University of Minnesota Law School

Legal Studies Research Paper Series
Research Paper No. 10-25

Introduction: Transatlantic Governance in Historical and Theoretical Perspective

Mark A. Pollack
Gregory C. Shaffer

This paper can be downloaded without charge from the Social Sciences Research Network Electronic Paper Collection
Transatlantic economic relations have received increased attention—from both politicians and scholars—during the 1990s. In the 1980s and early 1990s, American policy makers and academics tended to focus more on the rise of Japan and East Asia as a threat to America's economic future than on transatlantic economic relations (Prestowitz 1988; Thurow 1992). In Europe, officials and academics concentrated on internal issues, in particular the highly publicized push to "complete" an internal market by 1992 and to sign the Treaty of European Union that same year to form a European Union with a common European currency. With the fall of the Iron Curtain and the collapse of the Soviet Union in 1989, however, this situation changed. President George Bush proclaimed the beginning of a "new world order." To meet the challenges in Eastern Europe, Russia, and elsewhere, Secretary of State James Baker called for the construction of a new "Euro-Atlantic architecture" (Peterson 1996, 14). The president of the European Community’s Council of Ministers (Charles Haughey) concurred, calling for "a new framework for enhanced political and economic ties" between the two blocs (Smith and Woolcock 1993, 60). The European Community was more self-confident, given the success of its integration efforts, and the United States was taking it more seriously. Calls for transatlantic declarations, agendas, partnerships, free trade agreements, and action plans soon proliferated, as exemplified by the adoption in December 1995 of the New Transatlantic Agenda (NTA) committing the United States and the European Union to closer cooperation across a broad range of issue areas.

Academic specialists of US–EU relations followed suit. Kevin Featherstone and Roy Ginsburg maintained that "the United States and European Union have
arrived at a new juncture in the history of their partnership," labeling the contemporary period “posthegemonic,” with the European Community and the United States being of equal economic power (Featherstone and Ginsberg 1993, 3, 13; emphasis added). Similarly, Michael Smith and Stephen Woolcock found a “radical structural change affecting European/American relations,” consisting of the end of the Cold War, a balancing of US–EU economic clout, and the increasing interdependence of economies giving rise to a “cognitive shift” in notions of security (Smith and Woolcock 1993, 3–4; emphasis added). Anthony Gardner confirmed, “The United States and European Union are seeking to open a new era in the history of their relationship by committing themselves to a transatlantic partnership” (Gardner 1997, 1; emphasis added).

At the turn of the millennium, the world is certainly more economically interdependent than a half century ago, in terms of trade, foreign direct investment, and capital flows. Between 1948 and 1997, growth in cross-border trade increased at a rate almost three times that of world production, expanding by a factor of seventeen in real terms, compared to world production, which expanded by a factor of six (WTO Annual Report 1998, 33). Trade was in turn outpaced by foreign direct investment, which increased at an average annual rate of over 12 percent between 1973 and 1996 (WTO Annual Report 1996). Direct investment has in turn been dwarfed by capital flows, involving increased bank lending, portfolio investment, and exchange rate transactions (WTO Annual Report 1996).

As the world’s two largest economies and the most active participants in the process of economic globalization, the United States and the European Union are at the center of these developments. They are the primary instigators of international economic negotiations and the primary users of the international trade dispute settlement system (Petersmann, chap. 3 in this volume). Collectively, the two represent over 50 percent of global production. Their economies are now roughly equal in size. They import, export, invest, and receive more foreign investment than any other country or trade bloc. Their primary trade and investment targets are each other. In 1996, the value of bilateral trade combined with sales of US and EU foreign affiliates in each other’s markets exceeded US$1.7 trillion (Gardner 1997, viii).

Growing economic interdependence has domestic, bilateral, and international dimensions, leading to increased interaction among a variety of actors, from chiefs of government to lower-level regulators, business representatives, and civil activists. Such interdependence generates conflict as well as cooperation, and it creates losers as well as winners. Sometimes parties clash over relatively technical matters, such as the tariff classification of computer equipment. Other disputes raise more controversy, for example, the use of genetically modified organisms in grains or growth hormones in meat. Regulatory provisions aimed at protecting consumer and environmental interests increasingly become the object of a battle between governmental authorities and private parties on both
Transatlantic Governance in Historical and Theoretical Perspective

sides of the Atlantic (Vogel 1997). In the view of many commentators, international and regional economic interdependence has shifted power domestically in favor of capital and away from labor, consumers, and other civil interests (Rodrik 1997; Strange 1996).

In this volume, we examine the record of transatlantic economic relations in the 1990s, particularly efforts by the United States and the European Union to establish new forms of international governance in an effort to cope with the increasing levels of transatlantic and global interdependence. The transatlantic economic relationship is particularly promising as a laboratory for new forms of governance, we argue, not simply because its members constitute the largest economies on earth, nor because of its extraordinarily broad scope; but also because the NTA explicitly calls for cooperation at multiple levels, including (1) high-level contacts among chiefs of government, (2) day-to-day contact among lower-level government officials, and (3) direct people-to-people contact across the Atlantic. Drawing from international relations theory, we label these three levels as follows:

- the intergovernmental level, where chiefs of government (or COGs) and other high-level officials negotiate on behalf of US and EU interests, as determined by internal domestic processes
- the transgovernmental level, where lower-level domestic officials work with their transatlantic counterparts on specific issues to coordinate and harmonize domestic policies
- the transnational level, where private actors, including business representatives and other constituents, coordinate efforts to advance their respective goals

Each of these three levels corresponds to a specific body of theory in international relations, which generates questions and hypotheses about the new forms of transatlantic governance to be examined in this book. Intergovernmental negotiations, for example, are the bread and butter of traditional international relations theory, from realism to more recent neoliberal regime theory. They have been studied in recent years in terms of Robert Putnam’s "two-level games" model of international bargaining. Transgovernmental relations were the subject of intense interest for a brief period in the 1970s, when scholars began to challenge the unitary state model of international relations, and they returned to the scholarly agenda in the 1990s as a possible model for a "real new world order" of governance by transgovernmental networks of government experts. Transnational relations, finally, have become a major focus of international relations scholarship in the 1990s, culminating in the recent proclamation of a "world polity" or a "global civil society" of nongovernmental actors, pursuing their respective aims across national borders or indeed without reference to states at all.
In this book the contributors address two primary sets of questions. First, we seek to explain the development, throughout the 1990s, of new and increasingly elaborate mechanisms for transatlantic governance, collected since 1995 under the rubric of the New Transatlantic Agenda. In this regard, we ask three more specific questions:

- What is new in the transatlantic relationship at each level of analysis? Do the NTA and the other transatlantic initiatives of the 1990s represent a qualitatively new level of transatlantic cooperation between the US and the EU, or simply a repackaging of existing bilateral initiatives?
- Why are these developments taking place now? Have the US and the EU chosen to intensify their cooperation because of the fall of the Iron Curtain, or because of the increase in economic interdependence, or because of the decisive progress in European integration over the past decade, or some combination of these and other factors?
- Why have the United States and the European Union chosen a bilateral, transatlantic forum for cooperation, as opposed to a trilateral forum with Japan, a multilateral forum around a selected group of countries such as the OECD, or a global forum such as the WTO?

Put concisely, these three questions ask, What’s new? Why now? and Why transatlantic?

In addition to these questions about the origins of the NTA, we ask a second set of questions, generated by the international relations theories mentioned above, about the new forms of transatlantic governance established during the 1990s. Specifically, we ask the following:

- Is the state (i.e., the US government and EU member states) still the central player in the transatlantic relationship, as traditional theories of international relations have posited? Has the European Commission emerged as a pivotal actor in transatlantic relations, alongside national governments? And what is the relationship between these governmental actors and their private domestic constituents in the making and implementation of international trade policy and in the creation of the New Transatlantic Agenda?
- Are we witnessing the development of governance by transgovernmental networks of US and European officials, as some authors have suggested? Are the participants of these networks faithfully implementing the policies of their superiors, or can these networks act independently within their respective spheres? And, assuming that transgovernmental networks are emerging as an increasingly important form of governance, what are the normative implications of a form of governance that is fast, flexible, and effective but may escape democratic accountability to national legislatures and electorates?
Do transnational actors—including corporate actors but also labor, environmentalists, and other nongovernmental actors—play a role in transatlantic governance? More specifically, are we witnessing the development of a “transatlantic civil society” with a single public sphere, a common culture, and the joint pursuit of common societal objectives?

