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## The European Union’s Democratic Agenda

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1. Introduction
2. Democracy *within* States: The political order of the component units
  - 2.1. Members: The democratic *sine qua non* condition
  - 2.2. Candidates: The democratic lighthouse
  - 2.3. Neighbours and Partners beyond: Democratic conditionality, the European way
3. Democracy *beyond* the State: towards a post-hegemonic state system?
  - 3.1. From multilateralism to transnational citizenship: The two pillars of the EU-as-democracy
  - 3.2. From regional to global integration: Promoting the “single market model”
  - 3.3. From model to actor: The exercise of “civilian power”
4. Conclusion: Lost in translation?

### Summary\*

This chapter asks whether and how the EU is able to export, promote or simply showcase its system of democratic governance to the rest of the world. It is organised around a twofold distinction between the EU’s external influence applied to states or to relations between states, democracy *within* states or democracy *between* states. These dimensions are to be related to the three legal orders of a federation of states as identified by Kant (i) relations between citizens and state as established by *ius civitatis*, (ii) relations between states as governed by *ius gentium*, and (iii) relations between nationals and a foreign state as defined by *ius cosmopolitanum*. The first category has to do with political order *within* states, while the last two concern relations *between* states. We argue that while the same principles underlie the EU’s internal and external action, a lot is lost in translation: the conditions that made the construction of an integrated Europe cannot generally be replicated elsewhere. But the intra-state vs inter-state distinction is crucial in this regard. While the agenda of “democracy promotion” within other states (and the problems it encounters) is shared by many other actors in the international system, the second agenda, that of democracy *between* polities (*as* states or *as* citizens) is more specific to the EU, at least to the extent that the EU alone can claim to provide a model for such an agenda. It is in this second dimension that the EU might have the most relevant lessons to offer – positive or negative - to the rest of the world.

### 1. Introduction

From Athenian democracy to Westminster parliamentarism, Europeans not only claim to have invented the democratic form of government but to have explored most of its variants in the last two thousand years. Indeed, through the European Union (EU), they are now hoping to explore new frontiers of democracy *across* states rather than *within* states or other sub-state polities. Yet, Europe’s brand of traditional representative democracy is serially challenged today: by the classical (or direct democracy) variant, but also by bold experiments of the deliberative, participatory, grassroots, and of late e-democracy kind. Conversely, here as

elsewhere, democratic life is challenged by generalised apathy, media overload and collapsing trust. This is happening not only within individual countries, but most interestingly at the supranational EU level, whether we conceptualise it as a set of political institutions, an emerging public space or a polity-in-the-making. European publics have become accustomed to hearing their two main political families, ‘*Democrats*’ of the ‘*Social*’ or ‘*Christian*’ kind, talk of a crisis, renewal, reinvention of democracy almost in the same programmatic breath. And pundits everywhere speak of the EU’s democratic deficit and the EU’s democratic process in the same breath.

But in the mist of such confusion, such effervescence, a new bold project has taken shape for Europe since the end of the Cold War: to represent a ‘*model*’ of democracy beyond its confines, to be showcased or exported to the rest of the globe. No matter that *what* is to be exported is itself intensely contested within the confines of Europe itself. The idea that democracy is increasingly part and parcel of the political repertoire of the EU, the brand-mark of its message in the world, is in keeping with its historical trajectory. Democratising the European continent was seen, from the start, as a way to pacify world order to atone perhaps for Europe’s prior worldwide export of its internal conflicts. When Jean Monnet wrote at the end of his memoirs that the European Community was not an end in itself, but a means towards a better world, he may have been trying to assuage the misgivings of the old functionalists like David Mitrany who pioneered modern integrative theory, for whom region-limited integration would only serve to recreate the barriers functional integration was meant to tear down at the global level. The European project could be viewed as a building block for the kind of world the founding fathers had in mind. Paradoxically perhaps, the fact that the EC had little room to flourish as an *actor* during the Cold War, meant that while the EU’s external policy stayed modest, the idea of its standing as a *model* took root. France never managed to convince its partners that a ‘*political Europe*,’ maintaining equal distance with the US and USSR, could be a pacifying device. So the EC came to see itself and brand itself as a ‘*civilian power*.’

There are obviously limits and pitfalls in such an agenda. For one, Europeans are confronted by the same paradox as everyone else involved in this game among the society of nations, namely that of the contradiction between the very essence of democracy, collective self-rule, and the idea that it can be ‘*imported*’ from another ‘*collective*’ thus bypassing the ‘*self*’ thus to be ruled. Be it as invaders, colonizers or traders, great powers have long viewed bringing some version of ‘*their*’ system of government to other peoples as a mark of greatness. Is exporting ‘*democracy and the rule of law*’ a by-product and late echo of conquest and domination or a mark of trans-national responsibility and cosmopolitan solidarity? In a post-colonial but also post-Iraq-war era, can the EU give a good name to the project of expanding the global reach of ‘*democracy*’ in ways which can be distinguished from that of the United States? Is there an EU-specific response to the ‘*democracy export*’ paradox? And even if we accept that democracy is not merely an internal EU affair, to what extent can such EU internal precepts and approaches be ‘*translated*’ for the rest of the world. The EU must operate in a world which does not look like it, probably a world that looks less and less like it, definitely a non-European world. Why or to what extent can we assume that European recipes are translatable?

We will not provide in this chapter a review of the extensive literature pertaining to this question. Rather, we propose relevant categories to explore some of these questions and navigate this rugged landscape. We distinguish between two dimensions.

First and foremost, we need to distinguish between levels of analysis. Is the EU's external influence applied to states or to relations between states; democracy *within* states or democracy *between* states? These are obviously two very different agendas. It can be argued that the three democratic aspects of the Union correspond to the three legal orders of a federation of states as identified by Kant (1795): (i) relations between citizens and state as established by *ius civitatis*, (ii) relations between states as governed by *ius gentium*, and (iii) relations between nationals and a foreign state as defined by *ius cosmopolitanicum* (Ferry 2000, Magnette 2000, Cheneval 2005). The first category has to do with political order *within* states, while the last two concerns relations *between* states.<sup>1</sup> We will argue that while the same principles underlie the EU's external action (internal democratisation, multilateralism and transnational citizenship) a lot is lost in translation: the conditions that made the construction of an integrated Europe cannot generally be replicated elsewhere. But the intra-state vs inter-state distinction is crucial in this regard. While the agenda of "democracy promotion" within other states (and the problems it encounters) is shared by many other actors in the international system (be it other countries like the US or Canada or international organisations like the World Bank or UNDP), the second agenda, that of democracy *between* polities (*qua* states or *qua* citizens) is more specific to the EU, at least to the extent that the EU alone can claim to provide a model for such an agenda. It is in this second dimension that the EU might have relevant lessons to offer – positive or negative - to the rest of the world.

