northwest Atlantic Fisheries Organization (NAFO), for example, a body that played a key role in the EU-Canada "turbot war" of 1995, has had a shifting membership determined less by anything having to do with fishing than by exogenous political factors. The size of the organization decreased when Portugal, Spain, and East Germany joined the EU, increased when the Baltic countries became independent, and will shrink again as the EU enlarges. Denmark and France effectively are represented twice in NAFO, once through the EU as well as

individually on behalf of their colonial possessions in North America (Greenland and St. Pierre and Miguelon). While this arrangement has the virtue of allowing all interested parties to participate, it is somewhat arbitrary to ascribe a robust multilateral legitimacy to decisions taken by the NAFO General Council under the established means of simple majority vote.

Another fisheries body, the International Whaling Commission (IWC), offers a more extreme example of an organization that has multiple members but is not multilateral in any normative sense. The IWC was established in 1946 by 15 countries with an interest in conservation. Over time, changing norms and the continued decimation of whale populations led to the emergence of an abolitionist majority in the IWC, culminating in the adoption by majority vote in 1986 of a moratorium on whaling. Norway and Japan since have led an increasingly bitter struggle to have the moratorium lifted while anti-whaling nations have sought to leave it in place. This struggle has been waged through an almost farcical membership "arms race" in which Japan, using its aid budget as leverage, has effectively cajoled poor developing countries into joining the IWC for the sole purpose of being able to vote to lift the ban while the anti-whaling forces have signed up additional members to vote to uphold it. Whether Japan resumes whaling under multilateral sanction or in unilateralist breach of an international rule thus can turn on the votes of landlocked Mongolia (pro-) or tiny and landlocked San Marino (anti-). This clearly is a case in which multilateralism and unilateralism have ceased to have any real meaning, having become purely artifacts of voting rules, shifting membership, and the tactical calculations of the pro- and anti-whaling nations.

The most problematic multilateral groupings are those that are purely self-defined.

Perhaps the most problematic multilateral groupings are those that are purely self-defined, such as the various "like-minded" groups that arose in the 1990s to promote international agreements on such issues as land mines and the International Criminal Court. The original like-minded group on land mines had 11 members: leaders Canada and Norway and nine other states, six of which were European. The like-minded group promoting the court had 27 members, 16 of which were European. While such self-defined leadership groups can play pioneering roles in international diplomacy, it is not clear on what basis they lay claim to multilateralist legitimacy and ascribe unilateralist illegitimacy to states that refuse to follow their lead. This is particularly the case when the members of the like-minded group are disproportionately from a single region, are less affected than non-like-minded states by the proposed agreements under discussion (e.g., relatively secure states promoting bans on various defensive weapons such as mines), or when the claim to moral leadership of a like-minded state is open to ques-

tion (as in the participation of Tudjman's Croatia and Meciar's Slovakia in the group pressing for rapid creation of the International Criminal Court). While the EU has tended to bandwagon with such groups, the United States and U.S. power more often than not have been their implicit or explicit targets.

Dysfunctional multilateralism

ACADEMIC DEBATES ABOUT the nature of the international system frequently revolve around the issue of anarchy. Realists argue that international society is fundamentally anarchical and that multilateral cooperation cannot eliminate the basic struggle for power among states. Liberal institutionalists hold that cooperation, especially in multilateral international institutions, does shape the behavior of sovereign states in ways that modify the anarchy of the international system. What neither of these perspectives acknowledges sufficiently is the phenomenon of what might be called "dysfunctional multilateralism" — forms of international cooperation and organization that affect the decision-making calculus of states (in ways that realists tend to discount) but are at best suboptimal and at worst counterproductive from the perspective of international order (a perspective that liberal institutionalists tend to disregard).

In extreme form, dysfunctionality can involve purposeful violations of multilateral agreements, as in the Soviet, Iraqi, and North Korean violations of various arms control treaties, but it applies in many other areas as well. After the collapse of the Soviet Union, a former scientist at the USSR Ministry of Fisheries revealed to a stunned session of the IWC that for 40 years the Soviet fleet had conducted clandestine whaling operations — from 1948 to 1973 alone slaughtering 48,477 humpback whales rather than the 2,710 officially reported. Deception on this scale rendered meaningless all IWC statistical calculations and called into question the scientific underpinnings of an international conservation policy conducted over a period of decades. When asked why the IWC had not publicized its private suspicions about the scale of Soviet whaling and the statistics provided by Moscow, the IWC president remarked, "that is not the style of an international organization."[5] At least as far as Soviet participation was concerned, the IWC was clearly dysfunctional in contributing to its mandated goal of maintaining a viable preservation regime for marine mammals.

