

***Constructing Europe:
Identity and Interests in France and Germany, 1989-99***

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Highlighting the Relevance of Identity Construction. "...Identity is people's source of meaning and experience."¹ An analysis of identity in the context of European construction is important in one fundamental sense: it highlights the *process-oriented* nature of integration for the Union's member states. This paper takes into account the interaction of identity and interests in France and Germany during a decade in which Europe underwent two Revision Conferences that would extend its lines of historic continuity as a project and define its existence into the next millennium.

The Spanish sociologist Castell's argues that identities may originate from dominant institutions; however, we may speak of identities *only* if and when social actors internalize them and construct meaning around this internalization. Furthermore, he defines the context in which the social construction of identity occurs as inherently characterized by power relationships. Along these lines, Castells proposes a distinction between three forms and origins of identity building: "legitimizing identity; resistance identity; and project identity."²

The line of inquiry taken in this paper is to apply the concept of "project identity" to assess its relevance to the social construction of Europe. In Castell's terminology, "project identity" occurs "...when social actors, on the basis of whichever cultural materials are available to them, build a new identity that redefines their position in society and, by so doing, seek the transformation of overall social structure."³ This process of constructing project identity relates to Alain Touraine's discussion of "subjects," a term that defines the "collective social actor through which individuals reach holistic meaning in their experience." In this case, constructing identity may be a project which is expansive, transforming society as the prolongation of the project.⁴

1 Manuel Castells, The Power of Identity (Oxford: Blackwell Publishers, 1997), 6.

2 Ibid, 7-8.

3 Ibid, 8.

4 Ibid, 9-10.

The construction of identities is a matter of social context. Identity politics “must be situated historically.”⁵ Thus, this paper focuses on project identity to explore this concept in a specific context: its interaction with interests defined by France and Germany to construct Europe via significant decisions taken during the last decade.

Collective Identity in France and Germany

Thomas Risse argues that “political visions and identity constructions about “Europe” and European order impact upon and are incorporated in collective national identities, to the degree which they resonate: 1. with national political cultures and the repertoires of action embedded in them; 2. with national political institutions and the ideas about political order embedded in them.” Variation is to be expected in the understanding of “European” among member states as well as within their different national contexts.⁶

This paper emphasizes that a state’s collective identity may shape its actor’s interests, but that external factors such as perceptions of other state actors’ strategic choices may influence the type of strategy or tactics the state eventually adopts. In the German case, the historical link with a nationalist past impacts profoundly on the country’s self-perception or national identity. Moreover, German pride in the country’s achievements in the post war era crystallized around the strength of the D-Mark. Both these factors influenced the German debate about EMU during the period in question in ways that are not relevant in France.

In contrast to the French emphasis on national sovereignty and the strength of its Jacobin traditions, the Federal Republic emphasizes European identity as the key to national prominence. One German politician, then Green party leader and current foreign minister, Joschka Fischer, viewed the

⁵ Ibid, 10.

⁶ Prof. Dr. Thomas Risse, “Between the Euro and the Deutsche Mark: German Identity and the European Union,” # PS 1.3 (Washington, DC: Center for Excellence in German and European Studies, Georgetown University, April 1997), 5.

alternative to the Euro in terms of a return to traditional balance of power politics and nationalism.⁷ Of equal importance is to understand that Europe does mean an alternative to Germany's traumatic past in a constructive sense in contrast to Europe as a great project in opposition to the United States or Asia sometimes advocated by France.

Another way of viewing the French and German commitment to European integration is as a preferred option to American capitalism with its social inequalities. EMU is a project which not only maintains maintains the European economy in competition with the United States, but emphasizes the validity of the European welfare state.

Defining Interests via Decision-Making at Maastricht and Amsterdam: France and Germany

I. Economic and Monetary Union/EMU (Maastricht)

It has been argued that EMU, and the internal market, constitute great projects which offered France and Germany an opportunity to define an identity for Europe after years of decision-making paralysis within the Council of Ministers. These projects are essentially transformative over time within society; each relies on the support of business elites and populations to provide impetus and mobilize support for political decision-making in the European Council.

In the decade in question, 1989-99, two periods may be distinguished: 1989-94 and 1995-99. In the former, the concept of project identity interacted with French and German interests as defined purposefully by Mitterrand and Kohl, respectively. In the latter, the initial decision to complete EMU was kept on track in spite of difficulties in leadership within France and Germany. Chirac struggled to reconcile issues of national interest and sovereignty with project identity. His European policy was complicated by the arrival of Lionel Jospin as Socialist prime minister in Spring 1997. Kohl faced a loss of his political predominance in the Bundestag and encountered difficulties convincing the German population that a single currency was the project to prevent a return to German nationalism. The recent

⁷ Ibid, 10.

transition from Kohl to Schroeder and the impending move to Berlin interject elements of change amidst the continuity in German European policy.

In retrospect the Maastricht and Amsterdam European Councils gave French and German leaders the opportunity to articulate the interests of their respective countries as the identity of the European Union is defined. In this context, it is important to underline that each country's interests are defined in response to changes taking place in European integration as a result of continuous rounds of negotiations at all levels among the European institutions and the member states. Clearly an intergovernmental conference (IGC) operates according to specific rules of decision-making, i.e., unanimity, role of the Presidency in tabling draft treaty texts, ratification by all national parliaments and the European Parliament of treaty revisions. Nonetheless, the IGC process must be situated in the context of the on-going integration process which introduces new dynamics in policy-making or reveals shortcomings in decision-making which IGCs are designed to address.