In other words, is the new transatlantic governance primarily intergovernmental, transgovernmental, or transnational—or some combination of these?

The remainder of this introduction is divided into three sections. The first section places the transatlantic economic relationship in historical and global context and provides a capsule overview of recent transatlantic developments. The second section reviews the literature on each of the three theoretical perspectives and provides clear definitions of intergovernmentalism, transgovernmentalism, and transnationalism to guide the analysis in the individual chapters. The third section introduces the nine substantive chapters, divided symmetrically so that three chapters address each level of analysis.

THE US–EU ECONOMIC RELATIONSHIP IN THE GLOBAL CONTEXT

In their book The United States and the European Union in the 1990s, Featherstone and Ginsberg appropriately identify three periods of US–EU economic relations, which we also adopt for purposes of this capsule overview: (1) the period from 1945 to around 1965, in which the United States was the world's economic hegemon (period of US economic dominance); (2) the period from around 1966 to around 1986, when political actors in the United States became conscious of the relative US decline in economic power and the ascent of Europe, Japan, and other Asian nations (period of declining US economic dominance); and (3) the period since 1986, when the relative economic clout of the United States stabilized to be about equal to that of the European Union (period of US–EU economic balance).4 Within these periods, we explore the shifting linkages between the following: (1) geopolitical context and, in particular, the Cold War and its aftermath; (2) multilateral endeavors to manage the global economy; (3) private demands for foreign market access and domestic market protection; and (4) the growth of transatlantic direct investment and other commercial affiliations, resulting in calls for greater transatlantic regulatory coordination.

US Economic Dominance, 1945–1965

The transatlantic economic relationship emerged from World War II in the shadow of a new war: the Cold War. There was little cross-border investment in the late 1940s. Domestic demands focused primarily on domestic economic
rebuilding while statesmen endeavored to fashion new multilateral institutions to better manage global economic exchange in the future. For largely geopolitical reasons, the United States was an early supporter of European integration efforts (Calleo and Rowland 1973, 87).

US economic policy immediately following the war was forged, in large part, in reaction to the economic autarky and depression of the 1930s. During the period between World Wars I and II, world trade declined by approximately 60 percent in volume. This was the only sustained period since around 1720—when the British Empire was on the rise—that cross-border trade did not outpace world production (WTO Annual Report 1998, 33–34). In 1930, the United States passed the infamous Smoot-Hawley tariff that established “the highest general tariff rate structure the United States ever experienced” (Dobson 1976, 34). Other states retaliated by raising reciprocal barriers, and world trade plummeted. US imports fell from $4.40 billion in 1929 to $1.45 billion in 1933, and US exports plunged from $5.16 billion to $1.65 billion (Destler 1995, 11). Output dropped, unemployment rose, the Great Depression spread. Over the entire period from 1913 through 1948, world production expanded at the lowest rate since 1820 (WTO Annual Report 1998, 33).

The United States emerged victorious from World War II as the world’s dominant military and economic power. US national income was greater than the rest of the world’s market economies combined (Gilpin 1987). The European economies, on the other hand, were shattered. While US gross domestic product increased from 1938 to 1946 by 106 percent, European economies experienced large percentage decreases in GDP during that period: Germany (48 percent), Austria (43 percent), Italy (21 percent), France (17 percent) (Maddison 1995, 149–51). Although there was little cross-border investment in 1945, by the early 1950s, investment was flowing largely in one direction across the Atlantic—from the United States to Europe—and all European countries had balance of payment deficits vis-à-vis the United States.

US leaders, such as Secretary of State Cordell Hull, were determined to avoid the “mistakes” of post–World War I political and economic isolationism (Destler 1995, 5–6). For them, a reconstructed, integrated Europe was central to US security and future economic growth. They mobilized to pump US money into Western Europe to finance its reconstruction, counter the spread of communism, and anchor West Germany into a larger European framework (Featherstone and Ginsberg 1993; Schwok 1991). The Marshall Plan’s funds were not disbursed to European states individually but through an organization linking them together, the Organization for European Economic Cooperation (OEEC). The United States supported early proposals in the late 1940s to create a European customs union. It continued to do so through the creation of the European Coal and Steel Community in 1951 and the European Economic Community (EEC) and European Atomic Energy Community (Euratom) in 1957 (Schwok 1991, 9–19).
The United States was also the primary architect of the Bretton Woods system, an instrument for expanding US-EC economic exchange. The United States instigated the formation of the International Monetary Fund (IMF) and International Bank for Reconstruction and Development (IBRD) in 1945 and the General Agreement on Tariffs and Trade (GATT) in 1947. It was the driving force behind five subsequent rounds of trade liberalization negotiations through 1967, which slashed most industrial tariff rates. The US dollar became the world’s primary exchange currency and the US Federal Reserve the world’s banker (Gilpin 1987, 133). While the United States maintained the world’s most open market, it accepted European states’ retention of currency exchange controls and quantitative restrictions on balance of payment grounds until the late 1960s (Iígen 1985). As Hudec notes, “To the United States . . . the success of the Community was really more important than exact compliance with the GATT legal code” (1993, 34).

Geopolitical goals and multilateral endeavors to build new frameworks for economic exchange complemented each other during this period, advancing US and European economic interests. The United States was a leader in the IMF and GATT negotiations and supported European reconstruction and integration out of “enlightened self-interest” (Gilpin 1987, 89). An economically resuscitated Europe helped counter Soviet expansion and integrate West Germany into a European framework with France at its core (Schwok 1991). It also provided opportunities for large US business interests.

During the 1950s, European member states endeavored to integrate their economies in part to counter US economic clout, including the power it provided the United States within new multilateral forums. US firms and labor did not oppose this. US firms, with their technological edge and their capacity to invest abroad, were well placed to take advantage of a larger, more integrated European market. Moreover, the US economy was relatively insulated from foreign imports, which in the 1950s only totaled about 3 percent of US production (Destler 1995, 7). As open trade posed little domestic threat, both US business and labor supported free trade initiatives. While the United States brought some claims under the new GATT regime against foreign trade barriers, it generally did not aggressively pursue them. The GATT stirred little public attention.


For much of the period between the mid-1960s and the mid-1980s, although the United States was still occupied with Cold War concerns, its sense of an immediate Soviet threat to its security slackened. Meanwhile, with European economies resuscitated and the US growing more vulnerable to foreign developments, the United States deferred less to the protectionist dimensions of the EEC. Geopolitical interests were insufficient to allay these growing economic tensions, and the US–European economic relationship turned more combative.
Under the Community's founding treaty, the third stage of European integration was to take place in 1966, after which significant areas of Community policy would be decided by qualified majority (and not unanimous) vote. Supporters of the Community waited, as this would potentially spur more rapid European integration. Yet it was not to be. In 1965, French president Charles de Gaulle pulled France's representatives from Brussels in opposition to Commission initiatives, and EEC work in Brussels shut down. The member states resolved the deadlock only through the adoption of the so-called Luxembourg Compromise, effectively recognizing that each member state retained the power to veto any legislation that it believed would undermine an important national interest. The compromise led to "nearly twenty years of legislative stagnation" (Shaw 1996, 36).

By the 1970s, the United States had lost faith in the European vision, in large part because it appeared that the Europeans had as well. The United States was far more preoccupied with its engagement in Vietnam and Cold War geopolitics. It looked to individual European states, not to the European Commission, for policy coordination (Schwok 1991, 29). The US gave particular attention to its relationship with France, on account of its withdrawal from NATO, and West Germany, on account of its border with the Soviet bloc and the risk of West German neutralization in exchange for unification with East Germany. Schooled in balance-of-power Western European politics, Secretary of State Henry Kissinger at times appeared to prefer European fragmentation to unification, thereby assuring US dominance in Western policy making, backed by US command of NATO.

Economically, Europe was catching up quickly with the United States during the 1960s. From the late 1950s through the 1980s, the US share of world production dropped from over half to just over a quarter of world production (Krugman 1996, 87). Europe's correspondingly rose. The previous imbalance in economic power was leveling.

With the rise of the European and Japanese economies, US domestic production grew more vulnerable to imports from US allies. Imports more than doubled in proportion to US production between the 1950s and the end of the 1970s, increasing from 4.3 percent of production in 1953 to 10.6 percent in 1979. With the high valuation of the dollar in the early 1980s, the situation intensified, with imports reaching 15.3 percent of US production in 1984 (Gilpin 1987, 194). In 1971, the United States experienced its first trade deficit since 1893 (Gilpin 1987, 190). By the mid-1980s, the United States had a trade deficit with almost all of its major trading partners, including the EC (Gilpin 1987, 194). Commercial and labor interests demanded protective relief.