However problematic, flagrant violations of this kind probably contribute less to dysfunctional multilateralism than do more mundane deviations from

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[5]Quoted in David D. Caron, "The International Whaling Commission and the North Atlantic Marine Mammal Commission: The Institutional Risks of Coercion in Consensual Structures," *American Journal of International Law* 89:1 (January 1995).

international norms. In many cases, such deviations are legal, having been built into the loose, post-World War II model of multilateralism with its numerous opt-outs and escape clauses. Historically, such clauses often reflected an implicit bargain in which stronger countries were held to higher standards than were applied to countries still recovering from World War II or otherwise "catching up." In exchange, weaker countries recognized that standards as such were important and that *some* level of compliance was expected. In the IMF, for example, as recently as 1984 only 59 of 146 member countries accepted Article VIII obligations regarding convertibility, with the rest covered by various "transitional" arrangements permissible under Article XIV. Similarly, the GATT has been characterized as "multilateralism with exceptions,"[6] in which little effort was made to enforce compliance by the poorer signatories provided they accepted the principle of a rules-based system.

In many cases, deviations from international norms are legal, part of a system of opt-outs and escape clauses.

Exceptions and opt-out clauses also have been a feature of more specialized forums, such as the International Civil Aviation Organization (ICAO) or the various regional fisheries bodies. Under the Chicago Convention of 1944, for example, ICAO technical committees are responsible for recommending international standards for safety, which then are adopted by the ICAO Council. Once a standard comes into effect, a member state has an obligation to comply. But the convention allows any state to indicate that it is unable to comply with a standard, in which case it is not bound by it. Similarly, in bodies such as NAFO, scientific committees recommend annual allowable quotas for various species on the basis of assessments relating to the needs of conservation. Member states then adopt and allocate these quotas by negotiation and, if need be, by voting. If a member state objects to a quota, however, it is not bound by it and may set its own quota. These kinds of objection procedures give states an escape in the case of extraordinary domestic circumstances even as they enlist peer pressure and exposure to scientific advice in pursuit of longer-term goals.

Multilateralism of this kind can become dysfunctional when states or groups of states systematically abuse the available opt-out and escape clauses. This happened in NAFO following the accession of Portugal and Spain to the EU. Until 1985, the EU generally followed the Canadian-led conserva-

[6]Judith Goldstein, "Creating the GATT Rules: Politics, Institutions, and American Policy," in John Gerard Ruggie, ed., *Multilateralism Matters* (Columbia University Press, 1993), 219.

tionist line in setting quotas. With the accession of Spain and Portugal, however, the EU came under pressure to resist NAFO's conservative management approach. Between 1986 and 1992, the EU used the objection procedure 53 times to set quotas for its fleets far higher than that recommended by the Scientific Council and voted by the NAFO membership, thereby setting the stage for the 1995 EU-Canada turbot war.[7] In other cases, multilateralism becomes dysfunctional because states simply lack the ability to comply with their international obligations. Many developing countries do not have the expertise to inspect the airworthiness of a modern jetliner. In such cases, member states can fulfill their legal responsibilities by informing ICAO that they are unable to comply fully with ICAO standards. In practice they rarely do so, leaving totally unclear the degree to which member states are enforcing agreed norms.

Unilateralism increases as states seek to defend themselves in the face of unevenly enforced agreements.

The pervasiveness of dysfunctional multilateralism arguably has tended to push the international system toward increased unilateralism as states seek to defend themselves in the face of poor or asymmetrically enforced agreements. Canada, for example, eventually brought the issue of overfishing in the NAFO regulatory area to a head by unilaterally seizing the Spanish trawler *Estai* just outside the 200-mile limit, provoking a severe political crisis with the EU. The Canadians did not challenge the abusive, albeit legal, self-declared quotas allotted to Spain and Portugal, but by seizing the ship they were able to demonstrate that even with these quotas Spanish fishermen engaged in numerous practices that were prohibited under EU and international law. The EU reacted by charging Ottawa with an outrageous act of unilateralism and supporting Spain in a case against Canada in the International Court of Justice. There was a sense, however, in which this unilateralism had been brought on by the triply dysfunctional nature of NAFO as a multilateral arrangement — one whose membership and voting structure did not in any way reflect international legitimacy, in which the largest member systematically ignored scientific advice and abused an escape clause designed for occasional use, and in which the decisions of NAFO itself were rendered irrelevant by numerous technical violations of the type found on the *Estai*.