At the Maastricht European Council, one of Mitterrand's main concerns was to fix a date for EMU. In this context, the predominance of the French head of state emphasizes the ability of a single leader to define French interests. Dumas, Bérégovoy and Guigou were all at Maastricht, but Mitterrand was the main protagonist. Clearly he was aware of Kohl's desire to strengthen the integration process before leaving office. The French President also knew that Kohl was concerned about the commitment of future generations of leaders in a unified Germany to European construction. Mitterrand counted on Kohl's determination to reconcile German unity and European unity. This determination made Kohl take courageous choices in the face of domestic opposition. Some of these choices, particularly on EMU, supported the French negotiating line.

Not surprisingly, at Maastricht the French President played a key role on the crucial issue in which a potential surrender of sovereignty was implied, EMU. Although Mitterrand realized that this Treaty objective would require constitutional amendments, he also knew that Maastricht had the

potential to divide the political Right at home which would be caught between a desire to preserve national sovereignty and yet not appear anti-European.

In contrast to Mitterrand's clear definition of French interests on EMU, Chirac could not bring the full weight of his position as French President to bear during the Amsterdam intergovernmental conference. Observers and participants alike during the 1996 IGC were amazed at the lack of organization and articulation of French goals. At all levels of negotiation, from the President to the foreign minister, to the minister for European affairs, there was a singular lack of coherence in French policy. Defining French interests seemed more a question of accepting the changes with which France could live as opposed to introducing any new grand designs.⁸ In order to ensure that EMU continued on track, the French leadership was willing to "cut slack" at Amsterdam in the areas of institutional reform for the European Parliament and the communitarization of third pillar issues. This flexibility may be explained by the fact that both the French Presidency of the European Union as well as elections for the office of President of the Republic occupied most of the early period of preparations for the Amsterdam conference. As the Amsterdam European Council approached, there was also some confusion involving the change from a Gaullist to a Socialist government. Throughout the 1996 IGC, there was also a French willingness to work with the German negotiating line in areas which would allow the internal market to function well.⁹

To understand the gravity of Chirac's predicament for French politics, let us recall the enormous institutional advantage a French President derives in foreign affairs under the Constitution of 1958, Chirac's own familiarity with the Community system and its dossiers, dating back to his role as Prime Minister under the initial experience of *cohabitation* (1986-88), and his

⁸Anand Menon, "France and the IGC of 1996," Journal of European Public Policy 3 (June 1996): 248.

⁹ Interview, Permanent Representation of France to the European Union, March 12, 1999.

penchant as a leader for strong initiatives, as his nickname, "*le bulldozer*," indicates.¹⁰ The primary reasons for Chirac's difficulties relate to several factors. First, the tension in the contradictory goals of French European policy in the Community context (strong Europe/weak institutions) revives the historic conflict between DeGaulle and Monnet. Specifically, how can Chirac, a French President in De Gaulle's mold, maximize his leverage on a playing field which is leveled over time by the logic of Monnet's design? A second, and inter-related, tension involves the French need to address the fundamental question of its relations with Germany and the rest of the Union. Here it is important to underline how fundamentally German unification disturbed French elites.¹¹ Specifically, what strategic choice is to be made between effective European policies, including a wider Europe capable of keeping the Federal Republic intrinsically engaged, and "the maintenance of intergovernmental, and in some cases unanimous, decision making?"¹²

Third, in the run-up to the single currency, the traditional French reliance on policies which emphasize the role of the state in economic management, known as *dirigisme*, was under a strain given the country's need to reshape the role of the state by means of an ambitious reform of the social security system. Clearly the pace of this reform was set by the need to meet the Maastricht convergence criteria. The criteria were also a factor in Jospin's efforts to cut unemployment. While the Socialist Prime Minister made small concessions to the jobless, he refused to give way on higher minimum unemployment benefits so as not to jeopardize France's capability to fulfill the budget deficit criteria.¹³

¹⁰These points were made by André Baeyens, "The Chirac-Jospin Cohabitation: Could it Have Implications for Europe?," Institute on Western Europe, Columbia University, November 25, 1997.

¹¹Interview, European Institute of Public Administration, March 8, 1999.

¹²Menon, "France and the IGC of 1996," 249.

¹³ "French jobless plan next big protest on March 7," Reuters, February 4, 1998 as cited online via America Online Version 4.0.

Instead Jospin countered that France's best hope to help the unemployed is to create more jobs by cutting the legal work week from 39 to 35 hours. One study by the Bank of France cited the creation of more than 700,000 jobs in three years. Another by an OFCE think tank cited a figure of nearly 480,000 jobs. The OFCE study stated that 479,000 positions could be the result if all companies with more than 20 staff implement the 35-hour work week in intervals - one third complying in 1998, a second third in 1999 and the last third on January 1, 2000. The study also maintained that "the budget deficit would grow by only 0.1 percent by 2003 because job creation would cut the overall amount of state aid to the unemployed and increase the number of wage earners contributing to state social security."¹⁴

Given the charged nature of these questions in French society, Chirac is not in a position, as Mitterrand was, to articulate a bold vision for Europe. The French referendum on Maastricht illustrated the danger of exposing European integration to the divisiveness of internal political calculations and the fears of an ill-informed public. Moreover, the threat exists that anti-European feelings will be exacerbated by a perceived connection between European integration and unpopular domestic economic reforms. The economic and political challenges posed by *cohabitation*, coupled with France's prolonged period of soul-searching to define its relations with the Federal Republic and its need to decide how to contribute pro-actively and assertively to a gradually evolving federal Union, stifles Chirac's influence. The President's hesitancy to call a referendum on the need to amend the French Constitution to ratify the Amsterdam Treaty illustrated the extent to which he considers the need to work with the Germans to stabilize the situation prior to the introduction of the single currency.¹⁵

¹⁴"Studies back Jospin's working week cut plans," Reuters, January 21, 1998 as cited online via America Online Version 4.0.

¹⁵"Chirac, Jospin reject plea for referendum on euro," Reuters, February 6, 1998 as cited online via America Online Version 4.0.