The United States became even more vulnerable in monetary policy. It now perceived Europe as an economic rival as well as an ally. In 1971, President Nixon suspended US support of the dollar because an allegedly overvalued dollar undermined US export competitiveness (Peterson 1996, 38). This effectively
shattered the Bretton Woods system of fixed exchange rates. As Treasury secretary John Connally affirmed, the United States refused to support the dollar so as "to screw the Europeans before they screw us" (quoted in Smith 1992, 110). US economic predominance nonetheless continued to decline. Whereas the United States was the world's largest creditor nation following World War II, it was the world's largest debtor nation by the mid-1980s, financed by foreign holdings of short-term US government debt (Hudec 1993, 105).

With the US economy less insulated, US domestic politics and US international economic relations became increasingly enmeshed. By the late 1960s, US labor had abandoned its former free trade stance (Hudec 1993, 21). When dissatisfied with the administration, labor and industry went to Congress. For the first time since the early 1930s, Congress became active in trade policy (Destler 1995). The word "GATT" hit the press. US trade negotiators were, and continue to be, caught between negotiating with and fending off Congress, on the one hand, and their European and other foreign counterparts, on the other.

One way to fend off protectionist demands at home was to challenge practices abroad more aggressively. With US economic power in relative decline and foreign imports on the rise, the United States was more concerned with reciprocity—that foreign nations uphold their end of the open trade bargain. In 1974, Congress passed Section 301 of the Trading Act, instructing US trade authorities to retaliate unilaterally against "unreasonable" and "unjustifiable" foreign trade practices (Bhagwati and Patrick 1990). Section 301 has been a bane in US-European relations ever since. US tolerance of EEC trade restrictions also declined during this period, and successive US governments demonstrated a greater willingness to assert their trading rights under the GATT, particularly in the area of agriculture (Hudec 1993, 12–13). Seventeen of the twenty-one Section 301 cases brought against the EEC between 1975 and 1988 targeted agricultural trade (Bayard and Elliot 1994). From 1980 to 1982 alone, the United States commenced eleven new GATT cases, nine against the EC. Five of the nine were brought under Section 301, respectively, concerning CAP (Common Agricultural Policy) subsidies for wheat flour, pasta, and canned fruit, Mediterranean tariff preferences for citrus, and the Community's value-added tax system (Hudec 1993, 145–46).

Throughout the 1980s, the US and EC increasingly managed import levels through "administrative protection." Antidumping and countervailing duty suits proliferated. US and EC authorities spent much of their time negotiating and monitoring "voluntary export restraints" and "orderly market agreements," in particular with Japan but also with each other. Trade economists estimate that around one-third of the manufactured sectors in the United States and the largest European economies were protected by nontariff barriers in the early 1980s (Cline 1983, 16). The postwar liberal trade regime was under stress.

Ironically, however, in administering protection, the US and EC also stimulated foreign direct investment, as enterprises attempted to circumvent import
controls. The flow of transatlantic investment was no longer a one-way street. Between 1977 and 1984, total foreign direct investment in the United States rose almost fivefold, from $34.6 billion to $159.6 billion (Gilpin 1987, 246), with European firms in the lead. In raising its interest rates to finance its burgeoning budget deficit, the US similarly drew in massive amounts of foreign capital. The US was more dependent on foreign economic exchange than ever before in its history.

US–EU Economic Balance, 1986 to Present

Two major events occurred in 1986 affecting US–EU economic relations. One was purely domestic, the other multilateral, and yet both recast the bilateral relationship. First, in February 1986, the EC member states signed the Single European Act, expanding qualified majority decision making and Community competence to new areas. With the adoption of the 1992 program and the de facto suspension of the Luxembourg Compromise, the EC finally approached its ideal of a functioning internal market on a scale comparable to that of the United States. Second, in September 1986, primarily at US instigation, GATT members launched the Uruguay Round of trade negotiations, which culminated in the formation of the World Trade Organization (WTO) on January 1, 1995.

The Uruguay Round of negotiations and European single-market project exemplified a general transatlantic shift toward neoliberal policy making at the domestic, bilateral, and multilateral levels. First, both the single-market project and the Uruguay Round results reflected European leaders’ determination that more liberal trade and investment policies were required to respond to global competitive pressures. The single-market initiative and Uruguay Round outcomes in turn facilitated the efforts of those benefiting from European market liberalization. Enterprises lobbied for greater regulatory harmonization and mutual recognition. They used the Community’s legal tools—in particular, EC law claims before domestic courts—to help drive the liberalization process forward within Europe. Through forming public–private partnerships with trade authorities, they have done the same abroad (Shaffer, chap. 4 in this volume). US and EC regulatory systems were pressed to converge. US negotiators increasingly preferred to work with the Commission because of its more liberal orientation (Gardner 1997).

Second, the single-market project and the Uruguay Round focused on opening markets through combating behind-the-border regulatory measures, what was termed the “new protectionism” by trade economists (Krauss 1978). It is these behind-the-border national standards and regulations, often aimed at protecting the environment and consumer health and safety, that businesses claim can be duplicative and contradictory, constituting the greatest impediment to cross-border trade. According to outgoing EC trade commissioner Leon Brittan, “regulatory cooperation and the issues associated with it now lie at the very heart
of EU/US economic relations" and are therefore at "the core" of most recent developments in transatlantic relations (Brittan 1999). Yet confronting these regulatory barriers is also controversial domestically, since challenges implicate the work of entrenched regulators and the interests of noncommercial constituencies supported by domestic political allies on both sides of the Atlantic (Vogel 1997).

Facilitated by the demise of the Cold War (symbolized by the dismantling of the Berlin Wall in 1989), domestic and multilateral economic initiatives proceeded in parallel. The Single European Act and single-market initiative were, in large part, a response to the competitive demands of a globalizing economy. Member states desired to spur their economic growth and competitiveness in the global market through creating a larger playing field within Europe. By the late 1980s, in the buildup toward 1992, "Europhoria" had replaced earlier "Europessimism" and preoccupations with "Eurosclerosis" (Smith and Woolcock 1993, 35). On account of successive increases in Community competence through treaty amendments, the European Commission represented the member states internationally over a broader range of issues. Europe, through the European Commission, now spoke with a somewhat stronger single voice on economic matters (Peterson 1996, 10). The United States started to listen.

By the mid-1990s, the United States and the European Community were of relatively equal size in economic terms, had a relatively balanced trade relationship in terms of exports and imports of similar products, and were each other's most important sites for foreign direct investment. In consequence, trade sanctions threatened by one against the other could more easily be neutralized by counterretaliatory threats. While the United States was relatively successful in using Section 301 against Japan and the newly industrialized countries of Asia during the 1980s, it was considerably less so against the EC (Low 1993, 91). After the US 1988 Trade Act required the US Trade Representative to identify the most serious trade barriers for retaliation, "the U.S. administration conspicuously avoided listing the EC's Common Agricultural Policy" (Hudec 1993, 113). With its increased economic clout, the EC in turn more frequently challenged foreign barriers before GATT and WTO. The percentage of total GATT and WTO cases in which the EC was a complainant doubled in the 1980s and 1990s.7

The pressure for the US and EC to manage economic tensions was not merely a response to new conditions in the global economy. It also came from powerful business interests with significant stakes on both sides of the Atlantic (Peterson and Cowles 1998).8 Investment linkages distinguish the transatlantic relationship. Transatlantic direct investment now amounts to around $700 billion. Bilateral transatlantic direct investment has grown faster than transatlantic trade in every year since 1989. In 1995, EC companies owned about 58 percent of all foreign direct investment in the United States, and US companies held about 44 percent of foreign direct investment in the EC (Frost 1997, 11). According to
one study, European investment supported 12 percent of US manufacturing jobs in 1995 (Frost 1997, 12). These investments generate a large percentage of transatlantic trade. Subsidiaries of US firms in the EC account for about one-third of European imports from the US, and subsidiaries of EC firms in the US for about 38 percent of US imports from Europe (Frost 1997, 12). These transatlantic investments are complemented by other forms of affiliations, including transatlantic joint ventures, technology licenses, and distribution arrangements.