De facto unilateralism in the aviation sector began to arise in the early 1990s, when the United States started cracking down on unsafe foreign carriers flying into U.S. airspace. In 1992 the U.S. Federal Aviation

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[7]Donald Barry, "The Canada-EU Turbot War: Internal Politics and Transatlantic Bargaining," *International Journal* 53:2 (Spring 1998).

Administration (FAA) announced an International Aviation Safety Assessment program in which it for the first time named those countries that in its view were not implementing and enforcing ICAO standards. Attempting to avoid charges that it was exercising extraterritorial regulatory powers over the carriers of other countries, the FAA emphasized that it was focusing on the ability of countries to fulfill their obligations, not of carriers to comply with what should have been nationally enforced requirements. But by skirting the national sovereignty principles on which ICAO was established, the FAA action led to a certain amount of international grumbling about U.S. unilateralism.

The most significant post-1945 examples of unilateral action in response to what had come to be seen as dysfunctional multilateralism were in the economic sphere and were taken by the United States: in 1971-1973, in engineering the breakdown of the Bretton Woods par value monetary system, and in the mid-1980s, by pursuing a trade policy of what one critic called "aggressive unilateralism." In both cases, U.S. unilateralism was driven by a sense that the existing multilateral system had become unsustainable in its then-current form and that efforts to reform by multilateral means had proven unsuccessful. In recent years, however, European governments also have begun to react with unilateral, and at times legally problematic, measures to multilateral arrangements that from *their* perspective are dysfunctional. The latter include WTO rules that do not give carte blanche to the "precautionary principle," ICAO rules that set global noise standards for aircraft engines above what urbanized Europeans regard as desirable, and, most recently, maritime laws that guarantee the rights of aging tankers to ply the seas around Europe. Not surprisingly, European governments are reluctant to acknowledge such unilateralism for what it is. Indeed, much of the rhetoric about a *future* system of governance characterized by a thick web of international rules and institutions tends to obscure the fact that, in the here and now, European countries and the EU as such often co-exist rather awkwardly with existing multilateral rules.

Institutions and compliance

If one of the responses by governments to dysfunctional multilateralism has been increased resort to unilateral action, the other has been toward higher levels of international institutionalization, with the aim of restoring multilateral cooperation at increased levels of compliance and improved functionality. The Nixon shocks of the early 1970s led to the reform of the IMF and the establishment of new institutional arrangements, notably the G-5 and the G-7. Similarly, the Reagan administration's unilateral responses to violations of the GATT by other countries led to the establishment of the WTO Dispute Settlement Body (DSB).

The same dynamic between dysfunctional multilateralism, unilateralism,

and new forms of multilateral cooperation can be seen in the NAFO and ICAO cases. After the initial act of Canadian unilateralism and the EU's response, the *Estai* incident led to a stronger regional fisheries regime that satisfied the interests of both Canada and the EU. Canada formally acknowledged the right of EU fleets to fish in the waters off its coast and confirmed an increased share of the turbot catch. In return, it received a stronger surveillance and inspection regime that helped to eliminate the kinds of abuses committed by the *Estai*. Similarly, FAA pressure on other countries to observe their own Chicago Convention commitments helped to launch new multilateral efforts to improve the international aviation safety regime. In 1998 the ICAO members approved a Universal Safety Oversight program, albeit one that still requires the consent of any state for an audit. In these and similar cases, the erstwhile unilateralist agrees to limit its freedom of action to secure better performance from other states in a given policy area.

There is no theory to explain why governments accept increased constraints to secure better compliance from others.

While there are numerous examples of this dynamic at work, there does not seem to be a coherent theory to explain why and under what circumstances governments accept increased constraints on their freedom of action to secure better compliance from other countries. Theoretically, delegation of sovereignty for this purpose can be ranged along a spectrum from least to most formal, least to most institutionalized. At a very rudimentary level, states may conclude treaties in which they undertake obligations without committing themselves to any formal mechanism for enforcement or review. Other treaties establish intergovernmental commissions to consider matters of compliance, as in the SALT I treaty with its Standing Consultative Commission. A further step toward institutionalization is to establish a mandatory peer review process, as in the 1994 Convention on Nuclear Safety adopted in response to post-communist revelations about safety problems in Soviet-built power plants.