As detailed above, in addition to this first dimension a second dimension must be taken into consideration. The EU influences governance beyond its borders in two ideal-typical ways: as a *model* and as an *actor*. The first is what the editor of this volume refers to as the 'spontaneous' democratic influence and the external democratisation policies. Many would argue that as a new kind of non-State supranational political system, the EU has become an international reference for its near and far abroad. In this light, it is alternatively referred to in addition to 'model' as blueprint, lighthouse, toolbox of governance, experiment and the likes. Against the backdrop of our non European world, it is important to consider how the EU's internal features, including its democratic credentials, affect the relevance, credibility and legitimacy of its claim to 'modelhood,' although such a *passive* impact is extremely difficult to assess. Indeed, in practice, its impact as a model is increasingly hard to distinguish from its impact as an *actor*. One of the central goals of the EU as actor is to promote the 'European model' whether that of its member states or the EU system itself. The EU's slide from 'democracy experimenter' to 'democratiser' has been progressive and multifaceted. It has expressed itself through the externalisation of democracy 'conditions' from internal (art. 6 & 7 TEU) to membership conditionality (e.g. the 1993 Copenhagen criteria) to generic conditionality. Indeed, as we shift from general roles (model vs actor) to actual means, we

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<sup>1</sup> See "The Three Definitive Articles" in Immanuel Kant (1795) . Each of the three founding principles can be seen as a necessary condition for the existence of the other two. (i) The democratic peace argument may be contested but there is little doubt that internal democracy makes inter-state cooperation easier – while also making the principle of non discrimination plausible – "dictatorships" have always tended to victimize foreigners first. (ii) The "federalism of free states" exemplified by the European legal and political mechanisms of non-hegemonic cooperation – Kant's second condition – consolidates the states' democratic foundations and forces them to respect the principle of non discrimination. (iii) A principle that guarantees equal treatment between nationals and citizens of the other Member States – Kant's *ius cosmopolitanicum* – consolidates democracies by protecting them against their own nationalistic drifts, while furthering peaceful relations between states (as potential diplomatic disputes over expatriates' status are avoided).

find a gradation of tools or policy instruments, from least to most coercive: learning, socialisation or enmeshment; indirect support for actors abroad; provision of financial and technical support; coercive diplomacy and conditionality; sanctions and the use of force.

This chapter is divided in two parts. On the one hand, the first part considers the impact of the EU on democracy *within* states and distinguishes between democracy as a pre- and post-*condition* for membership and democracy as a goal beyond membership. On the other hand, the second part starts by arguing that the EU is best understood as a political regime designed to democratise inter-state relations on the European continent both through the formal institutions that organise these relations (multilateralism) and through rules pertaining to the treatment of citizens (Kant's second and third orders). Its attempts to externalise its own inter-state order has applied both to regional and global governance, raising the question of the compatibility between '*a world of regions*' and multilateralism. In spite of its potential contradictions, the narrative and practice of projection is becoming a significant feature of world order. The chapter ultimately concludes by identifying the promise and limits of promoting or showcasing democracy.

## 2. Democracy *within* States: The political order of the component units

### 2.1. Members: The democratic sine qua non condition

Today's democratic peace theory found its earliest incarnation in the creation of the EC as the lessons of the interwar period were drawn and learnt. After WWI, the creation of the League of Nations – European nations in fact – had seemingly been the crowning achievement of Europe's democratic transition. President Wilson's Kantianism had seemed to govern the new Europe, when for a few years the democratic process seemed the harbinger of a new inter-state order to come, based on co-operation and litigation. But the collapse of the young parliamentary regimes in Southern and Eastern Europe had crushed these hopes and the failure of Munich in 1938 was some time later to symbolize the impossible co-operation between democracies and authoritarian regimes. The European experience seemed to confirm Montesquieu's theory – taken up by Rousseau – according to which a federative league could exist only between republics, i.e. regimes founded on the principles of the separation of powers and civic representation.

The years immediately following WWII were marked, in Europe, by the blossoming of projects aimed at erecting a federal and democratic order on the continent, radically breaking both with fascist experiences and with the international anarchy of the inter-war period. Yet, these hopes proved fragile. The Summit of The Hague in 1948, heralded as a moment of federal euphoria, only revealed the inner contradictions within the pro-European movements. As the great expectations attached to the creation of the Council of Europe were dashed on account of its complex and confused organisation, it was clear from the start that Europe would not follow the American constitutional model. It was to be functional, based on international treaties negotiated *in camera* by government officials and diplomats. It was not to be a federation but a '*community*' – a neologism that referred to a mix of classic intergovernmental procedures and a carefully measured dose of supranational incentives and controls. Europe from then on would be a more modest and indirect form of government in charge of market regulation and commercial policies. The democratic issue was thus confined at the state level – the locus of solidarity policies and political links.

As a result, the EU's first and core democratic pillar relates to the political regimes of the member states.<sup>2</sup> The EU has been a community of democracies since its very beginning. Unlike other international organisations set up in Europe at the same time (OECD, NATO), there have only been democracies within the Union. This '*democratic condition*' was not explicitly mentioned in the founding treaties and the reasons why the Europe of the Six [Belgium, France, Germany, Italy, Luxemburg and the Netherlands] never started actual membership negotiations with authoritarian regimes have not been thoroughly studied. Clearly, geopolitics mattered. East European countries - prevented by Moscow from receiving aid under the Marshall Plan - remained cut off from the European project as early as 1947. But '*democratic ideology*' cast a much bigger net. While commercial reasons may have also accounted for Europe's decision not to open membership negotiations with Spain and Portugal, the reasons for keeping autocracies out were not merely material. Indeed the Six were from the start caught in their own rhetoric. As the champions of the '*free West*' in their struggle against communism, they could not cooperate with autocracies without contradicting themselves (Even Greece did not manage to get in the early 1970s with dictators in power). Nor could they, therefore, reasonably refuse to incorporate the new Southern European democracies in the eighties or the post-communist regimes in Central Europe after the fall of the Berlin wall.