Transatlantic intra- and interfirm ties help reduce trade frictions (Kahler 1995, 71). Industries with large holdings on both sides of the Atlantic work with domestic authorities to harmonize and mutually recognize foreign regulatory requirements so as to reduce business compliance costs. As firms increasingly "transatlanticize" their production activities, the prospects for transatlantic coordination and regulatory harmonization rise. Already, trade disputes are rare in sectors in which dominant corporations have significant investments on each side of the Atlantic, such as the chemical and pharmaceutical sectors. In other sectors, US and the EU institutions faced increasing incentives to cooperate to defuse potential trade and regulatory disputes at an early stage, yet the governance mechanisms to do so—involving direct, close ties between Washington and Brussels—were arguably missing prior to the 1990s.

Institutional Developments in US–EU Economic Relations in the Post–Cold War Period

During the 1990s, with the end of the Cold War and the relentless increase in economic interdependence, US and EC officials increasingly focused on the economic side of the transatlantic relationship, issuing joint calls to facilitate transatlantic trade and investment, reduce transatlantic trade tensions, and improve the coordination of their approaches in global and regional economic forums. In 1989, US president Bush and Commission president Jacques Delors agreed to work to ensure regular meetings between high-level US and EC officials (Smith and Woolcock 1993, 60). These meetings led to the negotiation and signature of the Transatlantic Declaration of February 27, 1990, pursuant to which the US and EC agreed to a framework "for regular and intensive consultation." The declaration focused on top-down interactions, including semiannual meetings of the US president with the presidents of the European Commission and the Council of Ministers. These were complemented by biannual consultations of foreign ministers and consultations between the Commission and other US cabinet officials. The declaration formalized a mechanism for systematic US–EC consultations at the highest political levels.

Following the creation of the European Union in 1993, the parties attempted to upgrade the transatlantic consultative mechanism by giving it greater substantive focus. In December 1995, they signed in Madrid a document entitled
the New Transatlantic Agenda, which set forth four priority areas for US–EU cooperation:

1. promoting peace and stability, democracy and development around the world (in particular, in Central and Eastern Europe, Russia, and the Middle East)
2. responding to global challenges (focusing on international crime, drug trafficking, terrorism, immigration, and environmental and health issues)
3. contributing to the expansion of world trade and closer economic relations (addressing multilateral and bilateral economic trade and investment liberalization efforts)
4. building bridges across the Atlantic (desiring to promote transatlantic contacts between “business people, scientists, educators and others” and thereby foster a closer relationship at the grassroots level)

The parties attached to the Agenda a joint US–EU Action Plan that, divided into the four areas, spanned a profusion of issues, including specific foreign policy actions to ensure security, and transatlantic and multilateral trade liberalization endeavors to enhance prosperity. About these, the parties pledged to “cooperate,” “coordinate,” “consult,” “work together,” “combine efforts,” “act jointly,” “jointly support,” and, in general, “reinforce existing dialogue.”

Given the EC’s traditional economic focus and the continuing importance of NATO as the core transatlantic institution for security and defense issues, the Agenda’s third pillar, concerning “closer economic relations,” was solidly at the center of the New Transatlantic Agenda. As specified in the Joint Action Plan, this third pillar had two enmeshed strands: (1) strengthening the multilateral trading system and (2) creating the New Transatlantic Marketplace. These twin concerns—global and bilateral—reinforced each other. By promoting their respective commercial interests, through “taking into consideration the recommendations of the [new] Transatlantic Business Dialogue,” the US and EC could remove barriers to transatlantic trade. By combining efforts, they could push new multilateral agreements through the recently formed World Trade Organization.

Efforts toward regional and bilateral integration had been sweeping the world (Kahler 1995). The United States was a founding member of APEC (Asia-Pacific Economic Cooperation) in 1989 and NAFTA in November 1993, and it launched the initiative for a Free Trade Area of the Americas in Miami in December 1994. The EC was even busier, ratifying European Agreements in early 1995 with six former communist countries of Eastern Europe, signing Euro-Mediterranean Agreements in 1995, discussing the next Lomé agreement with governments in Africa, the Caribbean, and the Pacific, and negotiating a slew of other agreements with countries around the world, including those in the traditional US sphere of influence, Latin America. It was no surprise that the globe's
two largest economic blocs would also discuss an agreement between themselves, whether it was labeled the Transatlantic Free Trade Agreement (or TAFTA), as it was peddled in the early 1990s, or the New Transatlantic Marketplace Agreement (NTMA), as promoted in the second half of the decade (Frost 1997).

The Commission, led by its trade commissioner, Sir Leon Brittan, took the initiative in April 1998, calling for negotiations of a “single comprehensive agreement” to implement a “New Transatlantic Marketplace” (Commission 1998). Brittan’s proposal had four central objectives:

1. the “removal of technical barriers to trade in goods through an extensive process of mutual recognition and/or harmonization”
2. the elimination “by 2010 of all industrial tariffs on an MFN basis”
3. the formation of “a free trade area in services”
4. further liberalization “in the areas of government procurement, intellectual property and investment”

The United States, however, had little time to respond, as the initiative was quickly condemned by the French and then quashed by the Council (Peterson, chap. 2 in this volume). In its place, the US and EU agreed in May 1998 to a vaguely worded declaration entitled the Transatlantic Economic Partnership (or TEP), “involving the intensification and extension” of their economic cooperation. The TEP, however, contained no specific objectives or timetables (Peterson, chap. 2 in this volume). Rather, in addition to agreeing to the “intensification of forward-looking work in the WTO,” the parties resolved to “concentrate” on “the removal of regulatory barriers.” They also formed another coordinating body, the TEP Steering Group, which would take primary responsibility for trade and investment issues and would complement the existing NTA Task Force (covering other NTA issues) and the Senior Level Group (responsible for overseeing EU-US relations).

Despite the proliferation of transatlantic initiatives and their unwieldy acronyms, the Transatlantic Declaration, New Transatlantic Agenda, New Transatlantic Marketplace, Transatlantic Economic Partnership, and their action plans are criticized for having delivered relatively few substantive results. Featherstone and Ginsberg characterized the Transatlantic Declaration as “more cosmetic than substantive” (1993, 32). Gardner confirmed that “participants on both sides agreed that the achievements [of the New Transatlantic Agenda] had fallen far short of the expectations” (1997, 87). Commentators brand the EU–US biannual meetings as purely ceremonial, noting that official reports strain to identify a concrete outcome (Peterson, chap. 2 in this volume). The agenda’s primary harvest for enhanced transatlantic trade consists of mutual recognition agreements covering telecommunications, medical devices, pharmaceuticals, electronic equipment, and recreational crafts, as well as a veterinary agreement, all signed in 1997 (Egan, chap. 7 in this volume).
Nonetheless, as discussed in this volume, high-level biannual meetings on issues of common concern are increasingly complemented by ad hoc meetings between lower-level officials, as well as among business enterprises and now environmental and consumer activist groups. These new forums for transatlantic exchange and negotiation are a symptom of increased transatlantic economic interdependence as well as a laboratory for new forms of international governance. It is to this question of governance that we now turn.

THREE IMAGES OF TRANSATLANTIC GOVERNANCE

The term “governance” and the more specific and contested notion of “governance without government” are increasingly employed in the fields of international relations and comparative politics, yet we find little agreement in those disciplines on the substance of governance or on the key actors who take part in it. In the field of comparative politics, for example, Rod Rhodes (1996) finds at least six distinct uses of the term floating in the literature. Some of these uses associate the term “governance” with existing concepts such as corporate governance or the “new public administration” (see Peters 1998 for an excellent review), while others are more radical in their separation of the process of governance from the organs of government. Jan Kooiman (1993), for example, argues that governments lack the knowledge and information required to solve complex social and economic problems, and that governance should therefore be conceived more broadly as the negotiated interactions of public and private actors in a given policy area. In this view, modern society is radically decentered, and government features as only one actor among many in the larger process of socioeconomic governance.

Drawing elements from each of these disparate uses, Rhodes defines governance in terms of “self-organizing, interorganizational networks” that may include, but are not limited to, organs of government (Rhodes 1996, 660). More specifically, Rhodes lays out four basic characteristics of “governance,” which distinguish the term from the traditional notion of “government”:

1. Interdependence between organizations. Governance is broader than government, covering non-state actors. Changing the boundaries of the state meant the boundaries between public, private and voluntary sectors became shifting and opaque.

2. Continuing interactions between network members, caused by the need to exchange resources and negotiate shared purposes.

3. Game-like interactions, rooted in trust and regulated by rules of the game negotiated and agreed by network participants.