For Kohl the most pressing issue at Maastricht was the link between EMU and substantial progress on political union. There were a number of domestic pressures that Kohl had to contend with. First, his leadership role at Maastricht, while crucial, was one he shared with his experienced foreign minister. Genscher's pan-European emphasis stood in contrast at times to Kohl's more Atlanticist orientation. Moreover, the foreign minister's ambition to seek a high political profile for his small party, the Free Democrats, was well-known. Second, Kohl was facing a Social Democratic majority in the Bundesrat that demanded integration in line with an unambiguous federal vocation for the proposed Union. Third, an overwhelming majority in the Bundestag, that cut across party lines, favored a greater transfer of powers to the European institutions.

It was EMU, more than any other issue on the table, that allowed Kohl to pursue his own conception of the national interest in the European, and international, context. Here Kohl used synergy, in which European actions are employed to alter outcomes otherwise expected in the domestic arena. The Chancellor's acceptance of a timetable with fixed dates on EMU was in all ways a personal decision which defied the views of the Bundesbank and the German bureaucracy. It was the ultimate political decision made in what Kohl perceived to be as much the German interest as the European one. By agreeing to make the European Council the ultimate arbiter of the decisions on passage to Stage Three, Kohl was countering the ambition of central bankers to control state and Community policies.¹⁶

II. Increased Powers for the European Parliament (Maastricht and Amsterdam)

The nature of parliamentary democracy in the Federal Republic, the preponderance of German representation in the European Parliament and Kohl's desire to construct a Europe closer to the citizens explain in large part his commitment to extend the powers of that institution over the last decade. At Maastricht Kohl had leeway to accept the EMU timetable in the face of negative press and public

¹⁶Kenneth Dyson, Kevin Featherstone and George Michalopoulos, "Strapped to the Mast: EC Central Bankers between Global Financial Markets and the Maastricht Treaty," European Consortium for Political Research Workshop: The Single Market and Global Economic Integration, Madrid, 17-22 April 1994, 9.

opinion owing to the strict economic convergence criteria which would be difficult for most member states, including Germany at that point, to meet. The difficulties he expected to encounter with the Bundesrat and the Bundestag over his inability to secure greater powers for the European Parliament were another matter entirely, however. The link between the two separate but parallel intergovernmental conferences was a *sine qua non* for Kohl right until the final weeks in December 1991. Despite his modest success at Maastricht, his overall long-term strategy was to approach this issue in steps, by obtaining more and more powers for the European Parliament as EMU progressed in successive stages.

During the initial day of negotiations at Maastricht, Chancellor Kohl was virtually isolated in wanting more powers for the European Parliament than most other Community leaders were willing to concede. To make matters more difficult, he had to contend with increasing skepticism, on the part of German public opinion, about the surrender of the D-Mark.¹⁷ Kohl made his position clear that he wanted changes in the power of the Parliament before the end of the century. It was essential for the EP to begin legislating with the co-decision procedure before its 1994 general elections.

In Kohl's view, the third reading in the co-decision procedure should be dropped. This would leave Parliament the right to co-legislate with the Council instead of merely brandishing a veto. The latter result would leave a negative impression of the EP's contribution to decision making on Community legislation. Moreover, both Kohl and Genscher argued for an extension of the assent procedure by which Parliament had to agree to any future Treaty revisions.

The modest results on increased powers for the European Parliament at Maastricht can be explained as much by the intransigence of the British and the French as by the lack of a common definition of political union among the member states at the table. Moreover, the diverse number of important issues on the table which remained to be settled in two days made it possible to shift the gravity of the negotiation away from the plight of Parliament.

¹⁷"Major and Kohl risk isolation at Maastricht," Financial Times, December 9, 1991.

The Amsterdam conference¹⁸ was meant to address certain specific issues for which the Treaty on European Union left room to improve on the basis of integration in practice. The role of the European Parliament, particularly the enhancement of its co-decision procedure, was one such issue.¹⁹ In fact there was almost a unanimous tendency in favour of reducing its numerous procedures to three. The cooperation procedure would most likely be abolished, with the probable exception of EMU and the Social Protocol.

On this issue, the Major government was virtually isolated in its opposition to change although the position of France is well worth consideration. The French stated a preference to retain the cooperation procedure, especially for EMU and the Common Agricultural Policy (CAP), with only a very slight extension of the co-decision procedure in a few specific instances.²⁰ On other issues related to the European Parliament, France was also reticent including its resistance to a uniform electoral procedure, to an elimination of the third reading on co-decision if there was no agreement between Council²¹ and Parliament and to apply the assent procedure to Treaty revisions.

The French placed an emphasis instead on strengthening the role of national parliaments in the integration process. This tension between the German support for a stronger European Parliament and the French insistence for increasing the role of national parliaments was not concealed in the Chirac-Kohl letter of 6 December 1995 in which reference is made to a "priority objective" of "consolidating democracy by bringing the Union closer to its citizens." In this context, both leaders

¹⁸The Amsterdam process, which includes the pre-negotiation, negotiation and ratification processes in the member states and the European Parliament, came to a close with the entry into force of the Treaty of Amsterdam on May, 1, 1999. This paper refers to the Amsterdam conference to highlight the negotiation phase of the process.

¹⁹Peter Ludlow, "A View from Brussels," *A Quarterly Commentary on the EU*, No. 5 (July 1997), Brussels: CEPS, 1997, 13.

²⁰European Parliament, "Summary of the Positions of the Member States and the European Parliament on the 1996 Intergovernmental Conference," Task-Force on the "Intergovernmental Conference, JF/bo/259/96 (Luxembourg: General Secretariat of the European Parliament, 1996), 12-13.