From a conceptual standpoint, the EU may thus be apprehended as a countervailing power that balances any potential excesses stemming from national democracies – completing and strengthening the institution of the rule of law. It draws its legitimacy from the lessons of the past. If they are left to themselves, democracies may become xenophobic, nationalistic and bellicose. In the light of the experience of the 20<sup>th</sup> century, the project of European integration appears, in Weiler's formula, as "*an attempt to control the excesses of the modern nation-state in Europe.*" The 20<sup>th</sup> century witnessed the excesses of both nationalism and formalism. Indeed a modernist, bureaucratic and impersonal political system may well cause similar abuses or create a feeling of anomy that might eventually lead a country to withdraw into itself and have aggressive reactions. As stated by John Rawls, a European Union freed from the supervision of the nation states might well sacrifice – in the name of profitability and legal standardization – the rights enjoyed by citizens that stem from "*individual nation-states, each with their own political and social institutions, history, forms and traditions of social policy*" which are so many "*achievements of great value for their citizens, [that] give sense to their lives*" (Rawls 1999: 9). The constant confrontation between the two "*most elemental, alluring and frightening social and psychological poles of our cultural heritage*" (Weiler 1998: 347) is the greatest achievement of the federation of European states. In short, the relationship goes both ways: not only is the democratic character of its member states the best safeguard against the bureaucratic drift of the EU itself, the EU's function is also to sustain and deepen national democracies.

Even within the EU it is possible to distinguish between passive and active influence. It took decades for the EU to formalise its '*democratic core.*' Only in 1997 did the Treaty of Amsterdam codify the democratic nature of a state as a necessary condition for EU membership – thus echoing one of the oldest claims from the federalist movements - and accompanied it with the creation of a multilateral surveillance mechanism of the members

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<sup>2</sup> There is no agreed definition of "democracy". For our purposes, democracy requires *inter alia* the self government of citizens within a given territory which in turns entails free elections with secret balloting, the right to establish political parties without hindrance from the state; free and equal access to a free press; free trade union organizations; freedom of opinion; executive powers restricted by laws; and independent judiciary. This is of course an expansive definition.

themselves (the treaty of Amsterdam symbolically mentioned the democratic principles before “*the respect of the states’ national identities*”, thus reversing the order established in the Maastricht treaty). The ‘*constitutionalisation*’ of this process – intended to consolidate member state democracies and prevent any authoritarian drifts – was first perceived with suspicion because it coincided with the opening of membership negotiations with Central and Eastern European countries. Some went as far as to regard it as reminiscent of Brezhnev’s doctrine of ‘*limited sovereignty*.’ Nevertheless, member states have progressively sought to assert what we could call a “*responsibility of democratic interference*,” an evolution first brought to light on the occasion of the formation of an Austrian government coalition that included Joerg Haider’s FPÖ and the subsequent sanctions adopted by the other fourteen states against Austria, sanctions implemented on an intergovernmental basis. These were seen by some as the sign Europe was confirming its role as “*a community of values*,” based on the rule of law and entitled to pass judgment in matters of national domestic policies. But there was no real consensus over such a vision. Others were shocked by what they regarded as pure interference or criticized the counter-productive consequences of such a move. In their views these sanctions could lead to the re-emergence of national pride and potential nationalistic drifts. In any case, such sanctions won the day and were eventually ‘*constitutionised*’ at Nice (2000). Yet, both the Austrian episode and the subsequent negotiations over appropriate constitutional arrangements revealed the ambivalence of the mechanism of democratic interference as well as the difficulties in defining precisely the democratic criteria. The fact that the European Constitutional Treaty signed by the Heads of state and government in Rome in 2004 (and confirmed by the Lisbon Treaty) codified this mechanism at least demonstrates that the principle of multilateral democratic surveillance is nevertheless widely accepted in the EU today. It remains to be seen however, whether such a principle would ever be extended to a more radical “responsibility to protect” within the European space.

## 2.2. Candidates: The democratic lighthouse

Whereas the democratic nature of political regimes may be perceived as the condition *sine qua non* for a regional/international order based on co-operation, such an order in turn can contribute to consolidating democracy within states. Nowhere is this two-directional causality clearer than in the context of EU enlargement. This was true for the Mediterranean enlargement of the 1980s and even more starkly for the EU’s fifth enlargement to post-communist central and Eastern Europe. In both instances, by ruling out or in certain reform options the prospect of EU membership provided a focal point for ‘*modernizers*’, around which broad coalitions could form and facilitated the implementation of some hard but necessary democratic reforms in the name of the superior objective of becoming a member of this exclusive club. At the same time, as exemplified by the cases of Greece, Spain and today Turkey, the prospect of peaceful interstate relations under the EU umbrella are thought to weaken the power of the armed forces, thus bringing states in conformity with the principle of civilian control of the military, one of the hallmarks of democracy.

Before being formalised internally in 1997, democratic conditionality was introduced for the first time as a formal condition for accession through the so-called Copenhagen criteria of 1993. There, in addition to the classic *acquis* [corpus of European Law], the EU set out political and economic criteria for accession – with the former stated as “*membership requires that candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights.*” No definition was given of these terms, no benchmarks provided, and indeed they have been the object of varying interpretation on the part of the EU Commission and the member states. Indeed, since conditionality usually needs measurable variables, it can be argued that the EU could not really target the ‘*quality of democracy*.’ In spite of its

vagueness, political conditionality became a pre-condition for candidate status rather than ultimate membership after 1999. The Balkan states and Turkey were thus deemed to have passed the democracy test when allowed to start negotiations with the EU in 1999 and 2004 respectively. But what does this tell us about EU influence?

While there is little doubt that the EU has some impact on the democratic make-up of aspiring members, the question which occupies academics these days is how or through which mechanisms and under which conditions is the EU's influence effective. Is democratic convergence about the EU as a model or an actor, or is it yet a phenomenon unrelated to the EU altogether? And if the EU matters, are we in the presence of a logic of appropriateness grounded in learning and socialisation, or are we in the presence of a logic of consequence grounded in cost-benefit calculations stemming from external incentives? In other words, how direct and '*coercive*' is democratic conditionality?