4. A significant degree of autonomy from the state. Networks are not accountable to the state; they are self-organizing. Although the state does not occupy a privileged, sovereign position, it can indirectly and imperfectly steer networks. (Rhodes 1996, 660)
In this view, governance through networks complements Williamson's (1985) traditional classification of markets and hierarchies as the two alternative governing structures for "authoritatively allocating resources and exercising control and co-ordination" (Rhodes 1996, 652). Understood in this sense, governance has arguably always existed, insofar as governments cooperate with networks of public and private actors in the provision of services. However, the adoption of neoliberal policies in the United States, Britain, and elsewhere has led to a general movement toward governance by networks, as state governments have attempted to shrink the size of the public sector and shift responsibility for service provision to the private and voluntary sectors.

The shift to the term "governance," according to Rhodes, is not simply a semantic one. Rather, it points to distinctive features of the new governance, which blurs the traditional distinctions between public and private and raises pressing normative issues of fragmentation, steering, and accountability. Fragmentation may result when centralized bureaucracies are replaced with independent agencies or quasi-nongovernmental organizations (quangos), or when services are contracted out to the private and voluntary sectors, all of which reduce central government control over policy outcomes. This points to a second problem, namely, the difficulty that governments may encounter in controlling the implementation of public policies. At best, Rhodes and others argue, governments may "steer" public policy in certain directions, but the implementation of those policies rests with a multitude of actors that governments can control only imperfectly. Finally, the contracting-out of public functions by governments to independent agencies and to the private and voluntary sectors raises questions of democratic accountability to the electorate which have as yet found no satisfactory solution.

In the field of international relations, the analysis of governance typically begins with the systemic view of states coexisting in a condition of anarchy, rather than with an existing state attempting to off-load the provision of services to other actors. Yet the international relations concept of "governance without government" shares many themes with its domestic variant. The question typically posed by students of international governance is whether, and under what conditions, states may cooperate to realize joint gains, despite the presence of severe collective action problems and the absence of a world government to enforce agreements among them. In this context, James Rosenau and others have argued that an international order may be maintained, even in the absence of a world government, through a process of international governance. Governance, according to Rosenau,

is not synonymous with government. Both refer to purposive behavior, to goal-oriented activities, to systems of rule; but government suggests activities that are backed by formal authority, by police powers to insure the implementation of duly constituted policies, whereas governance refers to activities backed by shared goals
that may or may not derive from legal and formally prescribed responsibilities and that do not necessarily rely on police powers to overcome defiance and attain compliance. Governance, in other words, is a more encompassing phenomenon than government. It embraces governmental institutions, but it also subsumes informal, non-governmental mechanisms whereby persons and organizations within its purview move ahead, satisfy their needs, and fulfill their wants. (Rosenau 1992, 4)

Although governance is broader than the traditional concept of government as hierarchy, governance can also be distinguished from market interactions in which the uncoordinated aggregation of individual decisions produces a stable order, such as the setting of prices in the marketplace or the balance of power in the international system. Governance in this view implies not simply interaction but "intentionality" and "shared goals" on the part of the relevant actors (Rosenau 1992, 5–6). International relations scholars, therefore, also distinguish governance as an ordering principle distinct from both hierarchy (which is lacking in the international system) and markets (which lack the characteristics of intentionality and shared goals). However, if Rosenau is clear on what governance isn't—it isn't markets or hierarchy—he remains self-consciously ambiguous as to what it is.

Building on the work of Rosenau, and on the record of international cooperation in the environmental arena during the last decades, Oran Young suggests that governance in the international arena often takes the form of international "regimes," defined as "social institutions that consist of agreed upon principles, norms, rules, decision-making procedures and programs that govern the interactions of actors in specific issue-areas" (Young 1997, 4). Young goes further than the standard literature on international regimes, however, which assumes that states are the primary participants in regimes, and governance simply connotes international cooperation among states in a specific issue area (cf. Krasner 1983). By contrast, Young maintains that governments are not the sole participants in many international regimes, and that nongovernmental organizations can also shape the agendas and outcomes of international governance. Thus, in the international sphere as in domestic politics, the concept of governance blurs the distinction between states and civil society, leading to the view that a "global civil society" plays a direct role alongside states in the process of international governance (Young 1997, 6; see also Rosenau and Czempiel 1992; Stokke 1997; Wapner 1997; Held et al. 1999).

In sum, for international relations scholars, as for students of comparative politics, the concept of "governance" posits that social conflicts may be resolved, and sustained cooperation promoted, not only by a hierarchical, sovereign government but also by social institutions composed of multiple governments or a mix of governments and nongovernmental actors. Beyond this very broad definition, however, we find disagreement in the literature on the precise nature of, and the key participants in, international governance.
More specifically, a careful reading of the literature reveals three distinct and competing models or “images” of international governance, each corresponding to a distinct level of analysis and a distinct group of actors who are posited to play a central role in the process. The language of “images” is, of course, derived from Kenneth Waltz’s famous (1959) distinction among the first, second, and third images of international relations, corresponding to the individual, domestic, and systemic levels, respectively. According to Waltz, each of these images focused on, and posited the most important causes of war at, a particular level of analysis. Similarly, in the pages that follow we set forth three images or models of international governance, each of which is organized and distilled from the recent literatures on international law and international relations, and each of which posits the core functions of international governance taking place at a distinct level of analysis, among a distinct group of actors. Reversing the order of Waltz’s scheme, we examine in turn an intergovernmental image, in which states cooperate and bargain within international regimes, represented by their chiefs of government; a transgovernmental image, in which lower-level governmental officials interact directly in transgovernmental networks, often with a significant degree of autonomy from their chiefs of government; and a transnational image, in which nongovernmental actors participate directly in the process of global governance. These images are, of course, not mutually exclusive, and in practice we will find that the fine lines among the three levels often break down, just as Rhodes’s “new governance” model suggests. Nonetheless, these three images were devised to some extent as competing theories of international governance, and they provide a set of theoretical benchmarks or ideal types against which we can measure the development of transatlantic governance structures in the 1990s. In the three sections that follow, we review the relevant literatures applicable to each level of analysis; provide clear definitions of the intergovernmental, transgovernmental, and transnational models of governance; and pose specific questions for our analysis of transatlantic governance at each level.

**Intergovernmental Relations: Regime Analysis and Two-Level Games**

The traditional view of international relations—comprising realist and neorealist approaches as well as more recent liberal and even constructivist analyses—has been explicitly intergovernmental; that is to say, in the anarchic international system, the primary (if not the only) actors are states, and so international relations consists by definition of the interactions among states, as represented by their chiefs of government, foreign ministries, and diplomatic corps. By and large, the literature on international regimes has accepted this state-centered view, arguing that international regimes are generally negotiated among states and “matter” insofar as they influence state behavior (Krasner 1983).

Traditionally, this intergovernmental character of international regimes was based on the assumption of states as unitary, rational actors in pursuit of some
Transatlantic Governance in Historical and Theoretical Perspective

Goal, typically either security or national wealth. In recent years, however, an increasing number of scholars have relaxed the assumption of states as unitary actors in favor of models that explicitly incorporate the domestic politics of states into an explanation of their preferences and behavior. Perhaps the most well-known and widely employed of these theories is Robert Putnam's "two-level games" model (Putnam 1988; Evans et al. 1993). In Putnam's model all international negotiations take place simultaneously at two levels: at the international level (level 1), chief negotiators (also known as statesmen, chiefs of government, or COGs) bargain with their foreign counterparts in an effort to reach mutually beneficial agreements, while at the domestic level (level 2), the same chief negotiator engages in bargaining with her domestic constituencies, who must ultimately ratify the contents of any agreement struck at level 1.

Like traditional, unitary-actor models, Putnam's model assumes that chief negotiators or COGs retain a monopoly on the external representation of the state and negotiate international agreements on behalf of their domestic constituents. Unlike unitary-actor models, however, Putnam's model posits that the negotiating position of a given COG is constrained by her "win-set," that is, "the set of potential agreements that would be ratified by domestic constituencies in a straight up-down vote against the status-quo" (Moravcsik 1993, 23). More specifically, Putnam argues that the nature and size of a given state's win-set is determined by several factors, including the preferences and bargaining power of various producer and consumer groups; the ability of the COG to neutralize opposition from powerful groups through "side payments" or the manipulation of public information about the proposed agreement; and the nature of the ratification process, which can range from a straight up-or-down vote (e.g., US "fast-track" negotiating authority) to a more open-ended process allowing for legislative amendment or even popular referendum on the contents of an international agreement.

