

# **NEW ISSUES IN REFUGEE RESEARCH**

**Working Paper No. 27**

## **Towards a common European migration and asylum policy?**

**Colleen Thouez**

Consultant  
UNHCR  
CP 2500  
CH-1211 Geneva 2  
Switzerland

e-mail: [cthouez@aol.com](mailto:cthouez@aol.com)

August 2000

These working papers provide a means for UNHCR staff, consultants, interns and associates to publish the preliminary results of their research on refugee-related issues. The papers do not represent the official views of UNHCR.

ISSN 1020-7473

## **Introduction**

Despite assertions made by European Union (EU) technocrats and from passages within the Amsterdam Treaty (1997) that would have us believe that a migration policy for the EU may be close at hand, few concrete indicators substantiate this position. Indeed, as so many have pointed out, the mere expression that a policy is being developed and its actual existence and application are very different propositions. As stated in a recent edition of *Foreign Affairs*, European rhetoric in 1991 that “the hour of Europe” had come, would soon ring hollow, as did the 1992 Maastricht Treaty’s assertion that “a common Foreign and Security Policy is hereby established.”<sup>1</sup> Similar disappointment may well be expressed in the year 2002, as the projected five-year transition period elapses and certain migration-related matters, such as visa, asylum and immigration, are transferred from Pillar III (Intergovernmental cooperation) to Pillar I (Community matters). A full transfer of entry-based migration policies would carry significant implications. Member-states would in effect abdicate their sovereign decision making power over such matters, leaving these issues to the competence of the European Commission (EC).

While the fate of a common migration policy governing entry rules for third country national (TCNs) into the EU and falling under Pillar I - supranational cooperation - is far from certain, this work attempts to break down the prospective components of such a policy. It evaluates the necessary factors for the emergence of a Common Policy (CP). It analyzes the components of the prospective CP in light of collective action based theories predominant in international relations theory literature. It concludes by suggesting that member-states are achieving the benefits of a CP without having to forsake their mutual aversion, that is the loss of sovereign decision-making power with respect to whom is allowed to enter (and reside in) their territory. In an era of concessionary bargaining, where parties are able to cater agreements to their advantage, member-states benefit from acting collectively to achieve migration-related objectives, such as restricting future entry, without ceding their authority to Community competence. Political will or, *volonté politique*, towards a supranational policy governing entry rules for migration into the EU is weak, if non-existent. Rather, member-states recognize their differing hierarchies of preference towards migration-related priorities, and will continue to act collectively in this field by way of intergovernmental agreements.

This study is divided into three parts. The first section looks at the components of a CP based on migration-related goals. The second section examines structural conditions affecting the emergence of a CP. The third section evaluates the advantages and disadvantages to member-states by acting collectively in this field.

### **Components of a common European migration policy**

This section distinguishes matters that are likely to fall under Community jurisdiction from those that are less apt to do so. Much discussion at the EU level focuses on the

---

<sup>1</sup> Wallace and Zielonka 1998, p.70.

harmonization of migration policies amongst EU states and the cooperation and coordination vis-à-vis their implementation. Little attention, however, pinpoints which entry-based TCN guidelines will remain within the realm of intergovernmental cooperation and which will fall under the domain of a CP, governed by the Community's authority (Pillar I). The following section attempts to identify the components of a CP for the entry rules of TCNs, and to assess which features individual states would be most likely to relinquish to Pillar I.

### **Defining external borders**

The idea behind the European experiment as we know it, is that a territorial space would be created by the amalgamation of various states. With the elimination of their respective borders, and the free circulation of goods, services and people, Europe would be established as a new entity, representing more than a geographical location, but also an economic and political bloc. Underlying this vision, is the notion of a common border that would surround the newly defined mass. The first steps towards the actual dismantling of border checks between EU member-states was initiated with the intergovernmental agreement associated with the free movement of persons within the EU, the Schengen Convention (1985 and 1990; free movement applying to EU citizens only). However, like all projects that are still in the development stages, some glitches emerged from the onset. First off, some states refused to join the Schengen framework, fearing that European border control mechanisms would be insufficient to guard against large migration influxes. Thus, the newly defined entity could not be matched by a corresponding border demarcation. Second, some states that ratified Schengen have failed to fully implement the agreement, such that the logistics of border controls and the reality of a common border are problematic.

Indeed the common border feature of a CP, unlike most other features, is an absolute notion, one that cannot be adopted partially or sporadically. When some states decide to opt-out of this feature of a CP, it affects more than the functioning of a CP in this area - it alters the context and the scope of the policy. It is for this reason that so many political concessions are extended to states that are unwilling to sign on to Schengen. Recently, the reaction by Schengen states has been to induce non-Schengen EU-members to comply with Schengen rules or to be exposed to the loopholes from uncoordinated action in this field. For instance, when many Kosovar refugees fled to Belgium in 1998 and were given five days to leave the country upon rejection of their asylum claims, a number took advantage of the time delay and traveled to the United Kingdom. When the British lodged protests to the Belgian ministry of the interior, the Minister simply stated, "maybe Britain should join Schengen."<sup>2</sup>

As attempts are still undertaken to induce non-Schengen members to sign on, what is known as the *Schengen acquis*<sup>3</sup> is being incorporated into the Amsterdam Treaty's

---

<sup>2</sup> *The Houston Chronicle*, 31 March 1998, p.A18.

<sup>3</sup> The body of rules and regulations developed under the Schengen Convention.

provisions for a common border to control TCN entry. In July 1998, the Austrian Presidency to the EU Council's first draft of its "Strategy Paper on Immigration and Asylum Policy" called for "full integration of the *Schengen acquis* into the European Union and securing of the smooth continuing effectiveness of all bodies and procedures established thereunder."<sup>4</sup> Its first revised draft in September of that same year was more forthcoming, suggesting that "it is essential that the Schengen standard be implemented in its entirety and constantly improved at all external borders of the European Union Member States, whether or not they are participating fully in Schengen cooperation."<sup>5</sup>

## **Security regime**

The security rationale is often touted as being at the heart of common migration controls within the EU. Many politicians associate immigration with crime and social disunity. Migration expert, Sarah Collinson argues that security concerns, a common issue among all member-states remain the primary impetus for coordinated action in this field. She states:

The Draft Amsterdam Treaty...represents one of the clearest statements to date of the internal security rationale that underpins and largely defines European cooperation in the area of immigration and asylum policies.<sup>6</sup>

For the purposes of this investigation, a number of security-related aspects associated with migration are examined under the umbrella of a security regime. One such aspect is data collection, which includes the gathering of data on the number of legal (and though more challenging, illegal) entries into individual states and mechanisms improving data collection and coordination at the EU level. Another component involves harmonized police and judicial action to circumvent illegal migration and to expedite the return of illegals. An aspect of security that is in the developmental stages involves a form of early warning mechanism that would allow Union member receiving states to prepare for (and possibly prevent) large migration flows. And last, deportation procedures are examined, looking at how they might be improved and whether they may be harmonized.