A yet more ambitious step is to establish autonomous institutional mechanisms for investigating potential violations and adjudicating disputes — for example, the DSB. Such arrangements go a considerable way toward creating quasi-supranational bodies that sit in judgment on the parties themselves. Implementation of decisions ultimately remains a matter for the signatories, however, and is not automatic or self-enforcing. At the very high end of this spectrum, mechanisms to ensure compliance take on characteristics of full supranationality, able to enforce decisions and actions against states or nationals of states without the political concurrence of those states. The ICC clearly moves furthest in this direction in that it sets up an independent prosecutor and a supporting bureaucracy that is empowered to investi-

gate, indict, and try individuals with little in the way of prior political authorization from the states involved.

One of the more curious features of post-Cold War multilateral diplomacy has been the extremely uneven way in which the international community has empowered international institutions to address problems of implementation and enforcement. It has been willing to establish an ICC with sweeping powers even as it remains reluctant to create international bodies that, for example, could conduct mandatory inspections of fishing fleets widely suspected of flouting international rules, of nuclear power plants known to pose safety hazards, or of certification procedures for civil aviation fleets with disastrous safety records. This pattern suggests that the development of international institutions designed to enforce cooperation is an arbitrary process, at best driven by political fashion and the pressures of NGOs rather than any systematic thinking about world order, at worst a process marked by the narrow pursuit of national interest — one in which governments are willing to pool sovereignty on abstract issues that are unlikely ever to affect them very much but in which they guard their national prerogatives when real commercial or political interests are at stake. In extreme form, this pattern can be seen in the behavior of microstates that purport to contribute to multilateralism by such essentially meaningless acts as adhering to agreements on nuclear testing and nonproliferation but dig in their heels on issues closer to home such as bank secrecy, tax evasion, or money laundering.

The relationship between compliance and institutions is yet another area in which U.S. and EU practices diverge. The United States tends to be concerned about practical results and compliance with existing law while the EU focuses more on establishing institutions to promote long-term convergence of behavior, often with limited regard to how rules are monitored or enforced. Thus, at the November 2001 BWC review conference, the EU was at the forefront of efforts to establish a new international organization to foster compliance. In contrast, the United States highlighted the failure of the international community to respond to instances of non-compliance with the BWC and called on countries to enact national legislation criminalizing biological weapons under domestic law.

Unilateralism and European integration

THE EU CLEARLY is more than an international institution, and its continued development (widening and deepening) raises important questions about the relationship between multilateralism and European integration. European officials and commentators tend to accept as an article of faith that Europe, because of its experience since the 1950s, is inherently multilateralist. This view is shared by many U.S. observers, both those on the "left" who deplore the perceived unilateralism of U.S. policy and hold up Europe as a counterexample and those on the "right" who

contrast the naïve multilateralism of Europe with the more realistic unilateralism with which the United States approaches the world.[8]

Clearly there is something to the argument that small countries are more inclined than large ones to look to international solutions to policy problems. But extending this argument to the EU as a whole is questionable. As European leaders themselves emphasize, a key goal of the integration process is to increase the weight of the Union so that it can become a more influential force on the international level. EU internal decision-making patterns also are very different from those that apply in relations with the outside world. Internally, the EU has developed habits of restraint that respect the domestic difficulties of individual member states; decision-making by consensus is highly prized. Externally, the EU is increasingly known for a "take-it-or-leave-it" style of negotiation, as exemplified in the accession process with the countries of Central and Eastern Europe, in trade and fishing negotiations with developing countries, and in the rigid stances taken with the United States in recent multilateral negotiations on world order issues. Internally, the EU's policing of legislation is ex post, belated, and ineffective. Externally, the EU has proven to be an extremely litigious actor, insisting on rigorous ex ante policing of even potential infringements of international agreements in the WTO and elsewhere.

As in all political systems, hypocrisy and opportunism in the EU shape policy and may account for some of the contrasts between the union's internal and external behavior. More fundamentally, however, there is a genuine tension between the EU's perception of itself as an inherently multilateralist actor and its need to assert its identity and demarcate itself from the rest of the world through measures that, from an *outside* perspective at least, can appear starkly unilateral. It could in fact be argued that the entire course of integration policy since the 1950s has been characterized by a pattern of what might be called "structural unilateralism" — a rejection of external, and especially U.S., attempts to extend bilateral or multilateral controls over the European integration process. This pattern was evident in resistance to GATT interference with steps seen as necessary to complete the common and single markets, in the defense of the CAP as part of the political underpinning of the EU, in rejection of external constraints on preferential trade agreements regarded as vital to the development of an EU external policy, in rejection of various U.S. calls for a post-Cold War "seat at the table," in the development of a CFSP and ESDP to which NATO has been asked to adapt and readapt itself repeatedly since 1991, and above all in the enlargement process, in which the EU has resisted external interference in matters relating

[8]See Robert Keohane, "Ironies of Sovereignty: The European Union and the United States," *Journal of Common Market Studies* 40:4 (November 2002); and Robert Kagan, "Power and Weakness," *Policy Review* 113 (June-July 2002).

to timing or the eligibility of countries for membership. This structural unilateralism is also enshrined in European jurisprudence, as the European Court of Justice (ECJ) has upheld the European Commission's contention that member states have an obligation to renounce or renegotiate treaties with third countries that conflict with the EU's founding treaties as well as EU directives and regulations.