²¹*Ibid.*, 12-14.

advocate that this objective would “involve the European Parliament having a greater share of responsibility for matters relating to the process of building Europe, as well as closer involvement of the national parliaments.”²²

At the Amsterdam European Council on 16-17 June 1997, agreement was facilitated on this issue by the majority tendency behind the desire for institutional reform in this area coupled with the Blair government’s willingness to consider some procedural changes with regard to the nature and scope of co-decision. The decision taken at Amsterdam also reflected German and French priorities in a number of ways. First, Amsterdam resulted in a significant extension of the scope of co-decision. The number of treaty articles subject to co-decision will more than double from 15 to 37 (39 at a later date).²³ Eleven of the new articles were subject to cooperation: non-discrimination on the grounds of nationality (Article 6); implementation of transport policy (Articles 75 (1) and 84); articles resulting from the inclusion in the Treaty of the Social Protocol; decisions implementing the Social Fund (Article 125); vocational training (Article 127(4)); provisions relating to trans-european networks (Article 129d); decisions implementing the European Regional Development Fund (Article 130e); research (Article 130o); the environment (Article 130s(1)); and development cooperation (Article 130w); two to consultation: social security for migrant workers (Article 51); and rules governing professions (Article 57); one to assent: freedom of movement and residence (Article 8a (2)); and eight are entirely new in the Treaty: employment - incentive measures (Article 5); social policy - equal opportunities and treatment (Article 119); public health (Article 129); openness (Article 191 (a)); measures to counter fraud (Article 209 (a)), customs cooperation (Article 116); statistics (Article 213 (a)); and creation of an advisory body on data protection (Article 213 (b)). In 5 years time co-decision

²²“Letter of 6 December 1995 from the President of the French Republic, Jacques Chirac, and the Chancellor of the Federal Republic of Germany, Helmut Kohl, to the President of the European Council, Felipe Gonzalez” as cited online at <http://europa.eu.int/en/agenda/igc-home/ms-doc/state-fr/pos.html>, 3-5.

²³Michael Shackleton, “Codecision and Conciliation: An important series of consequences for the European Parliament,” (Luxembourg: Conciliations Secretariat of the European Parliament, 1997), 1-2.

would also be “automatically extended to measures on the crossing of external borders of the member states, which would establish the procedures and conditions for issuing visas by member states (B2 (b) (ii)) as well as rules on a uniform visa (B2 (b) (iv)).”²⁴

Second, Amsterdam resulted in a reinforcement of the status of the Parliament as an equal partner of the Council. The third reading has been abolished, thus simplifying the procedure and enhancing the leverage of Parliament. This means effectively that in cases where conciliation between Council and Parliament is unsuccessful, the procedure cannot continue and the proposal is dropped.²⁵ Third, there is the possibility of an agreement at first reading. In effect, the Council no longer needs to adopt a common position but may adopt the proposed act at first reading if it adopts all the European Parliament’s amendments, or if Parliament has proposed no amendments. Fourth, there is an acceleration of the convening of the Conciliation Committee, which, after the Council’s second reading, has to be convened within six weeks rather than “forthwith,” as stated in Maastricht.²⁶ This last point reflected the unanimous desire of the member states to impose precise deadlines on Parliament. It is consistent with the Community equation of “institutions + fixed dates = politics.”

Other important points which reflect an improved standing for Parliament include the fixing of its number at 700 MEPs, even after enlargement (Article 137). In addition, Parliament is to: draw up “a proposal for elections by direct universal suffrage in accordance with “principles common to all member states,” (Article 138); lay down regulations and general conditions “governing the performance of the duties of its members, with the approval of the Council acting unanimously;” and approve the

²⁴“The European Parliament as it would be affected by the Draft Treaty of Amsterdam of 19 June 1997,” PE 223.062 (Luxembourg: Directorate General for Committees and Delegations, Committee on Institutional Affairs, 28 June 1997), 1-3.

²⁵Michel Petite, The Treaty of Amsterdam, Harvard Jean Monnet Working Papers (2/98) as cited online at [http://www.law.harvard.edu/Programs/Jean Monnet/papers/98/98-2-06.html](http://www.law.harvard.edu/Programs/Jean_Monnet/papers/98/98-2-06.html)

²⁶Shackelton, “Codecision and Conciliation,” 1-2.

appointment of the Commission President, thus bringing the legal situation in line with political realities and increasing Parliament's influence vis-à-vis the Commission.²⁷

The French preference for an increased role on the part of national parliaments in the integration process resonated throughout the Amsterdam conference. The outcome in Amsterdam added a Protocol, annexed to the Treaty, on the role of national parliaments in the European Union. This Protocol is meant to involve national parliaments ahead of Community proposals in order to avoid a possible rejection of measures when European Community (EC) legislation would be transposed into the legal systems of member states. This is significant in the area of justice and home affairs where the Community would deal with matters normally left to national authorities, and for questions relating to subsidiarity. While there was unanimous agreement on the need to inform national parliaments rapidly, there was little desire to create a new body representing national parliaments. France, with its preference for "a strong Europe with weak institutions,"²⁸ was virtually isolated in its desire to create a second chamber of national parliaments or a high consultative council of national MPs.²⁹ Instead according to the agreement in Amsterdam, the Protocol stipulates that a period of six weeks shall elapse between making a legislative proposal under the third pillar available in all languages to the European Parliament and the Council by the Commission and the date when the proposal is first placed on the Council agenda for decision.³⁰

²⁷Petite, The Treaty of Amsterdam, 22-23.

²⁸Menon, "France and the IGC of 1996," 249.

²⁹European Parliament, "Summary of the Positions of the Member States," 16.

³⁰Michael Nentwich and Gerda Falkner, The Treaty of Amsterdam: Towards a New Institutional Balance, European Integration Online Papers (EioP) Vol. 1 (1997) No. 15, 10 as cited online at <http://eiop.or.at/> and Petite, The Treaty of Amsterdam, 27.