### *Data collection*

There appears to be little objection to a common approach to maintaining active lists on the number of migrants seeking entry into the EU. The more daunting task is to successfully implement common rules in this regard. Some instruments are being developed that deal directly with data collection, focusing on retrieving information on illegals seeking entry into the EU. The Schengen Information System (SIS), a unified Europe-wide communication system linking visa authorities has been developed. In

---

<sup>4</sup> Austrian Presidency, 1998, p.38.

<sup>5</sup> Austrian Presidency, first revision, 1998, p.28.

<sup>6</sup> Sarah Collinson, 1998, p.4.

addition, the Eurodac Convention is underway setting forth the establishment of a computerized system to compare fingerprints of persons requesting asylum in an EU country. The aim of this system is to prevent asylum requests being made to several countries at the same time.<sup>7</sup> (There has been no progress on a similar proposal on whether illegal immigrants should be fingerprinted as well.)

### *Police and judicial action*

Because of the contentious issues underlying police and judicial matters, such actions have remained firmly within the realm of intergovernmental cooperation. Indeed, due to bitter historical experiences, full police cooperation may be difficult to achieve. For example, having German police officers enter the Netherlands during a “hot pursuit” would be largely viewed as politically and symbolically unacceptable to the Dutch. Similarly, proposals by the German government to send liaison officers to the Greek border to control the inflow of migrants there have met with great hostility.<sup>8</sup>

Indeed, moving beyond the sphere of competence of the individual state may be logistically and politically challenging. The occasionally debilitating competition amongst various levels of security enforcement within countries (as illustrated with the example of the pedophilia scandal in Belgium in 1997) seems to suggest that reciprocity and mutual recognition amongst police branches of respective member-states would be difficult to achieve.

In 1998, the Italian Foreign Ministry presented a less ambitious form of common policing. The Italian authority suggested that a common “social pact” be agreed to “that would resolve the immigration problem.” It called for a European Coast Guard Force to be established to survey porous borders against migration inflows.<sup>9</sup>

### *Early warning*

In early 1999, adopting a less controversial stance than its Austrian predecessor, the German Presidency to the EU Council called for the establishment of an early warning mechanism that would warn European states of impending “emergency situations.” Though the proposal suggested the development of a common set of guidelines for recognition of emergency situations, it did not stipulate a common plan of action that would be adopted by member-states in the event of such emergencies.<sup>10</sup>

---

<sup>7</sup> “Austria’s asylum shake-up,” *BBC News Service*, 13 December 1998.

<sup>8</sup> Author’s interview with Jan de Ceuster, Administrator, Directorate General XV, Internal Market and Financial Services, European Commission, Brussels, 14 October 1998.

<sup>9</sup> “Italian opposition wants EU, G-7 to move on immigration,” *Il Sole*, 24 December 1998.

<sup>10</sup> “Under the proposed system, EU officials will monitor conflict areas and assess whether there is likely to be an exodus of refugees. Member nations would be alerted before the migration actually starts.” “EU to have early warning system for illegal immigration,” *Associated Press*, 11 January 1999.

Due to the popularity of the concept of “early warning mechanisms” at the beginning of the decade, some foresight has been gained on the drawbacks of such mechanisms. For instance, defining what constitutes an emergency situation is often the subject of contention amongst decision-making parties. In addition, it has been argued that declaring emergency situations may in fact worsen a particular crisis rather than help to improve it.<sup>11</sup> Last, there are often political risks associated with declaring an emergency situation, particularly when the declaration is made by an institutional authority whose sole purpose is to do so. Establishing such an authority for EU member-states would carry obvious implications: once a declaration is made, action of some sort would be expected.

### *Deportation procedures*

As investigated with respect to the next component, “entry requirements,” member-states have not accepted the adoption of common entry rules. The same holds true for deportation procedures. While there is talk of coordinating the requisites and procedures for deportation, few steps have been taken in this direction. For the most part, the suggestion has been that “mutual assistance” be granted during the deportation process.<sup>12</sup>

If we were to imagine the logical follow-through to the Convention Determining the State Responsible for Examining Applications for Asylum Lodged in One of the Member States of the European Communities (Dublin Convention 1990), however, we might expect that in addition to standardizing the decision to accept or reject a TCN’s request for asylum, we might move towards standardized rules for asylum application and evaluation, and common deportation procedures. As we shall investigate in the next section, however, states are reticent to allow such policies to fall under Community jurisdiction.

It is interesting to speculate whether the deportation process might be improved if common deportation procedures were instituted. A number of states are highly criticized for their deportation practices having led, in some cases, to the death of deportees. Would common procedures governed by a CP guard against such occurrences? Similarly, we could speculate on the nature of such procedures. Would they be based on “lowest common denominator” criteria?

### **Entry requirements**

The eventual establishment of maximum immigration quota is deemed highly unlikely by a number of EU experts. Indeed, to date, many aspects of entry requirements are still referred to as areas that necessitate harmonization rather than common rules and a CP governing their application. As explained by consultants at ECOTEC, a political

---

<sup>11</sup> Weiner 1998, pp.433-53.

<sup>12</sup> Collinson 1998, p.5.

consulting firm based in Brussels, most states refuse to surrender their authority when it comes to immigration policy, particularly with respect to matters relating to labor migration.<sup>13</sup>

### *Visa*

The issue of a common European visa has been hotly contested. It has been suggested that the visa represents “*la souveraineté de l'état*”, and is most likely to remain firmly under state control.<sup>14</sup> Though the Amsterdam Treaty foresees visa matters eventually being transferred to Community jurisdiction, more modest ambitions are envisioned, namely, the harmonization of visa standards.

In fact, advances in visa harmonization are numerous. First, EU-member states have drafted lists of states whose nationals require visas and those that do not. Note that, similar to the “safe country lists” (lists of sending states deemed safe such that asylum claimants originating from a safe country are automatically repatriated), EU member-states have failed to arrive at a single list. The reason may be similar to that underlying individual “safe country lists.” As shall be discussed in the following sections, each state has its own political considerations linked to migration-related decisions. Declaring which countries are “safe” for repatriation, much like determining which states’ nationals do not require visas, are highly political decisions with political ramifications. Second, the technical standardization of visa stickers (indicating the length and nature of stay) has taken place, although its scope is not widespread. Third, a unified Europe-wide communication system linking authorities within the framework of SIS has been developed. Here again, however, a number of EC experts question the logistical success of such endeavors. Having interviewed a number of immigration officials in France (at Charles de Gaulle airport) and the UK (at Heathrow airport), a political consultant argued that authorities “on the ground” feel a great disconnect between their practices and those of their fellow European colleagues across the Channel.<sup>15</sup> Simple communication and coordination matters pose challenges to inter-state migration control. And fourth, a number of alignments in visa practice have occurred, particularly regarding the requirements for the granting of visas.<sup>16</sup>

These measures clearly indicate standardization of visa policy, rather than a move towards communitarization. Moreover, standardization only covers certain types of short-stay visas and no “efforts have yet been made to reduce the countless number of national visas to a few types affording the same privileges in all Member States”. While these

---

<sup>13</sup> Solon Ardittis and Cecile Riallant “Issues and Prospects of a Common European Immigration Policy,” Conference Paper prepared for University of Notre Dame, Nanovic Institute for European Studies, 22-24 March 1998.

