

VIEWPOINT

Beyond the Handshake: Rethinking Cooperation between the US Congress and the European Parliament

By Tyson Barker and Meghan McBride

There is an undeniable energy in the air in the European Parliament (EP) these days, a sense of self-confidence borne out of a new era ushered in by the Lisbon Treaty. As Henry Farrell and Abraham Newman noted recently, the EP is no longer the sleepy backwater that it was when US President Ronald Reagan addressed the body in 1985. The Lisbon Treaty, which came into force on December 1, 2009, has created a broad framework for political action for the European Union. The results of this transformation are only slowly coming to light, but already the European Parliament is asserting its role as a major force in all areas of EU-wide legislation. The European Parliament is coming of age and will have a substantial role to play in the future of EU relations with the US.

When engaged properly, the EP will prove a formidable force for moving substantive trans-Atlantic policy. And when ignored, the post-Lisbon EP will make its voice heard. Already the body has blocked a major piece of legislation, the re-authorization of a measure allowing the gathering of intelligence on terrorist financing networks in Europe. This came despite an

intense lobbying effort from the US government that included two visits by Secretary of Homeland Security Janet Napolitano in three months and the personal intervention of Secretary of State Hillary Clinton.

The EP's rise is occurring in the context of a broader phenomenon in US-EU relations. The US and Europe have tightened their robust economic and political relationship – so much so that the past decade has demonstrated that it has become softly domestic.

The EP and Congress will be at the heart of the broadening trans-Atlantic relationship. As Congress and the EP—the two blocs' most important directly elected legislative bodies—consider issues related to the economy, homeland security, justice and energy, often they do so with tunnel vision. They neglect to take into account the impact of legislation on the other side of the ocean. In essence, the US and Europe often set policy for each other on a host of issues without realizing it. The next frontier in trans-Atlantic relations will be to bridge this legislative gap. Here are three broad-based recommendations on how to do this.

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	House	Senate	European Parliament
Financial Regulation	Budget; Financial Services; Oversight and Government Reform; Small Business; Ways and Means; Joint Economic Committee; Joint Committee on Taxation	Budget; Banking, Housing and Urban Affairs; Finance; Small Business and Entrepreneurship; Joint Economic Committee; Joint Committee on Taxation	Budget; Budgetary Control; Economic and Monetary Affairs; Internal Market and Consumer Protection; Financial, Economic and Social Crisis
Homeland Security/ Terrorism	Appropriations; Armed Services Homeland Security; Permanent Select Committee on Intelligence	Appropriations; Homeland Security and Governmental Affairs; Select Committee on Intelligence	Security and Defence Civil Liberties; Justice and Home Affairs
Trade	Appropriations; Energy and Commerce; Ways and Means	Appropriations; Commerce, Science and Transportation	International Trade; Internal Market and Consumer Protection
Energy	Budget; Agriculture; Appropriations; Energy and Commerce; Natural Resources; Oversight and Government Reform; Science and Technology; Transportation and Infrastructure; Select Committee on Energy Independence and Global Warming	Budget; Agriculture, Nutrition and Forestry; Appropriations; Commerce, Science and Transportation; Energy and Natural Resources; Environment and Public Works	Industry, Research and Energy
Climate Change	Energy and Commerce; Oversight and Government Reform; Select Committee on Energy Independence and Global Warming	Energy and Natural Resources; Environment and Public Works	Environment, Public Health and Food Safety
Commodities	Agriculture	Agriculture	Economic and Monetary Affairs

Rewire Cooperation on a Committee-to-Committee Basis

From trade policy to financial regulation, from climate change and energy policy to questions related to homeland security, Brussels—not EU member-state capitals—set the standards for Europe. To solidify links between centers of power, ongoing conversations between the relevant Congressional and EP committees could create informal, issue-based peer networks. In 2010, substantive legislation will be placed before both bodies on financial services regulation, climate change and energy efficiency policy. Decisions on these issues by either side could have immediate and potentially damaging effects on the other side. Beyond this, questions related to terrorist

finance, port and airport security and trade are also on the radar in one or both bodies.

Committee-to-Committee contact is essential to avoid landmines and legislative gaps that could create unnecessary barriers, duplication or red tape.

Currently, institutional cooperation between Congress and the EP is enshrined in the Trans-Atlantic Legislators Dialogue (TLD), a body borne out of the New Transatlantic Agenda of 1995. The TLD has served as an important consultative body and its leaders include some of the most dedicated trans-Atlanticists in both legislative bodies. But as European integration continued and geopolitical challenges have grown and become more varied, the Clinton/Santer -era TLD has become less adept at facilitating deep policy discussions on some

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highly technical issues such as energy efficiency, terrorist finance networks and information technology.