A separate part of the Protocol deals with the future role of the Conference of European Affairs Committees, otherwise known by its French acronym, COSAC.³¹ This institution, which dates back to 1989, is formally acknowledged and given the right to make contributions it deems appropriate to the Union's institutions. In particular, the Protocol envisages COSAC activity related to: 1. proposals in the "area of freedom, security and justice" which could have a direct bearing on the rights and freedoms of individuals; 2. the application of the principle of subsidiarity; and 3. questions regarding fundamental human rights.³² The Protocol clarifies Amsterdam's decision to stress European solutions in that national parliaments are meant to work with the European Parliament, not in place of that institution, in the integration process. Decision making at Amsterdam on institutional reforms was closely related to changes made in the third pillar. Therefore, it is to this issue which we now turn.

III. Communitarization of Articles in Justice and Home Affairs (Maastricht and Amsterdam)

The dismantling of internal borders as a result of the single European market led to a personal initiative on the part of Chancellor Kohl to establish closer European cooperation in the areas of asylum, migration, visa policy and police matters to combat international terrorism, drug-trafficking and crime. Among various European publics, the European Union had gradually come to represent multiculturalism as the internal market afforded Union citizen's the right to relocate and work in a different member state. This evolution, and the cultural diversification it embodied, evoked feelings of insecurity within countries whose publics are each wedded to a sense of national identity. Political demagogues, like Le Pen in France, could play on these fears and use popular sentiment for political gain. Likewise the opportunities offered by the internal market could simultaneously provoke feelings of xenophobia as individual populations each try to affirm a sense of national identity against what is perceived as a

³¹Allen Tatham, "The Relationship between the European Parliament and National Parliaments," No. 181 Budapest Papers on Democratic Transition (Budapest: Hungarian Center for Democracy Studies Foundation, Budapest University of Economic Sciences, 1996), 4-5.

³²Nentwich and Falkner, The Treaty of Amsterdam: Towards a New Institutional Balance, 10.

European superstate.³³ French and German political leaders are keenly aware of this fact, although their methods of dealing with the situation are somewhat different and highly dependent on factors such as national institutional context and political culture.

In Maastricht, Chancellor Kohl fought hard to include as much substance in the Treaty as possible in the form of new Community competencies. He wanted a reference to the "federal vocation" of the proposed union in the Treaty, but realized this was a question of differing interpretations of the phrase's meaning by Britain. In Kohl's view, the substance of the text would steer the course toward the goal of a federal union, even if there was no explicit mention of the term in the Treaty. This was one of the reasons why he stood firm on the inclusion of article 100c concerning visa policy in the Community sphere. Mitterrand supported the inclusion of 100c in the first pillar competencies. The combined Franco-German weight behind the proposal was necessary to achieve this negotiating objective against the staunch opposition of Major.

Although the French policy on asylum differed substantially from that of the Germans, French leaders understood the explosive nature of the issue in German domestic politics. Their support of German goals on this article indicated French intentions to proceed gradually in the transfer of internal and justice affairs policies from intergovernmental cooperation to Community decision making. Major's desire not to be isolated more than once at Maastricht, led him to concede this issue to France and Germany.

The inclusion of article 100c on immigration and visa policy within the Community sphere of decision making was intended to function as the *passarelle* in the first pillar with a close link to justice and home affairs issues in the third pillar. It was generally believed that decisions taken at Maastricht would reveal the limits of intergovernmental cooperation in the third pillar. This result in turn would prompt further decisions on integration during the 1996 IGC.

³³Manuel Castells, End of Millennium (Oxford: Blackwell Publishers, 1998), 326-27.

During the Amsterdam conference, there was unanimous agreement to improve third pillar instruments. Nonetheless, there was categorical refusal on the part of Denmark and the United Kingdom to communitarize articles in the third pillar, otherwise known as Cooperation in Justice and Home Affairs (CJHA). Progress in communitarization was linked with “flexibility” or an “opting out” clause.³⁴ Nonetheless, there was a majority tendency to communitarize specific issue areas like visa, asylum and immigration policy as well as rules on crossing of external frontiers, although France consistently attached a reserve to its position. The involvement of national parliaments was one condition which Chirac attached to an acceptance of communitarization in these areas and that of anti-drugs action.

In terms of decision making on CJHA, there was majority support for QMV with the exception of Denmark and the United Kingdom. France linked this issue to the re-weighting of votes in the Council. This was also true for the extension of the Commission’s right of initiative although German, France, Spain and Austria preferred a Commission/Member State co-initiative. A majority trend also favored not limiting new instruments to directives and, in particular, not ruling out the regulation. With regard to the input of the European Parliament, a majority favored not going beyond simple consultation although co-decision could be used for QMV cases.³⁵

A majority trend could also be discerned to reinforce the role of the European Court of Justice in this pillar, to simplify the 5-level structure of negotiation and decision making in the workings of the K.4 Committee within the Council³⁶ and to incorporate the Schengen Agreement into the Treaty. On this last issue, certain member states feared that incorporation of Schengen

³⁴European Parliament, “Summary of the Positions of the Member States,” 4-5.

³⁵Ibid., 6.

³⁶Jörg Monar, “The Evolving Role of the Union Institutions in the Framework of the Third Pillar,” in The Third Pillar of the European Union, eds. J. Monar & R. Morgan (Brussels: European Interuniversity Press, 1994), 80-81.

could destroy or reduce its existing *acquis*. The Major government insisted on an opt out and Denmark rejected any form of flexibility.