<sup>14</sup> “Patrick Weil defend son approche “consensuelle” de l’immigration,” *Le Monde* (Paris), Friday, 8 August 1997, p.6.

<sup>15</sup> Author’s interview with Cecile Riallant, Consultant, ECOTEC Researching and Consulting Ltd., Brussels, 13 October 1998.

<sup>16</sup> Austrian Presidency, second draft, 1998, p.14.

goals fall short of communitarizing visa policy, they are hoped to undermine secondary migration by ensuring “that border-control bodies are in a position to carry out effective checks... in an internal area where there are no controls.”<sup>17</sup>

### *Maximum refugee quota*

The concept of a similar maximum refugee quota for each member-state may be more easily obtained. Paralleling the notion of a common refugee definition, which for all intents and purposes is already applied by member-states (and indeed, has often been referred to as the “lowest common denominator” definition focusing on the state as the exclusive agent of persecution), so too could a maximum refugee quota be established. Determining a common ceiling and communitarizing the practice of extending refugee status, however, are separate and distinct concepts. One suggests that states continue to administer the extension of refugee status but recognize a ceiling applicable across the EU. The other approach suggests that the EC itself determine who receives refugee status within the Union as a whole. While the first approach is more modest, it would nevertheless be significant. As the head of the Brussels office for a European-wide non-governmental organization (NGO), the European Council on Refugees and Exiles (ECRE), suggested, requirements established at the European level allow watch dogs such as NGOs to survey more easily and efficiently whether member-states are living up to their obligations. As long as the standards established at the European level are fair and adequate, they are beneficial to certain NGOs’ mission of safeguarding refugees’ rights.<sup>18</sup>

### *Asylum recognition procedures*

Like most other procedures that are still administered by individual member-states, there has been little harmonization of asylum recognition procedures, let alone the notion of communitarizing policy in this area (as suggested by the Treaty of Amsterdam). This failure to meet a minimum level of standardization in this area, much like deportation procedures, appears inconsistent with the natural progression of the Dublin Convention. Once it was decided that a member-state’s asylum decision applied for all signatories of the Convention, it could then be expected that states would implement similar asylum recognition procedures. Nevertheless, harmonization has yet to occur. And if it does take place, it will not mean that the granting of asylum will be communitarized nor administered by the EC rather than by individual states.

It has been suggested that the establishment of common recognition rates applicable to the entire EU (but not necessarily administered by the EC) should be based on a system of quotas proportionate to countries’ population. The effect would be a leveling out as Germany, for example, whose asylum recognition rates are too high would decrease, and

---

<sup>17</sup> Ibid.

<sup>18</sup> Author’s interview with Friso Roscam-Abbing, Representative for European Council on Refugees and Exiles (ECRE), EU Office, Brussels, 20 October 1998.



Finland, for instance, whose rates are too low, would increase. This suggestion calls for an end to the “community link” as a meaningful criterion in determining eligibility for asylum.<sup>19</sup>

### *Temporary immigration*

Temporary immigration, a status granted by some EU states but not all, remains an issue of contention both at the national and EU levels. Among the various debates surrounding the issue of temporary immigration are its duration and whether it should be instituted at the European level. The repatriation of Bosnian refugees and asylum-seekers from Germany after the Dayton Peace Accords caused a great deal of controversy. The principal issue rested on what German officials at the time believed to be necessary to initiate repatriation procedures so that temporary protection did not become a back channel to permanent immigration.<sup>20</sup> In the first revised draft to its Strategy Paper, the Austrian Presidency was more to the point. It argued that temporary protection should not only be marked by a finite period of time, but that the time period should be as short as possible. It stated: “temporary residence entitlement [should be]...valid for such a short period that it no longer acts as a draw in its own right.”<sup>21</sup>

The second aspect of temporary immigration is whether a comprehensive system should be developed such that all states practice the same form of temporary protection. While such a system would most likely be administered by states themselves, the standards could be established and surveyed by the EU. Some states that already extend a form of temporary protection argue that other states must also institute similar forms of protection. For instance, as Jean-Louis de Brouwer, expert in JHA at the EC explains, Belgium wants to extend a more comprehensive form of TPS but refuses to “go it alone.” It fears, and de Brouwer concurs, that a “pull factor will be created,” making it the target of larger migration flows.<sup>22</sup>

Despite the reticence of some member-states, the European Parliament has debated instituting alternate forms of protection at the EU level as a compliment to temporary protection. Though present forms of TPS in member-states apply to groups of individuals fleeing emergency situations that are ineligible for protection under the 1951 Convention definition, complimentary forms of protection would be extended to individuals in the same sort of circumstances. Some European experts and parliamentarians fear that the alternative forms of protection would undermine the 1951 Convention, although others see the establishment of a European system of temporary protection, distinct from

---

<sup>19</sup> Author’s interview with Roscam-Abbing.

<sup>20</sup> Teitelbaum 1985, p.64 and Thouez 1998, p.89-105.

<sup>21</sup> Austrian Presidency, first revision, 1998, p.29. See also second draft, p.16.

<sup>22</sup> Author’s interview with Jean Louis de Brouwer, Head of Unit, External Frontier, Immigration and Asylum, Task Force “Cooperation on Justice and Home Affairs,” Secretariat General, European Commission, Brussels, 7 October 1998.

international obligations, as a step in the direction of Europeanizing (communitarizing) asylum policy.

### *Burden-sharing*

Member-states susceptible to large migration flows are most eager to institute a system of European-wide burden-sharing. Germany and, more recently, Italy argue that large influxes of migrants constitute a European problem, regardless of where migrants enter the Union. At the European level, the discussion rests on whether some form of institutionalized burden-sharing could be established such that member-states that do harbor a greater number of refugees would be financially compensated for doing so. No deal has been reached, however, since member-states are unwilling to accept financial compensation in exchange for greater physical burden-sharing (receiving a larger number of refugees). They would rather contribute greater monetary resources than receive larger numbers of refugees on their territory.<sup>23</sup>

### **External relations and policies towards sending states**

In 1998, in an attempt to discard the image of “Fortress Europe” - an entity isolating itself from migration-related challenges and diverting such burdens to its neighbors - the Austrian Presidency envisioned an EU migration regime based on a model of “concentric circles.” Relations with other states and with sending states would be based on a formulation where the EU represents the inner circle (the first circle); neighbors (associated states and the Mediterranean area) represent the second circle “gradually being linked into a similar system...increasingly into line with the first circle’s [migration] standards;” a third circle of states (CIS, Turkey and North Africa) “will then concentrate primarily on transit checks and combating facilitator networks;” and a fourth circle (Middle East, China and black Africa) “on eliminating push factors.”<sup>24</sup> From this model, the EU’s relationship with each “circle” would be defined.