At first blush, the chief negotiator or COG would seem to be in an unenviable position, caught between a rock (her own domestic constituency) and a hard place (her fellow COGs). Yet the COG may exploit her privileged position at both tables and a specific set of strategies specified by Putnam and others, to manipulate their own and other countries' win-sets and thereby achieve some autonomy in the pursuit of their domestic and international goals. More specifically, the COG may manipulate her domestic win-set in various ways. She might, for example, manipulate the domestic ratification procedure to make it more or less demanding (as in the case of US "fast track"), or she might increase or decrease opposition to an agreement through the provision of side payments to important swing groups (e.g., government payments to industrial sectors likely to be hurt by trade liberalization) or through the manipulation of information about the terms of the agreement (Moravcsik 1993, 25).

Through the use of such tactics, COGs may effectively increase their own bargaining power in international negotiations or the likelihood of reaching
agreement where ratification of an agreement is in doubt. Thus, for example, when confronting other COGs over a difficult distributio
nal issue, a COG may increase her own international bargaining leverage through a strategy of "tying hands," deliberately constricting her own win-set in order to provoke concessions from other governments. Alternatively, if a COG is eager to reach agreement, she may engage in a strategy of "cutting slack," expanding her own win-set in order to secure domestic ratification of an international agreement. Through the use of such strategies, COGs can increase their bargaining leverage vis-à-vis other states as well as increase the likelihood that domestic constituencies will ratify their preferred international bargain. Alternatively, the chief negotiator of a given state might try to manipulate the domestic win-set of a foreign country by targeting threats or concessions to specific groups within that country, as when the US targets retaliatory sanctions at particular groups, or even particular legislative constituencies, in international trade disputes.

Perhaps most intriguingly, Putnam and his followers argue that a COG may also exploit her presence at both tables to secure domestic policy reforms that might otherwise prove impossible to attain because of opposition from particular interest groups. Using her agenda-setting power as the negotiator of an international agreement, for example, a COG may negotiate and propose for ratification an agreement that (among the universe of ratifiable agreements in her own win-set) lies closest to her own policy preferences (whatever those may be). In addition, the COG may employ what Putnam calls "synergistic issue-linkage," whereby a particular policy reform facing opposition within a particular sector (e.g., agriculture) can be linked in an international package deal to other sectors with high levels of domestic support, thereby ensuring ratification of the overall package.

Thus, while Putnam's model is best known for combining the domestic and international arenas into a single bargaining model, it turns out that the strategies and preferences of individual statesmen, or COGs, are central to determining the outcome of any international bargain. As we have just seen, the strategies of statesmen include the manipulation of ratification procedures, information, and side payments in order to expand or constrict one's own or another country's win-set. The specific choice of strategies, however, depends on the COG's preferences, which Putnam characterizes in terms of the relationship between the domestic win-set and the COG's own "acceptability set," that is, the set of agreements preferred by the statesman to the status quo. As Moravcsik points out, the possible configurations can be divided into three categories: the statesman-as-agent, the statesman-as-dove, and the statesman-as-hawk. In the case of the "statesman-as-agent," the statesman's acceptability set reflects the interests of the median domestic group and is encompassed by the domestic win-set. In the case of the "statesman-as-dove," the acceptability set lies partially outside the domestic win-set, and closer to the opposing win-set. In the case of the "statesman-
as-hawk," the acceptability set lies at least partially outside the domestic win-set, but further from the opposing win-set than the set of agreements ratifiable domestically. (1993, 31)

In the case of the statesman as agent, the COG's preferences are identical to those of her domestic constituency, and her aim is simply to negotiate an agreement that is as close as possible to her median constituent's ideal point. In the case of the statesman as hawk, by contrast, the COG should be more reticent, and more recalcitrant, than her own domestic constituency, and we would most likely expect a hawkish COG to attempt to manipulate her constituency's win-set toward a more hard-line position. Finally, in the case of the statesman as dove, the COG is more eager than her constituents to reach an agreement and may be expected to "cut herself slack" by expanding her own domestic win-set to secure ratification of her preferred agreement. In addition, when two "dovish" statesmen enter into negotiations, "incentives are created for COG collusion," whereby both COGs conspire to undermine domestic opposition to their preferred outcomes in both countries (Moravcsik 1993, 31). As we shall see (Peterson, chap. 2 in this volume), the New Transatlantic Agenda may be interpreted as a case of "COG collusion" between a Clinton administration and a European Commission more committed to transatlantic economic liberalization than the majority of their domestic constituents.

In recent years, the two-level games model has been applied to the European Union in two radically different ways. The first of these approaches, Moravcsik's liberal intergovernmentalism, posits national governments as the chief negotiators or COGs in a two-level game between their own domestic constituencies on the one hand, and the EU or Brussels level on the other hand. According to Moravcsik, this privileged position has allowed EU member governments to increase their own autonomy vis-à-vis their domestic constituencies by concentrating resources—information, ideas, institutions, and initiatives—in the hands of national governments negotiating as an "executive cartel" in Brussels. In this view, national parliaments and other domestic constituencies, having no direct presence in Brussels-based EU bargaining, are simply left to rubber-stamp agreements taken by the member governments in the EU Council of Ministers (Moravcsik 1993, 1994, 1998).

By contrast, a second group of authors have applied the two-level games model to the EU external trade policy, in which the Commission holds the position of chief negotiator on behalf of all member states in the European Union. In this view—and specifically within the sphere of international trade, where the Commission enjoys a legal monopoly on external representation—the Commission emerges as the COG for the European Union, with all the advantages that a COG enjoys by virtue of her seat at both the domestic (in this case the European) and the international levels. The Commission's powers in this regard are limited, however, by the Council of Ministers' de facto rule of unanimous voting
on major international trade agreements, and by the Council's close monitoring of the Commission through the so-called Article 133 Committee of member state representatives, which also sets the Commission's negotiating mandate (Odell 1993; Pan 1995; Pollack 1998). Despite these limitations, Putnam's model suggests that the preferences of the Commission, as well as the limited autonomy it enjoys as the sole EU negotiator on international trade issues, make it an important actor for the understanding of transatlantic trade negotiations.

In sum, the two-level games model posits international governance as negotiated interaction or bargaining among states; the key actors in the process are chiefs of government, or COGs, who enjoy a monopoly on the external representation of their respective states and may use this monopoly to manipulate their domestic constituencies. As applied to the transatlantic relationship, the intergovernmental model thus yields both specific hypotheses and a specific set of questions for our study of transatlantic governance:

- Does the process of international governance through intergovernmental institutions strengthen chiefs of government vis-à-vis their domestic constituencies, as Putnam suggests?
- If the position of chief negotiator does provide COGs with some autonomy from domestic constituencies, does this logic also extend to the European Commission and its position as chief negotiator vis-à-vis the United States and the rest of the world? Or is the Commission merely the "obedient servant" of EU member governments, with no independent influence on policy outcomes?
- If the Commission can serve as the chief EU negotiator vis-à-vis the US executive branch, how can we characterize the preferences and strategies of the Clinton administration and the Commission, respectively? Are the Clinton administration and the Commission "hawks" or "doves" on economic issues relative to their domestic constituencies? Is the NTA a "collusive" relationship among advocates of free trade, as was briefly suggested above? If so, what factors best explain the respective preferences of the Clinton administration and the Commission, and what bargaining strategies—transatlantic and domestic—have they pursued?
- Finally, what role do other actors, such as domestic governmental agencies and private affected parties, play in the implementation and enforcement of agreements executed by COGs? In general, is the image of the Commission and the Clinton administration as COGs—as the only actors with seats at both the domestic and international tables—accurate? Or must these executives share the international stage with their own domestic agencies (transgovernmental relations) and with domestic private actors (transnational relations)?

It is to this last set of questions that we now turn.
Transgovernmental Relations: The Real New World Order?

In Putnam’s two-level games model, states do not appear as unitary actors, and social groups play an important role at the domestic level through their ability to ratify any agreement reached by governmental negotiators at the international level. Nevertheless, one of the striking features of the two-level games model is that COGs effectively monopolize the international stage, aggregating and sometimes manipulating the preferences of both social groups and governmental subunits that remain bound to the domestic level. Since the 1970s, however, a number of scholars have questioned the exclusive role of COGs in the international system, arguing that governmental subunits and societal actors might engage in direct transgovernmental or transnational relations, respectively. In most cases, such authors acknowledge the primacy of states in the international arena, but they go on to argue that lower-level governmental actors, as well as private societal actors, can and do forge direct links with their counterparts in other states, with potentially important effects on domestic and international policy outcomes. In this section and the following one, we examine the literatures on transgovernmental and transnational relations, exploring the implications of these respective approaches for the development of transatlantic structures of governance, including the New Transatlantic Agenda.