At present, the EU seems profoundly ambivalent about whether it is an emerging "superpower" that, in order to take its place as a partner of or counterweight to the United States, must engage in still more and more vigorous such unilateral action to build its external profile and to demarcate itself from the rest of the world (to become, as Hans Morgenthau might have phrased it, a more "impenetrable" actor in the international system with a heightened sense of sovereignty), or whether it is the kernel of a new, post-Westphalian system of global governance in which sovereignty as such is a wasting asset. The ambivalence at the heart of European thinking about multilateralism and world order makes it very difficult for the EU to establish a coherent and consistent line with regard to many of the key conceptual issues — the role of norms versus numbers, for example, or the importance of universality — crucial to the future of multilateralism. The textbook view that European integration is marked by unique elements of supranationalism that distinguish it from the intergovernmentalism reflected in virtually all other forms of international cooperation is, as Andrew Moravcsik and others have argued, far too simple. Insofar, however, as there is some validity to the EU's distinctive claim to a supranational identity, recent years have witnessed a strange inversion in which member states seem to be clawing back sovereignty through reassertion of intergovernmental mechanisms within Europe even as the EU has become the leading exponent of a kind of global supranationalism. Governments have become increasingly cautious about ceding powers to the ECJ within Europe even as they seem unperturbed by the potential loss of national prerogative to such bodies as the ICC, which causes such consternation in the Bush administration. Similarly, European member states apparently see no contradiction between the ferocious intra-European disputes at Nice over the precise allocation of weighted votes in the Council of Ministers, the qualified majority voting threshold, and the circumstances under which the new "triple majority" would come into play and, to cite the ICC example once again, the fact that this particular product of global multilateralism has been firmly rejected by the three largest countries in the world.

The EU seems profoundly ambivalent about whether it is an emerging superpower.

It could be argued that there is a realpolitik method in this seeming madness. With the EU effectively wielding a bloc of 30 to 35 or more votes in

international forums, it makes perfect sense for member states to stress "numbers" externally even as they emphasize "norms" at home. Another factor may be the political problems associated with globalization and the pressures it puts on governments to try to hold on to certain powers at the national level (to impose tough restrictions on crime and immigration, for example) while at the same time stressing to voters through active international policies that certain problems can be solved only at the global level through mechanisms such as Kyoto and the ICC. Whatever the most likely explanation (or explanations), there clearly is a huge agenda for exploring in more depth the evolving relationship between European integration (and regional integration in general) and the future of multilateralism.

Who decides?

MULTILATERALISM RAISES complex questions to which there are no simple black-and-white answers. While unilateralism undoubtedly exists in U.S. policy, it is not a new phenomenon, one that is unique to the United States, or one that in all cases is dysfunctional with regard to world order. Unilateralism also is present in Europe and may even be considered a structural factor in how the EU interacts with the outside world.

Europeans are right to warn that strong transatlantic ties depend upon a continued U.S. commitment to multilateral cooperation. However, the EU and its member states cannot expect to be the sole arbiters of what constitutes unilateral or multilateral behavior. Transatlantic relations would be well served by a more intellectually sophisticated dialogue, at both the official and unofficial levels, on what multilateralism is, when it does and does not work, and how it can best serve European, U.S., and third-country interests.

From Sarajevo to September 11

The future of globalization

By JOHN MICKLETHWAIT AND ADRIAN WOOLDRIDGE

ON THE MORNING of June 28, 1914, the world could rejoice in 60 years of extraordinary peace and progress. The first great age of globalization had made the world seem an infinitely smaller place. So great were the twin powers of technology (in the shape of the telephone, the telegram, the train, the car, electricity, the camera) and ideology (the gospel of free trade, guaranteed by the world's hegemonic power, Britain) that Edwardian intellectuals prophesied the end of all wars. Yet on that summer's day, one act of terrorism in Sarajevo — the assassination of the Archduke Ferdinand and his wife by a Serbian fanatic called Gavrilo Princip — set off a sickening train of events. The world plunged into the most horrific war in history, and even

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