In terms of sending states, the Presidency advanced a number of suggestions ranging from financial aid and assistance to early warning mechanisms in order to undermine the emergence of migration flows from these areas. The EU would be further buffered by its relationships with neighboring countries, where, under EU and national legislation, these potential transit countries would halt migrants prior to their arrival in the EU.

This model reflected EU legislation developed over the last decade. The “Fortress Europe” designation, in addition to undermining free movement of TCNs in Europe, is also criticized for alienating Europe’s relations with neighbors and sending states. And despite the Austrian Presidency’s attempt to disassociate future European migration from this negative veil, its proposals represented more of the same. Indeed, the exclusive pacts forged with transit countries (those that are likely to accede and those that will not) delineate between wanted and unwanted nationals. Furthermore, with the expansion of

---

<sup>23</sup> Ibid.

<sup>24</sup> Austrian Presidency, 1998, p.19, and second draft , p.11.

the Union, coupled with restrictive migration policies between Union members and acceding states, Russia may “begin to feel like a second rate country...ignored by its natural allies.”<sup>25</sup>

Although the Austrian Presidency’s model does not relegate relations with sending states to the European level, there is the underlying notion that such matters should be dealt with under Pillar I. Migration policies between sending and receiving states, however, carry significant foreign policy considerations. Whether states would be willing to transfer such matters to Pillar I is unlikely. (Indications of this reticence may be witnessed with the sluggish progress of Pillar II, Common Foreign and Security Policy (CFSP).)<sup>26</sup> As a European Commission expert explained with respect to development policy, states are unwilling to communitarize development policy because such matters are firmly linked to foreign policy considerations. Development aid is often used as a leveraging tool when formulating foreign policy between developed and developing countries.<sup>27</sup> Similarly, with respect to migration, states use migration as a bargaining chip when developing their foreign relations with sending states. Unless the CFSP materializes, relations with sending states will also continue to be controlled within member-states’ national jurisdiction.

### **Enforcement mechanism**

Compliance and enforcement are the greatest challenges to states acting collectively. No compliance mechanism exists within the field of international migration. This same predicament plagues regional approaches to migration, notably within the EU. States often rebuke the establishment of a central regulatory authority. In 1992, for instance, France rejected the establishment of a supranational body regulating possible disputes regarding the right to asylum.<sup>28</sup> Without an over-arching supervisory mechanism, however, it would be impossible to oversee supranational cooperation between states.

One possible solution is the introduction of fines, as has been done with European environmental regulations.<sup>29</sup> Another is judicial recourse through the European Court of Justice (ECJ), a body of fifteen judges who rule on the applicability of EU laws.<sup>30</sup> The

---

<sup>25</sup> “Blair warned of Russian immigrants: Russia may begin to see itself as an ignored second rate country,” *BBC News Service*, 14 January 1999.

<sup>26</sup> Zielonka 1998.

<sup>27</sup> Author’s interview with Christine Dalby, Directorate General VIII, Development, European Commission, Brussels, 5 October 1998.

<sup>28</sup> Directorate General for Research, European Parliament, *“Immigration Policy and the Right of Asylum in the Member States of the European Community,”* Working Papers, People’s Europe Series W-3 (Luxembourg: The European Parliament, 1992), p.51.

<sup>29</sup> In 1973, the EC adopted its first official environmental program. One of its stated objectives was to “reduce and prevent pollution both by ‘developing protective measures’ and by requiring that the ‘polluter pay.’” Vogel 1995, p.121.

<sup>30</sup> “Individuals or states almost never bring cases directly to the ECJ and to the Commission relatively rarely; cases are generally referred to it by national courts....In most cases, European law preempts national laws and is often applied directly by national authorities....After many decades, the supremacy of ECJ

Commission is authorized under Article 169 of the EC Treaty to send a reasoned opinion to states that are failing to comply with Community law. If the deviant state(s) fail(s) to comply with the opinion within two months of receipt, the Commission may refer the matter to the European Court of Justice (ECJ).

### **Conditions affecting collective action**

Which structural factors might encourage member-states to act collectively in this field, and which elements may discourage them from doing so? As de Brouwer argues, “each (European) state is affected by its own structural conditions based on exposure to migration flows.” He adds in jest “such threats encourage good behavior.”<sup>31</sup> Factors examined here include: hierarchies of preference; common/diverging interests and aversions; the threat of exclusion and power distribution.

#### *Hierarchies of preference*

Political scientists, Robert Keohane and Stanley Hoffmann describe how states must make certain concessions when engaging in collective endeavors, in the form of “constraint-choice analysis.”<sup>32</sup> Because states each have different hierarchies of preference, their optimal approach to collective behavior tends to differ.<sup>33</sup> For a common policy to be agreed upon, each state would have to alter its migration-related priorities.<sup>34</sup>

Hierarchies of preference result from a number of factors. In the realm of migration, regional positioning often affects receiving states’ priorities. Moreover, background factors such as historical and cultural experiences also play a role in influencing hierarchies of preference. In addition, varying political traditions within receiving states affect hierarchies of preference and influence their propensity towards collective action.

#### *Regional positioning*

Individual receiving state’s migration policies are most often guided by their exposure to potential flows. Austria’s growing popularity and Germany’s continued pull attraction, for example, represent primary considerations when formulating migration policy. The news that “tens of thousands of Kosovo Albanians [are] waiting at Czech border houses

---

decisions over national law is now almost universally accepted within member states.” Burley and Mattli 1993.

<sup>31</sup> “*La menace emporte la sagesse.*” Author’s interview with de Brouwer.

<sup>32</sup> Keohane and Hoffmann 1991.

<sup>33</sup> Morrow associates “divergent preferences over which solution (is preferred)” with the constraint of states due to their “uncertainty” as to which solution they prefer. Morrow 1994, p.392.