The term “transgovernmental relations” was coined in the 1970s by Robert O. Keohane and Joseph Nye, who defined the term as “sets of direct interactions among sub-units of different governments that are not controlled by the policies of the cabinets or chief executives of those governments” (Keohane and Nye 1974, 43). In the language of two-level games, this definition suggests that governmental subunits below the level of COGs might interact directly with lower-level government actors in other countries, and that these interactions are at best imperfectly monitored and controlled by the COGs themselves. Such autonomy is most obvious among regulatory agencies, central banks, and courts with some de jure guarantee of independence, according to Keohane and Nye, but it may also be found in ordinary government ministries and bureaucracies whose control of specialized expertise and information provides them some degree of de facto autonomy in the making of national policy.

Transgovernmental relations have always existed, according to Keohane and Nye, but became more significant after World War II when the social and economic role of national governments expanded, as well as their increasing economic interdependence. Under these circumstances, they argue, “bureaucracies find that to cope effectively at acceptable cost with many of the problems that arise, they must deal with each other directly rather than indirectly through foreign offices” (1974, 42). International organizations can play a key role in fostering these interactions, both as forums within which national bureaucrats have direct and sometimes regular contact with their foreign counterparts and as catalysts and members of transnational networks. Thus a combination of increasing
interdependence and increasing institutionalization of international relations meant that national subunits of government would face increasing pressures—and increasing opportunities—to interact regularly and independently of their traditional foreign policy apparatus.

Transgovernmental interactions, in Keohane and Nye's view, can be either cooperative or conflictual. But in practice Keohane and Nye (like many of the writers who followed) concentrated on the cooperative aspects of transgovernmental interactions. Specifically, they identified two essentially cooperative types of transgovernmental relations. The first of these, transgovernmental policy coordination, "refers to activity designed to facilitate smooth implementation or adjustment of policy, in the absence of higher policy directives" (1974, 44). At a minimum, such transgovernmental policy coordination would allow states to cooperate effectively in day-to-day tasks such as managing currency fluctuations, forecasting weather patterns, or fighting terrorism.

The second form of transgovernmental interactions, which Keohane and Nye labeled transgovernmental coalition building, "takes place when subunits build coalitions with like-minded agencies from other governments against elements of their own administrative structures" (1974, 44). Particular ministries in a government might seek external support from foreign officials in their efforts to press their own governments to promote the adoption of specific policies. For example, domestic finance ministries eager to maintain fiscal austerity may work in common with foreign government officials or international lenders to keep a lid on domestic spending. Conversely, domestic spending ministries, such as national health services or environmental agencies, may seek increases in their budgets with the support of foreign governments and/or international organizations. In either case, national subunits of government are able to use additional resources or pressure generated from abroad to press their case vis-à-vis their own chiefs of government. Because of this potential for the formation of particularistic transgovernmental coalitions, Keohane and Nye conclude on an ambivalent normative note:

It should be clear from the examples we have chosen that we do not regard the involvement of international organizations in transnational and transgovernmental coalitions as necessarily contributing to global welfare or equity. . . . Increased opportunities for certain international organizations may in some cases lead . . . to the pursuit of the interests of well-placed groups at the expense of less fortunate but larger segments of the population. The effects of transgovernmental politics on the efficacy of democratic control may be very serious. (1974, 60)

We have cited Keohane and Nye's work at length because, after a two-decade hiatus during which the discipline of international relations largely returned to a state-centered model, the framework laid out by Keohane and Nye was revived almost unchanged by a number of contemporary scholars during the 1990s. For example, Wolfgang Wessels (1990, 1997) was one of the first scholars to revive
the neo-functionalist notion that the European Union, by bringing together a large number of national officials from dozens of domestic, sectoral ministries, has effectively fused national administrations into a series of issue-specific administrative networks centered in Brussels, which increasingly govern Europe on a day-to-day basis. Others, arguing in a constructivist vein, have suggested that this ongoing process of engrenage, or participation in transgovernmental EU networks, might lead to a partial redefinition of national interests by officials who see themselves bound increasingly to the common European enterprise as well as to their traditional nation-state (Sandholtz 1993; Risse-Kappen 1996; Lewis 1998). Critics of EU governance, however, have been quick to point out that the practice of governance by intergovernmental networks may lead to a "democratic deficit," which is only partially filled by the increasingly powerful and directly elected European Parliament (Williams 1991).

Moving beyond the EU, Risse-Kappen's landmark 1995 volume, Bringing Transnational Relations Back In, once again subjected transgovernmental relations to careful theoretical and empirical scrutiny. Like Keohane and Nye, Risse-Kappen sees some degree of autonomy among governmental subunits as the hallmark of transgovernmentalism:

Sub-units of national governments have to act on their own in the absence of national decisions, not just on behalf of their heads of state implementing agreed-upon policies. Transgovernmental coalitions are then defined as networks of government officials which include at least one actor pursuing her own agenda independent of national decisions. (Risse-Kappen 1995, 9)

Also like Keohane and Nye, Risse-Kappen theorizes that transgovernmental relations are most likely to emerge in highly institutionalized international environments that provide a common institutional forum and normative legitimation for cross-national interactions that might otherwise seem unusual or even disloyal (Risse-Kappen 1995, 31). In addition, as Vogel (1997) has pointed out, the demand for direct transgovernmental relations is likely to be magnified as trade interdependence increases and the "behind-the-border" regulations of states become subject to international scrutiny as potential barriers to trade. Because these national regulations are typically made and enforced by lower-level regulatory agencies, the removal of such regulatory barriers would seem to demand direct cooperation among regulatory agencies in areas such as competition policy, food safety, and environmental and consumer protection.

Finally, and most recently, Anne-Marie Slaughter has suggested that transgovernmental relations represent the "Real New World Order" and "the most widespread and effective form of international governance" in the post–Cold War era:

A new world order is emerging. . . . The state is not disappearing, it is disaggregating into its separate, functionally distinct parts. These parts—courts, regulatory agencies,
executives, even legislatures—are networking with their counterparts abroad, creating a dense web of relations that constitutes a new, transgovernmental order. Today's international problems—terrorism, organized crime, environmental degradation, money laundering, bank failure, and securities fraud—created and sustain these relations. (Slaughter 1997, 184–85)

The existence and workings of such a transgovernmental order are most evident, according to Slaughter, in the judicial and regulatory realms. In the judicial arena, Slaughter argues boldly that "judges are building a global community of law" by reading and citing each other's decisions, as well as by networking directly in an effort to strengthen judicial independence and the rule of law in their respective countries (1997, 186–89). The densest area of transgovernmental activity, however, is to be found among national regulators in areas such as competition policy, securities regulation, environmental policy, criminal law enforcement, and banking and insurance supervision, all of whom cooperate on a day-to-day basis with their foreign counterparts. Some of this cooperation, Slaughter points out, takes place on an ad hoc, case-by-case basis, but transgovernmental officials are increasingly entering into bilateral or multilateral agreements with their foreign counterparts. Some of these agreements, moreover, take the form, not of international agreements negotiated by COGs and subject to national ratification, but rather of informal memoranda of understanding undertaken directly by the various regulatory agencies independent of their national executives and legislatures (1997, 190).

Perhaps the most striking aspect of Slaughter's article, however, is her claim that transgovernmental networks are not only increasingly commonplace but are also normatively desirable as a template for a new world order. Such networks, she argues, provide a "fast, flexible, and effective" means of international governance, which allow national governments to undertake a coordinated response to international problems without ceding sovereignty to international organizations like the United Nations or the European Union. Slaughter is not blind to the difficulties of maintaining democratic accountability of such technocratic networks among unelected officials pursuing particularistic interests in obscure institutional forums, but she suggests that, as such networks grow, both national legislators and transnational NGO networks will develop the capacity to monitor and check their behavior (1997, 197). Finally, and perhaps most interestingly for our purposes in this volume, Slaughter identifies the New Transatlantic Agenda as a leading example of transgovernmentalism in action, acting as it does as an umbrella for multiple transgovernmental networks among US and EU officials in issue areas ranging from liberalizing trade to combating international terrorism (1997, 193).