The answer is: it depends. Schimmelfennig and Sedelmeier (2005) have argued for instance that the logic of consequences and external incentives is most likely if EU conditions are clear and domestic (political) adoption costs low. Social learning is more likely when mainstream domestic players are persuaded by the legitimacy of EU rules. In the latter case, the EU might set (democratic) conditions, but we should not make any causal inference from this fact. More generally, the EU would not be expected to have much influence either on democratic frontrunners or on authoritarian/nationalist governments (e.g. Slovakia) for whom adoption and would threaten their power base. The most credible setting for EU influence would be in the case of fragile democracies after a change of government through the lock-in effect afforded by commitments made to the EU – although analysts agree on the difficulty of disentangling the EU's influence, whether through conditionality or socialisation and the autonomous impact of domestic politics.

The downplaying of a direct effect of democratic conditionality in turn stems from the difference between the two types (hard and soft) of conditionalities in the EU's enlargement process. The logic of consequence is more likely to obtain for the so-called *acquis*, not only because these rules are clear and straightforward but perhaps most importantly because they apply equally to existing member states. When it comes to the softer democratic conditionality, and notwithstanding the one-off application to Austria discussed above, existing members of the club do not seem to be bound by the same rules. Indeed, throughout the late 1990s and early 2000s, the EU commission progressively introduced conditions in realms where it had little or no competence internally, from minority rights to devolution to the independence of the judiciary; this is unsurprising as these realms are intensely contested and the object of divergent political bargains across member states. What does compliance mean against a norm that is constructed, lacks a firm internal basis and is used flexibly over time?

The response of aspiring members seemed schizophrenic at best. While formal legislative change has definitely been observed, it has often not been accompanied by behavioural change: formal reforms may simply not filter through deeper normative structures of society. Indeed, Sasse (2008) has argued that EU pressure and monitoring has actually had an inverse effect when we consider the political dynamics that have accompanied enlargement: in Latvia and Estonia, the ethnic majorities represented in the parliaments have failed to follow through on citizenship reform for instance, and the implementation of these reforms has been frustratingly patchy. Moreover, conditionality in this case is more a framing device than a direct cause of transformation. It can even have perverse effects by mobilising '*true*' domestic

actors against its deeper precepts (e.g. integration of Russian minorities). At the very least, as many observers have argued, the need to converge with the EU in general (e.g. not just the democracy criteria) can infantilise and constrain the extent of democratic debate.

Thus, we must assess the impact of the EU *'model'* on the quality of democracy in aspiring member states, which can arguably be restricted through EU intervention. Let us ask to what extent, for instance, do the content of the conditions or norms conveyed by the EU *'fit'* with the democratic debates of the targeted states – it is arguable for instance that negative conditionality, against certain state behaviours, is more respectful of democracy than the promotion of positive solutions prescribing say the territorial autonomy for a minority. More generally, the nature of democracy is especially contested when it comes to the ways in which countries chose to avoid “*the tyranny of the majority*” and the “*tyranny of the minority*” - the same challenge is seen very differently from Latvia, Romania or France. Indeed, it has not always been clear to external observers why in some cases the EU has pushed for democracy through integration and other cases for democratisation through partition – here Bosnia, Serbia or Cyprus come to mind.

The impact of democratic conditionality also depends on the phases considered, e.g. regime change prior to the onset of EU accession negotiations; the accession negotiation phase itself; the post-accession period. With the initial impact of the EU on regime change in the early 1990s (with parties advocating different versions of a *return to Europe*), it is harder to demonstrate that the EU had a significant impact on regime features as a whole (except perhaps for the case of Meciar’s Slovakia). Indeed, once negotiations have started the credibility of the threat to withdraw the membership offer decreases dramatically, so incentives thereafter relate to timing of entry, length of transition periods and the like. After accession, the EU loses its sanctioning power, especially given the extreme character of the ill-fated article 6 and the Austrian affair. While early findings on the post-accession implementation of EU rules and infringement procedures seems to show that (as of 2008) the EU 10 (that is the new member states) outperform the EU 15 for the *'hard acquis,'* the democratic ethos seems less entrenched from the independence of the judiciary to democratic inclusion. The legacy of conditionality is thus very different for hard (acquis) vs soft (democracy) conditions. It may be that new members have a greater susceptibility to shaming when it comes to concrete measures which is ironic given how much they hated conditionality. In short, heavy pre-accession institutional investment in legislative capacity, as well as socialisation into appropriateness of good compliance does not automatically translate into structural change across areas. The question remains open however as to whether the *'threat of enhanced cooperation'* – eg whether state can enter the Schengen area of free movement, the European Monetary Union – might also act as post-accession conditionality.

Finally, it is important to stress that when it comes to democracy and the connected norms of human rights and the rule of law, the EU does not exert influence in a vacuum but borrowed legal tools and policy recommendations from other institutions, amongst which the Council of Europe and the Organisation of Security and Cooperation in Europe [OSCE] in particular.

If we ask therefore about the democratic legacy of enlargement, we need to come back to the dynamics internal to the EU itself. We see for instance today how the Hungarians have become the champions of minorities in the EU, especially within the European Parliament. Are we likely to witness a feedback loop, whereby the practices and scope for jurisdiction or involvement of Brussels in democratic matters within the EU comes in turn to be affected by



the EU stance during enlargement? Perhaps taking such feedback loop seriously is a precondition for loosening the limitation of democratisation through europeanisation outside the context of enlargement.

### 2.3. Neighbours and Partners beyond: Democratic conditionality, the European way

It is clear from the above that enlargement provides a unique albeit contested setting for ‘*democratic influence*.’ But what is the EU influence without the promise and prospect of membership? This is the realm where EU influence can be directly contrasted with that of the US or other western powers as well as international organisations like the World Bank, the OSCE or UNDP. Indeed, following the ‘*third wave*’ of democratisation around the world, democracy-promotion became a huge industry in the 1990s and the EU a powerful actor within it.<sup>3</sup>

To be sure, there is an intermediary area, dubbed by the EU as its ‘*neighbourhood*’ where the lack of membership prospect may only be temporary and where the EU has actually reproduced some of the same patterns of influence as in the enlargement context (the original 2004 European Neighbourhood Policy was drafted by the same EU commission staff who managed enlargement). The 16 countries which take part in the ENP (as of 2008) can be said to be under the purview of ‘*conditionality-lite*’ whereby both the incentives provided and the convergence engineered are much less ambitious than the EU. If the EU is to be seen as a ‘*democratic empire*’ some of the architects of the ENP may argue that it is already overextended. It is an erroneous myth they say that further enlargement would increase security; the ENP can be a functional equivalent by contributing to stabilising the ‘*belt*’ of democracies around the EU and then strike ‘*privileged partnerships*’ with them.