<sup>34</sup> Tsebelis 1990, p.69.

for their chance to slip into Germany” will have a direct impact on German migration [and security] controls.<sup>35</sup>

Whether German concerns, however, may be translated into European interests is questionable. Though all states favor “protection against migrants,” solidarity in this area has tended to be weak. The issue of burden-sharing illustrates this point most convincingly. As discussed above, because of their geopolitical susceptibility, both Germany and Italy are at the forefront of a European-wide burden-sharing scheme. Nevertheless, the United Kingdom, Spain and France refuse to share the physical burden of refugees. States refusing to institute a European burden-sharing scheme do so for their own reasons. France, for instance, is affected by its cultural and historical ties.

### *Historical and cultural ties*

Though all primary-receiving states within the EU (Germany, France and the UK) experienced a labor migration period in the post WWII period, (ending after the oil shock in 1973), each state experienced a different colonial legacy, affecting its present relations with sending states and carrying different implications for its resident minority populations. Historical legacies and the obligations that each state exhibits towards migrant groups play a major role in shaping individual state’s migration policies. Historical and cultural considerations have also quite clearly affected states’ hierarchies of preference when attempting to formulate common goals for a potential CP. Contrary to the example cited above, where France adopts a more restrictive stance towards burden-sharing to counter the potential flow from its previous colonies, in the past, Germany advocated a more comprehensive migration scheme to facilitate *Ubersiedler* and *Aussiedler* settling in Germany. Though this policy has changed in recent years, notably with modifications to Article 16 of the Basic Law in 1993, Germany still seeks bilateral arrangements with its Eastern European counterparts. While its motives may have changed, trying to halt migration through financial incentives rather than actively recruiting those attempting to flee communism, Germany still feels obligated to this region.

Though migration remains a “hard cultural issue,”<sup>36</sup> historical and cultural ties have been undermined by “spill-over” from other fields of cooperation in Europe.<sup>37</sup> This process is currently underway with the introduction of a common currency, the euro, as the most prominent step in this direction. As historical ties fade, and as the past is replaced by the future, so too may the perceived obligations of primary receiving states change. While historical and cultural ties once bound Germany to the East, France to North Africa, and the UK to its Overseas colonies, the European experiment may undermine these relations in favor of loyalties to the Continent.

---

<sup>35</sup> “Refugee Wave Set to break on German border,” *The Times* (London), 14 January 1999.

<sup>36</sup> Collinson 1998, p.9.

<sup>37</sup> Haas 1964.

### *Political tradition*

How migration policies are developed in EU receiving states is motivated by two distinct political traditions. First, whether entry requirements are restrictive or not is often based on the liberal traditions of the receiving state in question. For instance, states sharing liberal traditions based on the promotion and protection human rights, for example, are more likely to encourage the continued free movement of persons and the protection of asylum rights. And, as suggested by a migration expert at the European Parliament, although most European states advocate such freedoms and basic rights, only a few still apply these traditions to TCNs.<sup>38</sup>

A federal structure of authority delegation constitutes a second political tradition consideration that affects hierarchies of preference. As political scientist, Andrew Moravcsik argues, states that have shared in the tradition of federalism are more likely to relegate authority to the EU than states that have experienced a non-hierarchical domestic political structure. Thus, countries sharing federalist political traditions, such as Germany and Italy,<sup>39</sup> are more likely to press for deeper EU integration (including the establishment of a CP), whereas non-federalist countries, such as the UK, are skeptical of it.<sup>40</sup> Moreover, Moravcsik suggests that France, Germany and Italy were seeking an alternative to the internationalist movements such as communism and neo-fascism and found it in the “European movement;” whereas countries such as Great Britain and Denmark, without any tradition of communist or fascist politics, remain even “hostile” to “European” ideology.<sup>41</sup>

### **Common / diverging interests and aversions**

Moravcsik also suggests that “centralization [occurs only] in those areas...where the need for a credible commitment or coordination outweighs the risks of surrendering sovereignty.”<sup>42</sup> Indeed, abandoning decision-making power is more likely to occur when states share common interests and aversions.<sup>43</sup> This section identifies primary migration-related common interests and aversions of European receiving states. The central common interest guiding cooperation in this field, as we shall investigate, is structurally determined. This section then seeks to answer what degree of overlapping (perceived) commonality would be sufficient in order to entice member-states to adopt a CP for migration. Do some common interests or aversions take precedence over the diverging motivations due to states’ differing hierarchies of preference examined above?

---

<sup>38</sup> Author’s interview with Andrea Subhan, Directorate General for Research, Division of Budgetary Affairs, Civil Liberties, Internal Affairs, Rules of Procedure, Petitions and Comparative Law, EU Parliament, Brussels, 2 October 1998.

<sup>39</sup> Parisot 1998, p.257.

<sup>40</sup> Moravcsik 1998, p.34.

<sup>41</sup> *Ibid.*, p.7.

<sup>42</sup> *Ibid.*, p.11.

<sup>43</sup> Stein 1983.

### *Providing a 'public good'*

Given the increased number of intergovernmental agreements reached in the last decade and a half with respect to European migration, it is clear that states do share common interests in this field. First, a public and indivisible good is promised by collective action. The prevention of future flows and controlling who is allowed to enter represent primary interests of receiving states.<sup>44</sup> Preventing migration may be viewed as the public good distributed by a potential CP for migration. (This benefit is already being offered to a certain degree through intergovernmental agreements such as the Schengen and Dublin Conventions.) The indivisibility of this public good/service is the assumption that all states would benefit equally from a reduction in the overall number of migrants seeking entry into the EU. Distribution of this good is possible due to a primary structural factor: namely, EU member-states form a territorial mass that “guards [better] against” migration if acting collectively.

### *Security and control*

Notions of security and control are related to the debate of preventing future migration. International migration networks, coupled with improved transportation and information links and well-established migrant communities in host societies increase the pressures of international migration and bring migration to the forefront of security concerns in receiving states. In fact, Collinson suggests that security and control represent the rallying cry for collective action towards migration in the EU.<sup>45</sup> Intergovernmental agreements - the Schengen Convention in particular - already associate internal security with migration control and, indeed, security issues represent the primary motivation behind such arrangements.

### *Legitimacy*

Part and parcel of preventing migration is the subsequent criticism that European receiving states find themselves in a “liberal paradox,” espousing liberal values while constraining the right to international free movement. These accusations are mirrored in the “Fortress Europe” label that has cloaked the EU since the mid-1980s. Despite these criticisms, European states have been able to forge ahead with their restrictive doctrine because of the legitimacy that collective action in this field has granted them thus far. Indeed, as political scientist James F. Hollifield and others contend, European receiving states are able to adopt restrictive migration-related policies because they do so collectively rather than unilaterally.<sup>46</sup> In effect, their illiberal goals are legitimated through the collectivity.

---

<sup>44</sup> Collinson 1993.

<sup>45</sup> Collinson 1998.

<sup>46</sup> Hollifield 1998, and author’s interview with Subhan.