The possible transfer of specific responsibilities under CJHA to the Community pillar raised questions among the member states about the remaining areas of third pillar responsibility. Proposals under discussion during the Amsterdam conference involved issues such as: "the role of the European Parliament in this area; sharing initiatives with the Commission; qualified majority voting (QMV) within the Council for implementing decisions; use of instruments such as directives; establishing deadlines for the ratification of agreements by the member states." The majority tendency was for a "marked improvement" in the effectiveness of the third pillar which could take place in stages, like the transition from unanimity to qualified majority decision making.³⁷

The decisions taken at Amsterdam on CHJA reveal a great deal about the dynamics of the IGC process. In contrast to Maastricht, there was no single issue like EMU which captured the public's attention. In the confusion of numerous decisions taken in sensitive areas of political union, the temptation is to focus on that which was not achieved. Yet, after all is said and done, politics is the art of the possible and to govern requires the courage and intuition to make an intelligent decision in the face of domestic constraints. The establishment of an area of freedom, security and justice in the Amsterdam Treaty is significant for the substantial amendments it makes to the reforms introduced at Maastricht. In certain respects these amendments change the Treaty with a view to future enlargements and to the accession of new member states whose citizens have long endured a lack of respect for democracy, human rights, fundamental freedoms, and the rule of law. In other respects, the Treaty modifications regarding non-discrimination highlight the role and contributions of the Nordic member states whose respect for the rights of the individual citizen are well-known.

³⁷European Parliament, "Summary of the Positions of the Member States," 4.

Of particular note is the gradual introduction, within a period of five years, of measures aimed at ensuring the free movement of persons and the establishment of general rules concerning external border control, asylum and immigration in the Community pillar, albeit subject to a number of special provisions regarding voting, the European Parliament and the European Court of Justice. Another significant achievement is the inclusion of the Schengen Agreement in the Community pillar, despite the non-participation of the British and the Irish, and the definition of Schengen as part of the *acquis communautaire*, which prospective members will have to accept in order to accede to the Union. A third important reform is the extension and strengthening of cooperation in the third pillar.³⁸

The transfer of powers to the Community will involve “a fundamental change of approach: using directives or regulations instead of conventions; review by the Court, including preliminary rulings, albeit confined to last-instance courts and with an exception concerning the abolition of controls at internal borders; sole right of initiative for the Commission, following a five-year period of joint Member State/Commission initiative; discussion by the Council working parties and COREPER instead of the multiple levels leading up to the K.4 Committee.”³⁹

There is also a clear formulation of all the Union’s objectives in justice and home affairs, accompanied by a five-year plan in contrast to the lists of general areas given in the Maastricht text. Using the precedent of the case of the internal market, a precise definition is offered of the Community’s role and the action to be taken at the European level. This formula has the dual advantage of involving a commitment by the member states and of providing reassurance that only essential matters will be harmonized or coordinated, and thus avoiding the “in for a penny, in for a pound” approach.⁴⁰

³⁸Ludlow, “A View from Brussels,” 3.

³⁹Petite, The Treaty of Amsterdam, 8.

⁴⁰Ibid

The decisions taken at Amsterdam in this area resulted in a very clear structure: "all matters relating to the movement of persons have now been placed in the first pillar, while the third pillar is reserved for matters relating to criminal law and the police." Improvements in the third pillar include its most prominent innovation, the introduction of a new legal instrument, Article K.6 (2) of the draft treaty. This instrument is meant to create legislation which replaces conventions which have been found to be of limited value when applied between the member states of the Union; although conventions are signed, they are rarely ratified. The new instrument, known as a framework decision, resembles a directive: it serves to approximate laws and is binding on the member states in its application, but leaves the countries free to decide on the means of implementation. The main risk with the new instrument is that it will not be used and that "through force of habit or political insistence on national ratification the convention will remain the preferred option." With this decision taken at Amsterdam, those engaged in the IGC process hope that the new, more flexible instrument, which gives a greater role to national parliaments via the transposition procedure required in national legal systems, will replace conventions as soon as the Treaty comes into force.⁴¹

In Amsterdam, the transfer of powers to the Community, an extraordinary achievement, was gained at the cost of the requirement of unanimous decision making for the Council for all of the areas concerned except visas. Kohl's complications with the *Länder*, and with Euroskeptic Prime Minister Edmund Stoiber of Bavaria in particular, required that instead of these areas passing automatically to QMV after a five-year period, the Council will decide after five years unanimously, but without the need for national ratification, whether some or all of these areas should move to QMV and co-decision. In the event of stalemate among the Fifteen, the Schengen Protocol signed by all the member states, except Denmark and the United Kingdom could be brought into play.⁴²

⁴¹Ibid., 8-9.

⁴²Ibid., 9-10.

Identity and Interests in France and Germany: Constructing Europe via Decision-Making in Maastricht and Amsterdam

As a parliamentary democracy with a firm basis in the rule of law, the Federal Republic has asserted the right of the German parliament to provide democratic legitimation⁴³ and approve European legislation. This was the result of the ruling made by the Federal Constitutional Court on the Maastricht Treaty, dated 12 October 1993. In other words, European legislation can only be implemented in Germany with the approval of the national legislature.⁴⁴

Even though there was an increase in the Bundestag's role in the making of European legislation as a result of Maastricht, national parliaments already have numerous responsibilities related only to national legislation. In this context, Kohl could capitalize on the pressure building throughout the Amsterdam conference to enhance the efficiency of the Union's system by increasing the powers of the European Parliament. Chirac, in contrast, insisted on a greater voice for national parliaments. This, in turn, would increase the leverage and powers of the French parliament via constitutional changes in the domestic system.

The issue of increased powers for the European Parliament clearly relates to what is termed the "democratic deficit" in the European Union. In terms of project identity, there is a distrust emerging on the part of citizens in the member states of the Union who have witnessed a reduction of their capacity to influence decisions made in Brussels. As a result of Maastricht and Amsterdam the weight of the Council of Ministers in the making of European legislation is gradually relativized. This takes place in the context of a redefined relationship with the European Parliament via the co-decision procedure in areas related to the internal market. Nonetheless, the complexity of the decision-making to create European legislation

⁴³Klaus H. Goetz, "Integration policy in a Europeanized state: Germany and the Intergovernmental Conference," *Journal of European Public Policy* 3 (March 1996): 27.