Beyond its immediate neighbourhood, the EC has long hesitated to introduce any sort of conditionality in its bilateral relationships, especially when it came to former colonies. Anticipating decolonisation, the chapter of the Rome Treaty dedicated to cooperation with developing countries was meant to manage a post-colonial order, including asymmetric rights of market access, not to interfere in the affairs of other countries. The EU’s complex series of external trade preferences either followed pragmatic economic lines or were based on post-colonial ties. Until the 1980s, the EC/EU had no tradition of granting trade or aid privileges strategically as rewards for allies or to entice governments to reform. Its reluctance to use carrots and sticks to affect democracy may have been grounded in sensitivity to the colonial legacy of its member states, in scepticism about the effectiveness of aid or trade conditionality in political matters or in an ingrained culture of diplomatic engagement (as opposed to US balancing or containment). As a result, it has traditionally balked at using instruments which might involve elements of coercion, suasion or arm twisting and has often let geo-strategic, historical or symbolic imperatives outweigh failings in domestic reform.

But this ethos began to change in the post Cold War era with significant variance across issue areas and across regions –e.g. less on judicial independence or corruption, more on minority

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<sup>3</sup> Samuel P. Huntington in *The Third Wave*, defined three historical waves of democratisation. The first one brought democracy to Western Europe and Northern America in the 19<sup>th</sup> century followed by a rise of dictatorships during the Interwar period. The second began after World War II, but lost steam between 1962 and the mid-1970s. The latest wave has seen more than 60 countries experience democratic transitions since 1974, notably in Latin America and post-Communist countries of Eastern Europe. See Samuel Huntington, *The Third Wave: Democratisation in the Late Twentieth Century* Norman University of Oklahoma Press (1991).

or human rights laws or freedom of the press; less in Asia or Latin America than Africa. This may have been due its growing sense of its legitimacy and weight as an international actor as well as the spill-over from enlargement dynamics. The European Parliament has been instrumental in this evolution especially as it gained the power to veto agreements with third parties following the 1987 Single European Act. Specifically, in 1995, the EU turned what was to be a quick mid-term review of the Lome IV convention, which governed aid to the ACP into a fundamental rethinking of its aid provisions introducing broad political conditionality, including support for democratic government. The EU enforced the threat during the 1990s as aid was suspended to Nigeria, Rwanda, Burundi, Niger, and Sierra Leone - although the EU tends to resort increasingly to positive rather than negative forms of conditionality (e.g. promises rather than threats). By the beginning of the new millennium, the EU had three diplomatic voices—the Parliament, Council, and Commission—all promoting democracy and the rule of law abroad.

One of the greatest challenges recently addressed to the democracy-promotion agenda can be called the sequencing controversy. The argument especially pertinent to Europe, but which applies to the US and others as well, is that the promotion of only some features of democracy, that is electoral democracy, is highly distorting and conflict-inducing if polities are not yet ready through stable rule of law institutions to protect against an appropriation of the spoils of power by the majority or a clique. The argument was best encapsulated by Fareed Zakaria in his denunciation of ‘*illiberal democracies*.’ Accordingly, the rule of law rather than democracy should be the aim of outside intervention: better not to ‘*micro-manage*’ but instead create an environment that might eventually be conducive to democratisation. Others like Carothers, however, have argued that the sequencing argument is a fallacy and that countries generally need elections to create the kind of incentives that will lead to the upholding of the rule of law. The controversy wages on and will shape European strategies for years to come in places from Afghanistan to Bosnia or Nigeria, and most controversially perhaps given the economic interests at stake, to China.

A second challenge has to do with the EU’s acceptance of ‘*reciprocal intrusion*’ that could well be the hallmark of a truly democratic ‘*post-colonial*’ power. If sovereignty is to be redefined as “*sovereignty as responsibility*” justifying intervention in the domestic affairs of other countries, to what extent will the EU accept to be scrutinised for its own consistency between its internal practices and its external prescriptions? In the last few years, the EU has refused for instance to let the UN debate certain issues pertaining to human rights and democracy in its own member states, avowedly issues that are partially under the purview of the ECJ (gay rights in Poland or women rights in Malta). While the reason given is the UN’s unanimity principle and the reluctance to let non democratic countries sit in judgement of the EU, one also gets a sense from EU diplomats that the EU will not be lectured on democracy by outsiders.

### 3. Democracy *beyond* the State: towards a post-hegemonic state system?

It may be argued that aside from the enlargement process, the EU’s most significant influence beyond its borders does not have to do with the (democratic) make up of individual countries but instead with the international society itself, in other words *democracy beyond the state*. In this part, we will first consider the features of the EU itself as a supranational democracy, we then turn to the concept of ‘*civilian power*’ as a translation device between internal and external action. We finally quickly review such translations as they actually exist at the regional and global levels.

### 3.1. From multilateralism to transnational citizenship: The two pillars of the EU-as-democracy

Obviously, the EU does not look anything like a national democracy, with the ability of its citizenry to “*kick the rascals out*” through periodic majority voting. But if we come back to the very concept of democracy rather than compare the EU with given historical forms of democracy, we may agree that the EU will never look like a continental democratic state, and yet consider that it embodies a peculiar form of democracy. The concept of democracy, Bobbio reminded us, echoes the idea of autonomy, defined in opposition to both anarchy (the absence of norms) and heteronomy (a set of imposed norms). In this sense, democracy at the international level may be apprehended, not as the reproduction of state mechanisms on a wider scale, but rather as the diffusion of mutually negotiated norms in inter-state relations (Bobbio, 2006).

If we accept the idea that the building of national democracy has meant that the rule of law and negotiations have progressively replaced power struggle between social groups, we may contend that democracy will spread in international and transnational relations through the replacement of force by law and peaceful negotiations among equal states. Bobbio did not study the European Union, but those who, like him, take their inspiration from Kant’s cosmopolitanism, have all stressed the essential dimension of the making of a “*European democracy*.” In actual fact, the formation of the EU is a long process of legalisation of conflicts and substitution of ‘*civilized*’ negotiations to power relations, and this amounts to an extension of the democratic principle to the inter-state order (Cheneval, 2005; Ferry, 2005).

Coming back to our initial framing through Kantian categories, his last two categories help us distinguish between two features of European democracy beyond the state: multilateralism and trans-national citizenship. Both of them are incomplete and in-the-making.