### *Vested interests*

When trying to apply the broader cooperative approach underlying the European experiment to different regional contexts, some have suggested that it cannot be replicated. Their skepticism is founded on two points. First, they argue that the EU is a reactionary construct; the product of two world wars and an attempt to avoid such disaster in the future. Second, the EU already entails a great degree of sunken costs on the part of all member-states.<sup>47</sup> It is this degree of costs that also serves to bind these states to one another. In a sense, making the most of sunken costs forms a separate and common interest on the part of Union-member states.

### **Diverging goals due to mutual aversion**

Political scientist, Geoffrey Garrett, suggests that collective action experiments cannot be viewed solely in terms of the benefits that they distribute throughout the collectivity, but must also examine conflicting views as to how other goods/services provided (or not provided) affect collective action. He argues:

If contending solutions to collective action problems cannot be easily differentiated in terms of their impact on aggregate welfare, and if various outcomes have significant distributional consequences, studies that concentrate solely on the shared interests of states rather than on conflicts between them will be inadequate.<sup>48</sup>

Somewhat ironically, though member-states are motivated by common interests to form a CP, its emergence is nevertheless threatened by a common aversion on the part of these same states. Primary resistance to a CP (supranational cooperation) over migration reflects states' desire to maintain sovereign control over who is allowed to enter their territory. It is for this reason that, as we have seen in the preceding section, states are unwilling to abandon certain aspects of migration policy that would allow an entity other than the state to decide who will be granted entry (and residence) privileges. Asylum procedures, visa issuance and even deportation procedures are all intimately linked to whom will form part of the larger community within the receiving state.

More generally, it is argued that states lack enough common ground to construct a CP. Collinson argues that "situational differences" resulting from the hierarchies of preference (cited above) make the likelihood of a CP in this field highly unlikely. She suggests that each state shares a different rationale and that the advances made in this domain in the

---

<sup>47</sup> Interview with Lucio Pench, Charge de mission, Forward Studies Unit, European Commission, Brussels, 7 October 1998.

<sup>48</sup> Geoffrey Garrett 1993, p.366.



TEU and the Amsterdam Treaty are “discrete objectives” unlikely to lead to the emergence of a CP.<sup>49</sup>

### **Threat of exclusion**

Another structural factor affecting the emergence of a CP is the threat of exclusion on the part of Union-members who may decide to opt out. Indeed, the threat of exclusion may entail future costs, such as a lack of prestige vis-à-vis states that have become part of the regime and forgoing the benefits of early admission, such as favorable admission requirements. For instance, member-states that have been reticent to become a part of the European Monetary Union (EMU) are reluctant to forgo benefits distributed by the monetary regime. The United Kingdom’s initial “outsider status” within the Single European Act (SEA) worked to its disadvantage, as it was obliged to redress some of the developments that had occurred in its absence.<sup>50</sup> Though the United Kingdom remains adamant about preserving migration-related policies under Pillar III, its lessons in the field of monetary policy may affect its approach to migration.

Despite the leveraging power offered by threats of exclusion in the past, the influence of such tactics are increasingly diluted by considerable concessions extended to states that are unwilling to follow the traditional “rules of the game.” High political costs were assumed by other member-states so that the UK and Denmark would approve the Amsterdam Treaty. Similarly, the “island clause” offered to non-Schengen EU states (United Kingdom, Denmark and Ireland), though rejected, also represented *à la carte* bargaining. Trying to lure states into acting collectively - if only in an intergovernmental context - has proved challenging. And trends indicate that far from extending greater threats from exclusion, the member-states are trying to co-opt skeptical counterparts into cooperation through concessionary bargaining.

### **Power distribution**

Cooperation may also be the result of the power distribution within the EU. For instance, with respect to the EMU, it is argued that the emphasis on a strong autonomous central bank and policies geared at low inflation reflect Germany’s concerns over and above those of other member-states.<sup>51</sup> Such contentions have also been debated within the realm of migration. Though Germany has been unsuccessful thus far in pushing particular migration-related priorities such as the institution of a European burden-sharing mechanism or a European version of TPS, states are still wary of the influence of stronger members’ imposing their will through the intermediary of a CP. Indeed, it has been suggested that a dominant power will often exert its authority through the intermediary of a regime.<sup>52</sup> Member-states are conscious of such considerations. As mentioned previously, for example, many member-states already perceive that Germany is over-

---

<sup>49</sup> Collinson 1998, p.4.

<sup>50</sup> Keohane and Hoffmann 1991.

<sup>51</sup> Moravcsik 1998, p.28.

<sup>52</sup> Keohane 1984, p.79.

extending its reach when it suggests that it should send border officials to Greece to guard against migration emanating from the Mediterranean.

Concerns over ‘power plays’ (more powerful states exerting their will over other states) remain at the heart of the sovereignty debate. Indeed, though states fear a loss of control by transferring migration-related decisions to Pillar I and by extension to the EU institutional framework they also fear a loss of control vis-a-vis other European states (more influential ones in particular). Debates over sovereignty issues are constant within the EU and are most visible when discussions over surrendering unanimity voting to Qualified Majority Voting (QMV) take place. Though states have taken steps to act collectively towards migration-related matters, they still refuse to adopt QMV in this field.

### **Where does the threshold lie?**

Because states recognize their common interest in restricting future flows and realize that some or all aspects of restriction could be improved by acting collectively, the question then becomes whether they will forsake their mutual aversion – the decrease in sovereign decision-making power regarding who is allowed to enter their respective territory – in order to reap the benefits of a CP for migration. Or, alternately, as is argued in this text, are states achieving their common interests without having to succumb to supranational cooperation? Indeed, states are benefiting from the public good - greater restriction over immigration - through intergovernmental agreements, primarily the Schengen Convention. Moreover, they are enjoying the benefits of collective action as described below. These positives have been reached without the need for a CP. Whether these benefits will persist or whether an overarching form of cooperation will be necessary in the future are explored here below.

### **Seeking cooperation through collective action**

Prevalent in collective action literature are the motivations behind collective action between states, including heightened legitimacy, increased clarity, improved efficiency, greater transparency and lower transaction costs. Each of these benefits is investigated in greater detail below.

#### *Advantages*

As described above, the institution of the EU is often employed as a tool to improve the legitimacy of restricting migration, a goal that stands in contrast to the liberal doctrine of European receiving states. Controversial policies that might be contested if adopted unilaterally have been achieved collectively. This is particularly true with respect to the Schengen and Dublin Conventions that seek to restrict entry of TCNs. Moreover, a

certain degree of clarity has been achieved both through the establishment of common procedures - such as asylum determination by one member-state applicable to the Union (the Dublin Convention) - and, more generally, through common information sharing (SIS), common policing (Europol) and computerized fingerprinting (Eurodac Convention). Such procedures will undoubtedly improve efficiency of asylum claim processing and, possibly, of deportation procedures as well. The foreseen transfer of some migration-related matters from Pillar III to Pillar I should also provide greater transparency to the process as the Commission gains new powers of initiative; the ECJ enjoys new powers of jurisdiction; and the European Parliament is afforded new powers of scrutiny.<sup>53</sup> Last, transaction costs associated with asylum processing in each state are lowered by acting collectively. The Dublin Convention eliminates the additional costs associated with “asylum shopping” as claimants’ requests can only be reviewed by one member-state.