⁴⁴European Policy Forum-Frankfurter Institut, Speech by Prof. Dr. Paul Kirchhof, Judge of the Federal Constitutional Court of Germany, "The functions of the European Court of Justice and of the courts in the member states," Friday, 12 May 1995, 1 as cited online at <http://europa.eu.int/en/agenda/igc-home/msspeech/state-de/kirchhof.html>

leaves many citizens feeling either unaware of the daily business of governance or left out of the process of negotiations necessary in policy-making.

Moreover, the concept of European citizenship introduced in the Maastricht Treaty, but not significantly deepened in the Amsterdam Treaty, does not give the average citizen either a stake in the emerging Union system or offer citizens the possibility to internalize a sense of Europeanness which could co-exist with their nationality of origin. As citizens face a decline in democratic participation, which coincides with a globalization of the economy and a Europeanization of politics, there is a defensive reaction of retrenchment. Citizens in national political systems identify their positions in confrontation with, instead of in cooperation with, the European Union system. Instead of grasping the essential way in which the Union system works, in tandem with national systems, these citizens view identity as an either/or, zero-sum proposition instead of one which accentuates positive-sum or mutual gains. In this context, national identity and European identity do not re-enforce one another. Nationalism comes to the fore against the European project. Federalism is interpreted as a centralizing force with Brussels as the magnet threatening the influence of other national power centers in its orbit.

The challenges to establish the European Union as an entity that is something more than a single market and currency abound. In this context, the French version of national identity, which has at its core political identity, and the German version of national identity, founded on a linguistically united *Volk*, need to be articulated via institutional policy-making and social action.⁴⁵ The results may have at the core transformative projects with roots in the internal market which people could identify with and internalize as relevant and significant in their daily lives.

In the Federal Republic, the Bundesrat posed an even greater challenge to Kohl's definition of German interests as he tried to construct a European identity over time. This is because of the strengthened role of the *Länder* in the integration process as a direct result of Article 23 of the Treaty on

⁴⁵ Castells, *The End of Millennium*, 328.

European Union.⁴⁶ In the last phase of the Amsterdam conference, Kohl was held hostage on a number of issues all related to the free movement of persons, asylum and immigration. The Dutch Presidency texts on these issues initially envisioned an automatic passage from unanimity to qualified majority voting after a three-year transition period. In this instance, Kohl faced strong pressure from Bavaria. Significantly, the *Länder* share a responsibility for immigration with the German federal government. In the final days of the conference, Kohl decided to keep a veto-right in this area citing the fact that an average of 45-60 percent of all refugees who sought asylum in the Union remained in the Federal Republic.⁴⁷

This instance is significant because it underlines the inextricable linkage between European politics and domestic politics in the context of the IGC process. Specifically, it demonstrates that on certain issues not only the federal, but the regional, level may define German interests in the construction of Europe. This has implications for the interaction between identity and interests in the Federal Republic. As a result of Maastricht, a change in the status of the *Laender* within the integration process and their participation in the Amsterdam IGC as part of the German delegation in Brussels led Bavaria, in particular, to challenge and alter Kohl's negotiating stance during the Amsterdam European Council. This indicates that alongside the constructive (positive) project affirming European identity, i.e., the single currency, affirmed by Kohl, regional actors could conceive of and define European identity as a defensive reaction against the other, i.e., outsiders who would come into the Union as migrants, asylum seekers or economic refugees. The identity of Europe based on a series of defensive projects is well-known throughout the history of the Continent,⁴⁸ but this reactive type of identity is insufficient to allow citizens

⁴⁶The *Länder* circulated their own position papers during the Amsterdam IGC. For example note, Bayerische Staatskanzlei, "Positionspapier der Europaminister und-senatoren der *Länder* zur Regierungskonferenz 1996," 24 May 1995, 1-11 as cited online at <http://europa.eu.int/en/agenda/igc-home/ms-doc/state-de/240595.html>

⁴⁷Youri Devuyst, "The Treaty of Amsterdam: An Introductory Analysis," *ECSA Review* X (Fall 1997): 8.

⁴⁸Stuart Miller, *Painted In Blood Understanding Europeans* (New York: Atheneum, 1987).

to internalize a sense of Europeanness. Member states on the continent cannot construct an identity for Europe that resonates with their citizens *solely* on the basis of or in reaction to outside phenomena.

Interestingly, on the same issue, Chirac was willing to push ahead at Amsterdam with greater use of qualified majority voting (QMV) in articles relating to the communitarization of Justice and Home Affairs. The French President not only saw the interest for France that the internal market function well, he also wanted to combat drug-trafficking in a decisive manner. The Dutch Presidency was able to convince Chirac that the way to do this was through strong institutions that could make binding European legislation in this area.⁴⁹ Clearly this is one way to identify a policy area of relevance to average citizens, but is this the political identity for Europe which France believes is at the heart of a project identity? Much of the French interest is intricately bound up in the definition of a European project in the areas of security and defense, in which Europe carries out the national tradition of *grandeur*. This is an essential part of French specificity and national interest. Yet, it does not easily translate into a "project identity"; in other words, it does not allow social actors to establish a new identity that redefines their position or allows them to transform the social structure.

In France and Germany several factors which came into play simultaneously in the domestic context to influence the result at Amsterdam. First, the deterioration of Germany's public finances hurt Kohl's negotiating hand at the IGC by weakening his coalition government. Second, the Bavarian Prime Minister, Edmund Stoiber, used his Euroskepticism to boost his own leverage and political profile in the Bundesrat by preventing Kohl from agreeing to further advances in European integration. Moreover, the Opposition Social Democrats enjoy a majority in the Bundesrat upon which Kohl depends to make policy. Each of these obstacles forced Kohl to backtrack on any significant extension of QMV at Amsterdam.⁵⁰

⁴⁹Interview, Permanent Representation of the Netherlands to the European Union, March 11, 1999

⁵⁰Devuyst, "The Treaty of Amsterdam: An Introductory Analysis," 7.