Multilateralism at the regional level has been Europe’s way to deal with a conflict-prone past where one group or one state consistently sought over the centuries to dominate others. The EU, through the way power relations between states as well as between central institutions are organised by the treaties, has been first and foremost an anti-hegemony structure. Contrary to all the historical examples of multinational entities throughout European history (the Austro-Hungarian Empire, the German Reich, the United Kingdom, the Soviet Union or Yugoslavia), it has not been dominated by any majority ethnic group. From its very origin, it has been based on a ‘*balance of unbalances*,’ to quote Stanley Hoffmann, a balance that has been regularly confirmed by the successive enlargement processes. The six founding member states were composed of three larger states and three smaller ones, with various configurations: some were rural while others were essentially urban and industrialized, some had won WWII, others had been defeated, some were old centralized states and others were younger and more fragile, some were colonial powers and others states without any empire, some were countries of immigration and others countries of emigration, some were free traders while others were protectionist. There were enough intersecting differences between the states to make the creation of stable fronts and domination of one group over another very unlikely.

As a result, the EU developed a new form of ‘*multi-level multilateralism*’ as argued by Mario Telo in the introduction to this volume. The great achievement of the “*Community method*” was to overcome the reluctance of some countries that feared the hegemony of France or of the Big Three [France, Britain and Germany] by suppressing any potential risk of solitary leadership. Shared leadership was embodied in the combined monopoly of initiative out of the

hands of big states (to the High Authority and later the Commission), the system of rotating presidency in the Council of Ministers, the qualified majority voting system, based on a subtle system of weighing votes. Unlike other international organisations in which inter-state equality remained a virtual principle, the EU thus efficiently prohibited the possibility for a state to occupy a hegemonic position (a great deal of the acrimony of the negotiations over the failed Constitutional Treaty (2002-2003) and later the Lisbon Treaty (2007) was due to the attempt to alter this balance on the part of the bigger states). With time, negotiations based on mutual respect became the rule and spread to every part of the institutional system, even into the bureaucratic and diplomatic spheres which were the foundation of the EU's political system. The most remarkable aspect of such a development process is that – contrary to what happened in federal regimes – the EU was not obliged to establish a new hegemonic centre that would rule *super partes* in order to achieve the repudiation of hegemonic relations among states. Unlike the American, German or Swiss federal models, the EU's political regime remains essentially headless (Magnette, 2000).

Beyond the management of power relations between states through multilateral regionalism, the EU has deepened democracy beyond the state by exploring Kant's third dimension of international law, namely trans-nationalism which is in turn related to the progressive emergence of the notion of citizenship of the Union. This notion had existed *in nuce* since the very beginning. The cardinal principle of the free movement of persons, together with the essential principle of non-discrimination on the ground of nationality, gave citizens new rights vis-à-vis the states where they resided whether or not they were nationals of these states. From then on, the concept of Union citizenship could progressively evolve from its essentially functionalist origins through Court challenges as well as Commission and European Parliament activism, incorporating new rights other than those directly attached to the economic status. The principle of European citizenship, separated from its purely socio-economic dimension, was finally established – with a few restrictions - in the Treaty of Maastricht.

The meaning of the notion of “*Citizenship of the Union*” is still blurred by the fact that it is often apprehended through the national prism. In other words, being a citizen of the Union is commonly related to the idea of a direct link between citizens and the Union, some form of legal and political vertical relation. But such a relation, though not absent in the European citizen's status, remains embryonic. As early as 1979, citizens were given the right to elect their representatives in the EP, and were, some time later, granted the right of petition and appeal to the European Ombudsman. The Charter also endows all residents with further rights. The direct link with the Union stops here.

The horizontal dimension of European citizenship is much more substantial. From a legal point of view, the constant enhancement of the right to travel freely and the banning of any form of discrimination based on nationality have profoundly affected national law. Migrant citizens have been granted civil and social rights, economic freedom and even political rights they were denied before. In that respect, the Union has gone further than Kant's recommendation of a “*right of access*” across nation, considerably deepening his notion of universal hospitality to “*retain the possibility of civil relations.*” In the EU, national legal systems are now expurgated of most references to “*national preferences*” which once characterized them.

In today's EU, the enlargement of the notion of citizenship to the European-other is not a mere legal issue. As Joseph Weiler rightfully noted, the changes of attitude implied by these

legal dispositions are perceptible in social reality and are “*most present in the sphere of public administration, in the habits and practices it instils in the purveyors of public power in European polities, from the most mundane to the most august*” and extends to the legislative and judiciary spheres where many policies in the public realm can no longer be adopted without examining their consonance with the interest of others (Weiler *inter alia*, 1998). Beyond political, judiciary and bureaucratic practices, collective representations are also being transformed. The growing number of exchanges – professional migrations, tourism, twinning programmes, agreements, networks – has helped lessen the feeling of mistrust that long prevailed in relations between Europeans, facilitated better understanding and created some form of mutual curiosity.

The lifting of legal and administrative discrimination practices has also contributed to arousing a community feeling among Europeans, but not as the great ‘*melting pot*’ of the American model. Instead, Europeans seem to be engaged in constructing an area of mutual recognition of each other’s individual collective identity, creating as it were, a *demos*-cra<sup>cy</sup> in the making (Nicolaidis, 2004). Public opinion polls show that national identities remain strong among people who are still attached to national habits and practices inherited from history, and often reflected in some apolitical form of nationalism, be it about food, sports or arts. But their attachment to the nation has become somewhat looser and less exclusive. As sociologists have recently demonstrated, it is complemented by similar attachment to Europe and greater interest for the culture of other European nations.

There are limits however to the progress of transnational citizenship in the EU, not least the fact that citizens to this day do not have the right to vote in their country of residence (except in European or municipal elections), thereby doing away with the ultimate measure of democracy. Most importantly, the question remains how these new rights for nationals coming from other member states will affect non European citizens? At the moment, while non-discrimination is progressively being extended, the diagnosis remains mixed on grounds of social representation: as Balibar (2004), Shaw (2006) and others have argued closer solidarity between European citizens inevitably leads to heightened discrimination towards third countries, but at the same time a non-discrimination ethos may also herald more tolerance towards non Europeans on account of the ‘*denationalization*’ of the notion of citizenship. But of course, the EU is still and only a transnational democracy ‘*in the making.*’

### 3.2. From regional to global integration: Promoting the “single market model”

The earliest and most straightforward way to project the European model of inter-state relations outside its borders has been through its functional core, e.g. the common or single market. The creation of the *Journal of Common Market Studies* in 1962 testifies to this explicit vision at the outset inside European circles. There was at the time a sense that if mimetic regional integration could be engineered, we might witness the creation of an international society of regions that would constitute the underpinning of a functioning multilateral economic order. Article 24 of GATT had foreseen this vision by setting out the legal conditions under which the two ‘*multilateral*’ logics – regional and global- could be compatible.