### *Disadvantages*

Despite these achievements, drawbacks to collective action are also apparent. The political concessions extended through the Amsterdam Treaty to what might be referred to as recalcitrant states - the United Kingdom, Denmark and Ireland - have created a “logistical and legal nightmare.”<sup>54</sup> Collinson equates complexities of this sort with a lack of legitimacy and efficiency. As she (and Edwards and Philippart) argue:

In legal, institutional and political terms, the picture looks messy and complex; and as argued by Edwards and Philippart, ‘complexity results in opaqueness and impaired accountability. If transparency is an integral factor in legitimacy, and if legitimacy is a condition for efficiency, Amsterdam is indeed less than second best.’<sup>55</sup>

Furthermore, the assumption that “all states are better off if they coordinate on one solution than if they adopt different solutions”<sup>56</sup> is also challenged by Collinson. She suggests that the ambitions towards greater efficiency envisioned by the Immigration Ministers’ 1991 Work Programme on immigration and asylum policies have not been met due to “the failure to achieve such efficiency [which] may be explained, in part, by the fact that often what appears to be a solution for one country can easily create problems for another.”<sup>57</sup> Moreover, far from gaining greater clarity by approaching migration from the EU level, Collinson suggests that the general lack of consensus underlying what elements should be incorporated in this shift has added “confusion and uncertainty” to the process.<sup>58</sup>

---

<sup>53</sup> Collinson 1998, p.7.

<sup>54</sup> Interview with Ulrich Woelker, Legal Services, European Commission, Brussels, 6 October 1998.

<sup>55</sup> Collinson 1998, p.15.

<sup>56</sup> Morrow 1994, p.391.

<sup>57</sup> Collinson 1998, p.15.

<sup>58</sup> *Ibid.*, p.9.

In addition to these criticisms, some drawbacks of collective action have already been evidenced in the move towards cooperation in this field. First, states that are less geopolitically susceptible to migration flows (France, the United Kingdom) reject the proposal by more susceptible states (Germany and Italy) for a European-wide burden-sharing scheme. Hence, some states continue to be in a position to bear the brunt of these flows. Moreover, because some member-states do not (or will not) constitute part of the wider European border, they are able to ‘free-ride,’ as border states are obliged to process a larger number of asylum claims (the Dublin Convention) and expend more police and judicial control. The pitfalls of uneven power distribution may also lead to ‘power plays’ as more influential states impose their will on other states. Though the negative effects of such actions could be undermined by a system of QMV rather than the present unanimous voting, states are still reticent to forego their sovereign decision-making powers in this field. Similarly, though distributional and informational quandaries may be potentially reduced in the future through computerized information systems, they may still be undermined by states’ mutual aversion - loss of sovereignty in this field. Last, enforcement mechanisms proposed in the first section of this work, ranging from the institution of fines to a more extensive punitive role played by the EC and ECJ, have already been challenged by some as improbable or inefficient.

## **Conclusion**

Though the emergence of a common policy is unlikely, some glaring inconsistencies mentioned throughout this study would have to be addressed if only to pursue harmonization in this field. First, while the Treaty of Rome describes free movement of goods, services, capital and peoples, it is this last element which is most controversial. Indeed, as this work has surveyed, the free movement of peoples draws the distinction between EU nationals and those who are not. Clarifying what are the rights to free movement of this second category of peoples must be addressed. Second, the attempt to communitarize or even harmonize asylum policy will be ineffective as long as each state possesses its own interpretation of the 1951 Convention and, more to the point, applies its own asylum determination procedures. While the Dublin Convention standardizes member states’ decisions regarding asylum claims, without a common definition and common procedures, attempts at communitarization are meaningless. Furthermore, an inherent inconsistency belies addressing member-states’ entry policies without simultaneously looking at integration procedures for TCNs residing legally within the Union. Entry and integration policies are part and parcel of migration policy and must be addressed jointly in order to arrive at a comprehensive plan.<sup>59</sup>

---

<sup>59</sup> The Austrian Presidency’s second draft of its “Strategy Paper” takes note of this inconsistency and addresses “regulating the position of legal immigrants” and other issues surrounding long-term TCN residents, p.15.

### *Lack of political will*

Political economist, David Vogel suggests that, “the creation of the single European market is an ongoing process. Not only was it not concluded at the end of 1992; it might *never* be concluded.” He points to the constantly changing nature of the regulatory agenda as a primary reason for why its completion may never take place.<sup>60</sup> Within the field of migration, however, the principal impediment in the path of supranational cooperation is quite different. What is lacking here is what the Assistant Secretary General of Title VI (“Justice and Home Affairs”) referred to as a lack of “*volonté politique*” (political will). The reason for this lack of desire, as we have seen, is that receiving states are achieving a great deal of their migration-related objectives (particularly their primary objective: restricting migration flows) without having to cede to their mutual aversion (loss of sovereign decision-making power as to whom is allowed entry).

### *Benefits with fewer costs*

Indeed, many of the aspects of a prospective CP have been achieved (or are in the process of being achieved) through intergovernmental agreements. Defining the external border of the EU and establishing a security regime within it, are steps that have already occurred through multilateral arrangements between European states. Furthermore, migration-related developments that do not challenge the mutual aversion of member-states have been endorsed, namely a European-wide data collection bank. And, aspects of a prospective CP that are perceived to challenge states’ sovereignty, such as police and judicial cooperation, communitarized asylum and deportation procedures and visa issuance, though scheduled to transfer to Pillar I in the Amsterdam Treaty, have met resistance on the part of member-states. What we see then, are states “taking what they can get” at the intergovernmental level with respect to their collective interests while stopping short of moving towards full communitarization of migration policy.<sup>61</sup> Thus, rather than an over-arching institutional body (under Pillar I) dictating and regulating policy in this field, states are moving forward on policies that advance their common goals - restriction, security and control, legitimacy, and taking advantage of sunken costs - while holding back on those that threaten their common aversion - loss of sovereignty in this field.

### *Centralization and flexibility*

In line with these developments are the numerous concessions extended to recalcitrant states, enticing them to join in the collectivity. The carrots offered to these states reflect,

---

<sup>60</sup> Vogel 1995, p.132.