TLD membership should remain at the core of member-to-member dialogue. In fact, its membership should be broadened to include

members of the Senate (currently there are none). The TLD's leadership possesses the "big-picture" Atlanticism that provides a much needed vision for the trans-Atlantic relationship. But this cooperation must be complemented with regular contact between Committee leadership and staffs that consult each other on major, non-foreign policy issues in the legislative cycle.

Such committee-to-committee contact requires coordination across a wide range of portfolios. On the European side, the trans-Atlantic Relations Unit of the executive branch of the European Parliament is a successful model for this high degree of interdisciplinary coordination. For Congress, such coordination has proven more difficult. The task of coordinating on these issues has been shunted to the House Foreign Relations Committee, a body whose main responsibilities are the most urgent foreign policy issues such as security in Iraq and Afghanistan, sanctions on Iran and arms control.

Congress should consider the creation of a special Congressional EU Commission, as Congressman Bill Delahunt suggested in December 2009. This commission could be structured similarly to the Helsinki Commission chaired by Senator Ben Cardin and Congressman Alcee Hastings. An independent staff would monitor relevant EU legislation and prepare TLD agendas across a broad range of

policy portfolios that affect the US-EU relationship. A Congressional EU Commission could act as a pass-through point for important legislation on both sides of the Atlantic and as the principal Congressional liaison with European institutions.

Recognize the soft power dimension of the Congressional-EP cooperation

As Senator Jeanne Shaheen, Chairwoman of the European Subcommittee in the Senate, stated in a recent hearing on the state of the trans-Atlantic relationship : " it would be a mistake to neglect this crucial partnership as [the US] seeks to dig itself out of this economic downturn." She warned that the US-EU relationship cannot "coast on autopilot." And she's right, of course. Networks between Congress and the EP must consult early and often on legislation that can have a significant impact across the Atlantic.

The EP has already demonstrated its utility as a partner for the US. In 2005, as political forces in the European Commission and the member-states pushed for lifting Europe's long-standing arms embargo on China, the EP emerged as the US's most vociferous ally for maintaining it (voting 431 in favor of maintaining the embargo to 85 for lifting it).

The US mission to the EU has recognized that outreach to the EP must become a more important element in its overall political strategy in Brussels. US Ambassador William E. Kennard has made this clear with his frequent visits to Rue Wiertz, the seat of the EP in Brussels. He should include Congress as an integral component in this outreach. An artful coupling of Congress and the EP—both at the member and staff level—would make elected

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Bumps in the Road:

Recent cases in which greater consultation between Congress and the EP might have improved outcomes for both sides of the Atlantic

Sarbanes-Oxley Act of 2002:

Enacted in the wake of corporate and accounting scandals from Enron to Tyco, Sarbanes-Oxley was a sweeping reform meant to restore public confidence in corporate accounting in the United States. But the bill did not take into account the differences in European corporate governance, structure, and financing mechanisms and the results were costly and burdensome to European business. Only 43% of European companies believe Sarbanes-Oxley's benefits will outweigh its costs compared to over 72% of Asian companies and 81% of Latin American companies.

The SWIFT Agreement in 2010:

European Parliament voted against the Swift Agreement by a margin of 378-196. This vote reverses an agreement between the EU (both Council of Ministers and Commission) and the US in 2009 to allow US law enforcement officials to access the payment database of the financial consortium SWIFT. US officials, including Secretary of State Clinton and Treasury Secretary Geithner, lobbied the European Parliament to approve the agreement because it would help combat terrorism on both sides of the Atlantic. MEPs saw the data-sharing measure as an infringement on individuals' civil liberties and expressed frustration in how the negotiations were managed.

REACH:

The EU regulation, REACH (Registration, Evaluation, Authorization and Restriction of Chemical substances), aims to improve the protection of human health and environment through improved identification of the intrinsic properties of chemical substances (i.e. – metals, paints, cosmetics, clothes, plastics). The impetus for this agreement was the acknowledgement of insufficient information on the hazards posed by the high volume of substances manufactured and placed on the market in Europe. Many US exporters view these registration requirements as costly to implement and cumbersome.

The 100% Cargo Scanning Provision of the 9/11 Act of 2007:

The measure—meant to enhance safety in US ports in the wake of 9/11—creates economic hardship for European shippers now faced with severe port and infrastructure delays. The European Union has led the external offensive on the controversial legislation, effectively declaring that it will not move towards complying with this by the July 2012 deadline. Recent studies conducted by the Commission show that, “the 100% scanning legislation is not only unilateral, expensive and trade disruptive, but also unable to meet the security challenges of the 21st century.”

The Alternative Investment Fund Managers Directive (AIFM Directive) of 2010:

New legislation in the EU contains a provision that would require hedge funds and other alternative investment funds in “third countries” to fulfill a series of provisions which some have contended would lead to unfair disadvantages for US-based firms. Despite a recent open letter from US Treasury Secretary Timothy Geithner to Commissioner Michel Barnier protesting the changes in regulation on hedge funds and private equity, the EU has decided to move forward with the legislation as it currently stands. The AIFM Directive will have to be voted on by the EP in the coming months.