To complicate matters, Kohl had to counter Stoiber's maneuvers against EMU. By exploiting fears in German opinion that France and Italy could not meet the convergence criteria, Stoiber pleaded for a "controlled delay" in EMU. To save his coalition, Kohl reiterated his strict attitude on EMU. The timing here was particularly sensitive because Kohl's stance collided with Jospin's demand, the week before the Amsterdam European Council, for more time to study the Stability Pact, which includes fines on member states which have an excessive budget deficit once the final stage on EMU is implemented. The dispute on macroeconomic policy on the eve of Amsterdam hindered a positive Franco-German negotiating line.

Since Mitterrand the Socialist strategy on EMU was, on the one hand, to construct a great project with the partner that mattered for France, namely, Germany, and, on the other, to construct that project in a way that would liberate France from the monetary policies imposed by the Bundesbank.⁵¹ In hindsight, the strategy aimed to give France leverage over time in its monetary relations with the partner across the Rhine. In fact, as a result of EMU, France is performing well economically with French wages growing more slowly than those in Germany, allowing the country to become gradually more competitive. In the future, this could lead France to gain the status as the benchmark economy of Europe.⁵²

In order to achieve EMU both France and Germany have had to adopt strict policies to make the convergence criteria stated in the Maastricht Treaty. In the process of social construction which defines an identity for the European Union, a project identity could be "a blueprint of social values and institutional goals that appeal to a majority of citizens without excluding anybody, in principle."⁵³ The preservation of the welfare state and stable employment against the pressures of globalization could offer a project identity which defines EMU in a specific way: citizens could internalize the values it represents

⁵¹ Colette Mazzucelli, France and Germany at Maastricht Politics and Negotiations to Create the European Union (New York and London: Garland Publishing, Inc. 1997).

⁵² Matthew Lynn, "France as Leader of Euro Zone?" International Herald Tribune, May 7, 1999, 15.

⁵³ Castells, End of Millennium, 333.

not just economically, but politically. In this context, EMU transcends its status as a single currency; it is the cultural symbol of a way of life. The challenges EMU faces are precisely in this area of the survival of the welfare state as the world moves into the new millennium. This offers the possibility, as Monnet experienced in European construction, to use crisis as opportunity, but it requires the maintenance of an extraordinarily high degree of economic coordination among the member states.

Franco-German Relations Post Amsterdam: The Need for a New Design. In contrast to Maastricht, the Amsterdam conference involved meetings that were essentially discussions among the delegations during which positions evolved gradually over time.⁵⁴ According to one participant, "the real negotiations were taking place back in the national capitals."⁵⁵ In the words of another participant, "it was as if each delegation came to Brussels not so much to negotiate a text as to try to bring all the forces roughly into equilibrium and to judge whether the end product would be acceptable."⁵⁶ The Irish and Dutch Presidencies produced texts just prior to each European Council, Dublin and Amsterdam, so as to try and approximate the balance of interactions among the member states and to give national experts less time to tinker with the results prior to decision making by the Heads of State and Government.⁵⁷ Unfortunately, the collective decisions taken at Amsterdam were not communicated well, or in a positive light, to most citizens in the member states. Most press coverage of European integration misunderstands how the integration process works or its significance for domestic systems.

In the case of France and Germany, the weaker phase of their partnership in evidence at Amsterdam illustrates a need to focus on a limited number of issues in the short term to find common

⁵⁴Petite, The Treaty of Amsterdam, 3-4.

⁵⁵Interview, Sten Frimodt Nielsen, Senior Advisor on EU Affairs to the Danish Prime Minister, Salzburg Seminar, Session #350, "Europe: Consolidation and Enlargement," Salzburg, Austria, October 15, 1997.

⁵⁶Petite, The Treaty of Amsterdam, 4.

⁵⁷Ibid

ground on which to build in the areas of the single currency and enlargement.⁵⁸ Precisely because the issue of the single currency is so closely linked psychologically to a loss of German identity,⁵⁹ the national veto used in other areas can be understood as a means of self-preservation. At Amsterdam it once again highlighted the distributive nature of decision making as further steps to integration are undertaken. In this context, solutions which enable smaller groupings to move ahead are necessary to achieve, especially in light of future enlargements.

The initial months of the Schroeder government in Germany, particularly LaFontaine's resignation as Finance Minister and Schroeder's determination to find solutions to the Agenda 2000 negotiations and the Santer Commission's resignation under the German Presidency of the European Union, illustrate concrete German commitments to European construction. Yet, French and German elites utilize their respective understandings of collective identity and define their individual interests in the construction of Europe in fundamentally different ways.

For the French, balance of power politics is still a legitimate way of conceptualizing about relations among states in Europe. The construction of Europe is often assessed from this frame of reference. Moreover, for much of its elite class, Europe is a lever to increase French influence in the world. For the Germans, European construction is conceived as a step away from balance of power politics and the nationalism of the past. This difference, and national leaders' inability to define EMU, institutional questions related to democratic participation in the Union's system or a political identity which relates to issues other than a common foreign and security policy, i.e., an area of freedom, security and justice in the Amsterdam Treaty, in ways that citizens can internalize and construct meaning around as reference points in their lives, remain the strongest obstacles to create a "project identity" for the European Union.

⁵⁸"Franco-German link needs a relaunch-Moscovici," Reuters, January 21, 1998 as cited online via America Online Version 4.0.

⁵⁹Risse, "Between the Euro and the Deutsche Mark: German Identity and the European Union," 6-7.

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