<sup>61</sup> For those who argue that the Amsterdam Treaty itself establishes the path towards a CP - de Lobkowicz’s reply: “I wrote it; it is not a common policy (in the field of migration).” Interview with Wenceslas de Lobkowicz, Head of Unit, External Relations, Task Force “Cooperation on Justice and Home Affairs”, Secretariat General of the Commission, European Commission, Brussels, 21 October 1998.

in part, the concessionary nature of the present framework where very little (if anything) can be imposed on states. This approach refers to what is entitled, “centralization and flexibility.”<sup>62</sup> A gradual move towards the Europeanization of various issue-areas is taking place while individual states are catered to through ‘opting-out’ and other forms of concessionary bargaining. Though the process is moving towards collective behavior with respect to the treatment of TCNs entering the EU, states do not feel pressured into transferring this realm to Community jurisdiction in order to satisfy their interests.

### *Discrepancies that make little difference*

Furthermore, states’ reticence to establish supranational cooperation over migration (entry-based for TCNs) is not the result of discrepancies between their respective hierarchies of preference due to structural factors; nor is it due to the moderate threats from exclusion; nor the potentially negative effects of power distribution. Indeed, although they exhibit traits with respect to their hierarchies of preference, these characteristics are not necessarily contradictory and do not undermine their collective desire to curtail the entry of TCNs. For instance, though states exhibit different calculations due to their respective regional positioning -such as the desire to institute a burden-sharing mechanism or not - each is still bound by the motivations behind “Fortress Europe” in order to legitimate constraining international movement. Moreover, while principal receiving states share different histories with subsequent obligations, these diverging relations are largely being severed in favor of European priorities. Though the difference in political traditions still seems to permeate EU relations, as states that have not experienced a federalist domestic political structure are more skeptical of such constructs, this factor is insufficient in its own right to argue against the emergence of a CP for migration.

The fear of exclusion has done little to entice states to join migration-related agreements. On the contrary, such recalcitrant states have enjoyed *à la carte* bargaining and a series of “opting-out” measures to encourage their participation. Though the potential for ‘power plays’ by more influential states is real, such threats are minimal in an era of continued autonomy on the part of all Union-member states.

Indeed, though states share common over-arching interests; harbor a common aversion; exhibit hierarchies of preference that are different but not contradictory; fear exclusion but are not necessarily prompted to join; distrust the imposition of powerful states’ agenda, but still choose to cooperate, their motivation to move from advances made at the intergovernmental level to a more concrete communitarized version of migration policy is limited. They are achieving their objectives without having to go that far.

---

<sup>62</sup> Moravcsik 1998.

## REFERENCES

- Adelman, Howard. 1988. "Refugee or Asylum: A Philosophical Perspective", *Journal of Refugee Studies*, 1.
- Ardittis, Solon and Riallant, Cecile. 1998. "Issues and Prospects of a Common European Immigration Policy", Conference Paper prepared for University of Notre Dame, Nanovic Institute for European Studies, March 22-24.
- Austrian Presidency of the European Council. 1998. "Strategy Paper on Immigration and Asylum Policy", Brussels: EU Council, July 1998 and September 1998 (revised draft) and second draft.
- Collinson, Sarah. 1998. "Coherent Interests? Coherent Policies? The Development of a 'Common' Migration Policy in the European Union?", Conference Paper prepared for University of Notre Dame, Nanovic Institute for European Studies, March 22-24.
- Collinson, Sarah. 1993. *Europe and International Migration*. New York: Pinter Publishers.
- Directorate General for Research, European Parliament. 1992. "Immigration Policy and the Right of Asylum in the Member States of the European Community", Working Papers, People's Europe Series W-3, Luxembourg: The European Parliament.
- "Freedom of Movement of Persons: the Commission Decides to Initiate Proceedings Against France before the Court of Justice in Two Cases", 1998, press release, European Commission, Brussels, July 3.
- Haas, Ernst B. "Technocracy, Pluralism and the New Europe". 1964, in *A New Europe?*, Stephen R. Graubard (ed.), Boston: Houghton Mifflin.
- Keohane, Robert O. and Hoffmann, Stanley (eds.), 1991. *The New European Community: Decisionmaking and Institutional Change*, Boulder: Westview Press.
- Keohane, Robert O. 1984. *After Hegemony: Cooperation and Discord in the World Political Economy*, New Jersey: Princeton University Press.

- Krasner, Stephen D. 1983. *International Regimes*, Ithaca: Cornell University Press.
- “Libre Circulation des Personnes: La Commission Decide d’Envoyer un Avis Motive a L’Italie” 1998, press release, European Commission, Brussels, May 4.
- Moravcsik, Andrew. 1998. “Europe’s Integration at Century’s End”, in *Centralization or Fragmentation? Europe Facing the Challenges of Deepening, Diversity and Democracy*, Andrew Moravcsik (ed.), New York: Council on Foreign Relations.
- Moravcsik, Andrew. 1991. “Negotiating the Single European Act”, in *The New European Community: Decisionmaking and Institutional Change*, Robert O. Keohane and Stanley Hoffmann (eds.), Boulder: Westview Press.
- Morrow, James D. 1994. “Modeling the Forms of International Cooperation: Distribution versus Information”, *International Organization*, 48.
- Parisot, Françoise. 1998. *Citoyennetés nationales et citoyenneté européenne*, Paris: Hachette Livre.
- Stein, Arthur A. 1983. "Coordination and Collaboration: Regimes in an Anarchic World", in *International Regimes*, Stephen D. Krasner (ed.), Ithaca: Cornell University Press.
- Teitelbaum, Michael S. and Weiner, Myron (eds.). 1995. *Threatened People, Threatened Borders: World Migration and U.S. Policy*, New York: W.W. Norton Co.
- Teitelbaum, Michael S. 1985. “Immigration, Refugees and Foreign Policy” *International Organization*, 38.
- Thouez, Colleen V. 1998. “New Directions in Refugee Protection”, *The Fletcher Forum of World Affairs*, 22.
- Treaty of Amsterdam (1997) posted on <http://ue.eu.int/Amsterdam/en/treaty/main.htm>
- Tsebelis, George. 1990. *Nested Games, Rational Choice in Comparative Politics*, University of California.
- Vogel, David. 1995. “The Making of EC Environmental Policy”, in *Policy Issues in the European Union: A Reader in the Political Economy of European Integration*, Mehmet Ugur Kent (ed.), UK: Greenwich U.P.
- Wallace, William and Zielonka, Jan. 1998. “Misunderstanding Europe”, *Foreign Affairs*, 77.
- Weiner, Myron. 1998. “The Clash of Norms: Dilemmas in Refugee Policy”, *Journal of*



*Refugee Studies*, 4.

Weiner, Myron. 1995. *The Global Migration Crisis: Challenges to States and Human Rights*, New York: Harper Collins Publishers.

Zielonka, Jan ed. 1998. *Paradoxes of European Foreign Policy*, The Hague, Netherlands: Kluwer Law International.