Yet, the combined factors of the Cold War and decolonisation postponed the onset of regionalism by three decades (Fawcett and Hurrell, 1995). Clearly, given the specific conditions that gave rise to the creation and deepening of the EC/EU, it seemed improbable that its model could be ‘*reproduced*’ wholesale in other regions. Indeed most of the countries emerging as former colonies/quasi colonies/occupied territories on the world scene after

World War II and decolonisation were not keen on turning around right away and sharing their sovereignty with their neighbours.

The pursuit of even only regional integration through trade clearly entailed such transfers where the '*democratic ethos*' is upheld the two ways outlined above. For one, most potential regions of the world exhibit much greater structural power asymmetries than Europe, with big countries potentially or actually acting as regional hegemony (India, Brazil, South Africa, Nigeria, Indonesia and of course China). For symmetric reasons, neither these countries nor their smaller neighbours could comfortably envisage the kind of regional multilateralism based on formal equality between member states practiced in the EU. In the EU's case at least trade liberalisation was not only practiced for its own sake or as a vector of (democratic) peace and material interdependence but also as a vector of political interdependence through the pooling of institutions and rights. It could be argued that this was all the more true that the original EC chose to create a customs union rather than a free trade area, the option which has come to be favoured by the rest of the world. But the distinct implications of the two models have become blurred. In an era of globalisation, a regional economic entity needs to speak with one voice in global economic institutions from the IMF to the WTO. Crucially, supranational institutions need to be entrusted with the mandatory resolution of internal and external trade disputes. Without a Court to adjudicate and a Commission-like entity to monitor and evaluate, the political economy of market integration in a regulated world quickly takes over. And last but not least, in order to function properly, the mutual granting of free movement or economic citizenship through non-discrimination necessarily entails a degree of '*direct effect*.' Non national citizens or companies will come to seek redress if their freedom is curbed not with the state on whose territory they operate but either with their home state as upholder of their rights or with the supranational dispute resolution entity. In all cases, regional integration implies accepting some degree of extraterritorial rights.

In spite of these exacting prospects, regional integration experiments began to flourish around the world after the Cold War. Whether in Latin America, Africa or Asia; the EU has for the last decade or more been spontaneously invoked as an integration model (famously the African Union made democracy a goal rather than a prerequisite for membership, explaining that this was its only difference with the EU). Nevertheless, the EU has not been passive but thought to sustain and reinforce such a trend. Persuaded that the end of the Cold War marked the hour of Europe, EU leaders have argued in all manners of fora that the spread of the EU model would serve to avoid two dreaded outcomes: global anarchy or US hegemony.

The vision that seems to prevail is that of a new multilateralism, predicated on negotiations between regional groupings over minimal common standards alongside sustained regional political, cultural and economic diversity. Some have even argued for the reorganisation of the UN along regional lines. As building blocks, regions would be best placed to sustain an international order based on negotiation and judicial arbitration rather than the use of force. Indeed, negotiations over global economic integration in the WTO are already regionalised to a great extent – so advocates argue, if trade why not defence? But the crisis of the UN and international economic and financial institutions (and the incapacity of the members of the EU to share views on their reforms) lead to rather pessimistic scenarios.

Ultimately, however, the limitations of the "*world of regions*" scenario can be found at the level of the regions themselves. Regional economic integration is first and foremost driven by rational calculations by states that the negative effects of global liberalisation can be (partially) offset or cushioned through more localised preferential regimes. The geopolitical

context, and US support for preferences upheld against itself (through the Marshall plan) also helped in the case of the EU. But such trade interdependence, backed-up by perspicuous geopolitical factors, no longer seems to obtain at least to the same extent today and outside Europe. The WTO-led global management of trade liberalisation progressively erodes the comparative advantage of customs unions. And with the collapse of bipolarity, the geopolitics of regional integration have also changed dramatically.

Moreover, as functionalists like Karl Deutsch have long argued, cultural proximity and the intensification of social contacts, play a significant role in the dynamics of integration. Yet, like Europe itself other regional groupings are embedded in socio-cultural settings at least as diverse, thereby challenging convergence around the idea of polity-formation beyond economic integration. It is not surprising that all regional groupings other than the EU rely exclusively on intergovernmental methods, which in turns renders integration harder. Mercosur, the only possible exception has been floundering exactly on this point.

So whether or not the EU model is reproducible, in part or wholesale, in the short term or with a long time lag, the integration game to a great extent today has shifted to the global level. It is not surprising therefore that EU diplomats and politicians have increasingly argued that the EU model was also relevant on a global scale (see chapter 7 on global trade governance in this volume). In the WTO, as early as the late 1980s with the Uruguay Round, European negotiators were upholding the '*new approach*' to trade liberalisation, combining national treatment, harmonisation and mutual recognition as the long term template for the liberalisation of services, or for dealing with non-tariff barriers in general. By the late 1990s, this discourse of projection had taken on a new momentum as the US agreed with the EU (somewhat reluctantly) to include the so-called Singapore agenda on the Doha Round agenda. That meant designing global rules regarding domestic public procurement and competition laws (as has been done within the EU); two realms which, if globalised would involve deep incursions within the domestic sphere of governance and the precinct of the welfare state. Similarly, linking labour or environmental conditions to trade liberalisation would also be inspired by the EU model.

How is this drive to export the EU's brand of inter-state management of markets perceived in the rest of the world? While it may rest on strong economic grounds, this EU defence of its model flounders on a deep divide between the EU and other WTO members. For the EU, and according to its own model, trade liberalization ought to be about agreed-upon principles and rules to govern trans-border exchanges that are legitimate as *norms*, and thus defensible as something other than concessions that some members have traded away in order to get some benefits in other areas. For most other WTO members however, this is not what multilateral trade governance should be about. Negotiations are about exchanging concessions estimated on the basis of the expected impact of market access provisions. Everyone needs to be reassured that they will be net winners, so principles alone won't do, especially when suspected to disproportionately serve the interests of certain members. What we have seen with the Doha round, however, is that while the first approach has been rejected by a wide array of the membership, the second is increasingly unmanageable with the growing number of veto players and veto coalitions. While, short of the EU model, the global trade regime is in a crisis; or maybe such crisis may be preferable to what they perceive as '*Euro-imperialism*' or the unilateral imposition of EU norms through market power.