The US Air-Force Refueling Tanker Contract:

The multibillion dollar tanker contract was the source of a protracted competitive bidding process between US-based Boeing and Northrop Grumman with EU-based EADS. A study released by Boeing demonstrated that their bid would create between 62,605 and 70,706 new jobs in the United States, compared to 7,080 under the Northrop Grumman/EADS contract. This combined with new terms of the contract following a GAO study in 2009 and pressure from Congress contributed to Northrop Grumman's withdrawal of its bid. The process was seen as a blow to apoliticized procurement in the US and could set the stage for future transatlantic defense contracts. Currently, the US exports approximately \$5 billion in defense material to the EU annually, compared to \$2.2 billion that the EU exports to the US every year.

The Passenger Name Records Agreement:

A fiery debate on the Passenger Name Records Agreement, which allows U.S. authorities to access data of EU airline passengers flying across the Atlantic. U.S. Department of Homeland Security official, Mary Ellen Callahan, has been touting the fact that the provisionally signed agreement in 2007 has helped seize one third of the hundreds of terrorism suspects identified last year. MEPs, however, prefer a new agreement encompassing more data protection measures and are calling for broader framework from the European Commission before voting on the measure.

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officials emissaries on contentious issues where traditional diplomacy reaches its limits.

Congressmen and –women share electoral experiences and political instinct and as such, they are well positioned to speak to their counterparts in the EP. Close communication between Congress and the EP would be important for reminding political actors of the dangers to liberal competition policy and help to avoid tit-for-tat battles that could damage the trans-Atlantic economic and political relationship [See chart].

At the political level, the EP is becoming an important testing ground for Europe’s national leaders-in-waiting. As its influence grows, the body is becoming a mill for top political talent.

This provides members of Congress with opportunities cultivate political relationships that will serve them over the course of their careers.

Closer personal relationships could close one of the last loopholes in trans-Atlantic policy discussions while engendering trust. As Congresswoman Shelley Berkley noted at a hearing on Europe in December 2009, “There was discussion that the US Congress is the weak link in our foreign-policy discussions and involvement with the European Union and I’d rather not be considered the weak link in anything.”

Don’t export internecine turf-wars across the Atlantic

In the wake of the Lisbon Treaty, Congress has shown a heightened interest in the EP as an ally. Last December’s Trans-Atlantic Legislators’ Dialogue (TLD) meeting in New York, which

included the largest Congressional delegation (14 members of Congress) to attend the TLD in a decade, reflects this.

The EP has demonstrated its interest in closer collaboration by opening a special liaison office in Washington to help coordinate its work with Congress. This is a timely first step in growing the peer-to-peer relationship between the EP and the US Congress. This satellite office can provide early warnings of potentially harmful legislation. It must be careful to explain the issues on the legislative agenda of the European Parliament and foster a sense of cooperation to colleagues on the Hill that can yield real legislative dividends. And, importantly, the EP Liaison office must coordinate with the EU Delegation in Washington. Both must avoid exporting internal turf wars between the Commission and the EP to Washington. Such conflicts will both confound and disinterest policy-makers on Capitol Hill.

This phase is a unique “one-shot” opportunity for the EP to demonstrate to Congress that it is a peer and partner on questions of strategic importance. Legislative dialogue must avoid the distracting minutia of interagency turf wars and focus on legislative coalition-building.

Legislating for the World

Globalization continues to advance despite the up-tick in protectionist government policies since the onset of the economic crisis in 2008.

This is particularly true between the US and Europe, whose economic cycles are similar in structure and have become inextricably linked. Both economies are driven by high-end products and services. Both have complex

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banking and financial sectors. Although the consumers in the US and Europe tend to

allocate their incomes differently, both have similar income levels and they're converging. Both have highly networked societies that rely on an equally high freedom of movement—of goods, services, people and information.

Former EU Ambassador to the US John Bruton has acknowledged these linkages, saying that Europe has a fundamental stake in the US healthcare reform debate. Why? Because reform has implications for European banks and governments that invest in the US healthcare system. In short, the health of the US economy is a domestic issue for Europe, and vice versa.

US-EU legislative cooperation is essential to the trans-Atlantic partnership in the 21st century. And now more than ever, global policy depends on the US and EU to be the motors of legislative action. The impetus for action remains in traditional areas related to foreign and security policy. But now, it also includes setting global standards in financial regulation, climate change, trade, agricultural policy, patent and intellectual property rights (IPR) protection, rule of law, digital privacy, homeland security, workplace and wage regulations, and R&D, among others. When the US and Europe work together in shaping policy, the implications are global. The stakes couldn't be higher.

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