The next frontier of global democracy in this light is Kant's third dimension, or applying the EU notion of citizenship, with economic rights bestowed directly to citizens in each other's

state to the global level through WTO and UN rules. While the WTO appellate body or the International Court of Justice are still cautious in doing so, some argue that such developments are coming from the bottom up, through the application of what can be called globalised administrative law.

### 3.3. From model to actor: The exercise of ‘civilian power’

The question we are left with then is how the EU has managed the transition from model to actor, from influence-through-example or persuasion to influence-through-action. While being a model *per se* can be a source of power (the power of induction or attraction), for many it is not enough. Real power involves the capacity to capitalise and extract ‘goods’ from such passive influence. Indeed, at the regional level, the EU has not simply let its model speak for itself. Instead it has engaged in negotiations over inter-regional agreements with MERCOSUR and ASEAN, and by 2002 with the 6 regions constituting of the African-Caribbean-Pacific. With each of the plans adrift to create regions modelled after the EU from North East Asia to the horn of Africa, one can identify the hand of the EU at work (Telo, 2007). A common pattern is for the EU to make access to its own market conditional on the adoption of standards and rules in these regions which are ‘compatible’ with that of the EU. In short, a single passport for Brazilian firms in the EU must be matched by a single passport there for EU firms.

As a result, such inter-regionalism underpinned by the promotion of the EU model is proving contested precisely because outsiders are made to negotiate over the fine line between the EU’s promotion of a systemic vision of a world of interrelated visions and the pursuit of its narrow self-interest. Buy our court of justice and our standard setting agencies, the EU seems to say, and we will give you Ikea as a bonus. For the EU’s partners, more often than not, the promotion of interstate democracy and the rule of law defined as a political ethos seem to give way to the promotion of ‘our’ institutions, with which we can easily do business, and ‘our’ standards which grant market power to our businesses. The same may arguably be true at the global level where the adoption of the EU’s own governance and regulative standards obviously promotes the interests of its firms.

One of the keys to this tension between the promotion of one’s model and its legitimacy to the rest of the world has to do with consistency both between the ends promoted and the means adopted for promotion; and between internal policies and discourse and their external translation. Indeed, this broad ontological connection has long been made between the EU’s internal features and the very special and idiosyncratic way it is supposed to act on the world scene. This is what is at stake today with the refinement and reformulation of the old idea of civilian powerhood. While lacking any precise definition, the notion has less to do with the means the EU might use to influence individual countries, and more to do with the idea of *peaceful* translation of its internal features as an inter-state organisation onto the international society of state

It is of course tempting to dismiss the idea of civilian power as an oxymoron based on myth (peace through trade) and colonial nostalgia, as well as born of frustration at Europe’s inability to become a third superpower during the Cold War. Yet the idea that the EU could “lead by example” and project its relevance worldwide has proved resilient precisely because of its connotation as a link between means and ends—*civilian* as *civil* means (e.g., non-military) and as *civilizing* objectives (e.g., diffusing habits of peaceful change). There is, however, considerable fuzziness in the literature over where to draw the line between civilian and military power: for example, peacekeeping forces are frequently considered to be a



“*civilian foreign policy instrument*” (Smith, 2004). But the debate as to whether the occasional use of military means disqualifies the EU claim to civilian powerhood rests on narrow focus on *exercising* civilian power. *Being* a civilian power, however, entails not only the relation between means and ends, but also the use of persuasion and the prevalence of civilian control over foreign (and defense) policy-making (Smith, 2004). Combined with the horizontal and vertical transfer of sovereignty discussed above, this set of factors allows the development of the rule of law in international relations, which pushes forward a process of ‘*civilizing*’ international politics. The ‘*civilian ends*’ most often cited as relevant to this agenda are international cooperation, solidarity, domestication of international relations (or strengthening the rule of law in international relations), responsibility for the global environment, and the diffusion of equality, justice and tolerance. These are ‘*milieu goals*’ which aim to shape the environment in which the state – or the EU, in our case – operates rather than ‘*possession goals*’ which further national interests (Wolfers, 1962).

So the question which we are left with beyond the realm of trade is whether the EU can be credible in the forceful promotion of its model when the method and the content of such promotion fails to transcend its own interests (say by advocating discrimination against itself in the formation of new regions). The recent and heated negotiations over EPAs (Economic Partnership Agreements) between the EU and the successor regions to ACP countries seem to exemplify more strongly than before this tension between altruistic systemic goals (promotion of development) and the pursuit of corporate and other interests.

Part of the problem and perhaps the solution in this vein comes back to internal/external consistency (Weiler, 1998; Nicolaidis, 2004). Are EU internal strategies such as in the realm of agriculture or justice and home affairs congruent with its external agenda? If inter-state democratisation means the de-linkage between citizenship rights and nationality, how should the EU relate the treatment of European and non-European others? It may be necessary - instead of openness, free movement and non discrimination - to fight against illegal immigration and labour market distortions, but the price to pay lies with the credibility of civilian powerhood as a commitment to promoting a world compatible with one’s own internal values.

## Conclusion

In the end, is the EU’s brand of democracy “*lost in translation*” with attempts to export it to the rest of the world? To be sure, Europeans need to learn to live with the contradiction of a non-European world where their influence is dwindling and yet their model continues to be relevant through attraction, symbiosis and fashion. The EU is an unprecedented experience combining intra-state, inter-state and transnational democratisation. To some extent, these principles already apply to the EU’s external action: democratic conditionality, rhetorical defence of multilateralism, promotion of the EU model in various regional and global fora. But it is clear that in a Hobbesian world, such a strategy of projection encounters serious limits, from the non-translatability of the EU model to its internal contestation; from accusations of double standards to the lack of internal-external consistency; from the tension between coercion and contract or means and ends to the contradiction involved in the promoting of democracy through (coercive) conditionality. The most radical critics of the EU’s “*global democracy*” agenda argue that the very idea of “*promoting democracy*” or a European model of governance is inherently flawed, laden as it is with echoes of imperialism. For budding scholars of the European Union and its role in the world, it is worth critically asking under what conditions this tension can be overcome for the EU to truly leave behind

Euro-centric approaches to global governance, while nevertheless making a difference beyond its own tentative experiment of democracy beyond the state.

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