Clearly, the literature on transgovernmental relations poses a very different and, to some extent, an incompatible model of international governance from the intergovernmental model outlined in the previous section. By contrast with
the two-level games model, with its assumption that COGs monopolize the external representation of states, the transgovernmental model posits subgovernmental officials as the central actors in the day-to-day process of international governance. In this view, governance is technocratic, disaggregated by issue area, and dominated by subgovernmental experts at the expense of both COGs and civil society, which must struggle from a distance to keep their agents accountable. As such, the transgovernmental model poses a number of questions for our contributors, particularly those who address transatlantic cooperation among regulatory agencies. Specifically, we pose the following questions for the case studies in part 2 of this volume:

- Are we witnessing the development of a new form of governance by transgovernmental networks among US and European officials, as Slaughter and others have suggested?
- Are the participants in these networks acting independently of their chiefs of government, as the transgovernmental relations model suggests, or are they simply carrying out faithfully and without distortion the commands of their respective governments?
- Are transgovernmental relations indeed a “fast, flexible, and effective” means of international governance, as Slaughter claims?
- And finally, can these networks be kept democratically accountable for their actions, either through direct oversight by national executives and legislatures or through the decentralized monitoring by international networks of non-governmental organizations?

We will return to these questions in the chapters in part 2 of this book and in the conclusion; but first we must turn to our third level of analysis: transnational relations and the possible development of a transatlantic civil society.

Transnational Relations: A Transatlantic Civil Society?

The literature on transnational relations has undergone considerable refinement and specification since the early 1970s. As Risse-Kappen points out, the early scholars of transnational relations defined both the phenomenon and their research questions extremely broadly. In their 1972 book, for example, Keohane and Nye defined transnational relations as a residual category of noninterstate interactions, which include all forms of communication taking place across national borders as well as the movement of persons, trade in goods, and capital movements (Keohane and Nye 1972, xii). Similarly, Risse-Kappen’s more recent definition of transnational relations as “regular interactions across national boundaries when at least one actor is a non-state agent or does not operate on behalf of a national government or an intergovernmental organization” (1995, 3) also identifies transnational relations as a residual category; yet Risse-Kappen,
like many of the scholars of transnational relations writing during the 1990s, focuses in practice on a smaller subset of transnational interactions, namely, transnational coalitions or networks of nongovernmental actors seeking to secure some domestic or international policy change.\(^{16}\)

The questions asked about transnational relations have similarly undergone refinement since the 1970s. In the introduction to *Transnational Relations and World Politics*, for example, Keohane and Nye posed a set of broad, ambitious questions about transnational relations, including the question of whether states had suffered a "loss of control" to transnational actors and whether the state-centered framework should be replaced by an alternative societal or "world politics" framework (1972, 11). By and large, the 1990s scholarship on transnational relations has been more modest, and more precise, in the formulation of its research questions. Rather than ask generally about the effects of transnational relations on states or about the adequacy of a state-centered framework, most scholars today ask some variant of the question posed by Risse-Kappen in the introduction to *Bringing Transnational Relations Back In*: "Under what domestic and international conditions do transnational coalitions and actors who attempt to change policy outcomes in a specific issue-area succeed or fail to achieve their goals?" (Risse-Kappen 1995, 5).

The answer to this basic question—*Under what conditions?*—varies according to the author and her empirical case, but several key answers emerge from the growing literature on transnational networks. Risse-Kappen (1995) and his coauthors, for example, argue that the effectiveness of transnational coalitions depends on two key factors:

- the domestic structure of the "target state," which may facilitate or hinder NGO access to the domestic polity and the ability to build "winning coalitions" within that polity
- international institutions, which can spur the formation of transnational coalitions and legitimate their efforts to change policy

By contrast, Keck and Sikkink's (1998) study of transnational advocacy movements asks similar questions about the conditions under which these movements can effect policy change but looks for answers to social-movement theory and its tripartite distinction among political opportunities, mobilizing structures, and strategic framing. Political opportunities structures are defined, following Tarrow, as "consistent—but not necessarily formal, permanent or national—signals to social or political actors which either encourage or discourage them to use their internal resources to form social movements" (Tarrow 1998, 54; quoted in Keck and Sikkink 1998, 8). In the international system, political opportunities are often determined by the structure of international organizations or by major international events such as the various UN world conferences of the 1990s, the effects of which have been to de-
crease the costs of networking across borders. Mobilizing structures, by con­
tраст, refer to the financial and human resources on which advocacy networks
may draw in their efforts to influence states and international organizations.
Keck and Sikkink devote the greatest attention, however, to "strategic fram­
ing," namely, to the ability of groups to "frame" issues in such a way as to fit or
resonate with the existing attitudes of statesmen, international organizations,
fellow activists, and the general public. Drawing from studies of domestic so­
cial movements, Keck and Sikkink argue that transnational advocacy groups
frame their international campaigns strategically so as to mobilize the largest
possible network of advocates, in order to change the attitudes and approaches
of states and international organizations.

In this regard, Keck and Sikkink fit into a larger literature on the role of norms
in international politics, and in particular on the ability of otherwise powerless
actors—such as international organizations, epistemic communities of scien­
tists, or transnational advocacy networks—to construct and "teach" norms to
literature is devoted to specifying the conditions under which transnational ac­
tors may successfully transmit new norms to states and thereby change their be­
havior. Taking Keck and Sikkink's lead from social movement theory, Price
(1998) and others stress the relationship between the norm being put forward
by transnational activists, on the one hand, and the existing, dominant norms on
the other, arguing that norms will be most successfully transmitted to states
when they are "grafted" onto existing and widely held beliefs. In a similar vein,
Legro (1996) also accepts the importance of norms and of grafting or framing
these norms to fit with existing norms, but he emphasizes the domestic politics
and the domestically held norms of states in an effort to explain variation across
states in the acceptance of new, NGO-sponsored norms.

Within the literature on transnational relations, a number of authors have re­
cently argued that the explosive growth in the number and scope of international
nongovernmental organizations constitutes nothing less than the creation of a
"global civil society" or a "world polity" across national borders. Perhaps not sur­
prisingly, definitions of global civil society vary from author to author, reflecting
in part the diversity of definitions of domestic civil society. Nevertheless, a few
points emerge in common from most if not all treatments of global civil society.
First, the new networks of NGOs are truly global, comprising not simply a se­
ries of isolated interactions across borders but a sustained dialogue or network­
ing among NGOs from every corner of the globe. Second, these global networks
exist within a "thin, but nevertheless present, public sphere where private indi­
viduals and groups interact for common purposes" (Wapner 1995, 313). Third
and finally, the various actors within this public sphere share a set of intersub­
jective understandings or "frames" regarding the rules governing their participa­
tion and the nature of the issues to be decided. In this regard, Boli and Thomas
(1999) make perhaps the most ambitious argument, referring to international
NGOs (or INGOs) as a "world polity" and as the carriers of a world culture based on the principles of universalism, individualism, voluntaristic authority, rational progress, and world citizenship.

Perhaps most importantly for our purposes here, most students of global civil society also claim that NGOs participate, directly or indirectly, in global governance. For many authors, NGO participation in governance is primarily indirect, through the influence that NGOs assert on states and international organizations, and in particular through the teaching of new norms to states, which in turn alters their behavior. Price (1998), for example, argues that international civil society, in the form of the global coalition against the use of land mines, successfully reframed the issue of land mines from a military to a humanitarian issue and thereby changed the norms and behavior of the vast majority of the world's states, which signed an international convention to ban the use of antipersonnel mines in 1997.

Wapner (1995, 1996, 1997) goes even further, arguing that although NGOs do indeed lobby governments and international organizations, they also participate directly in the process of global governance, understood broadly as "activities that shape widespread behavior and influence the way public issues are addressed" (Wapner 1997, 77). More specifically, in his study of transnational environmental advocacy groups (TEAGs), Wapner identifies three mechanisms whereby civil society may participate in governance, independent of their influence on states. First, TEAGs work to disseminate norms of "environmental sensibility" through media campaigns and events, shaping the attitudes and behavior of individuals in areas such as whaling, baby seals, or climate change. Second, TEAGs may pressure multinational corporations to change existing practices through media campaigns and consumer boycotts, even where those practices remain legal in the states within which those corporations operate. Third, environmental organizations like the Worldwide Fund for Nature may cooperate with and directly empower local community through the provision of funds and expertise about sustainable environmental management, even in the absence of any change in state policies. In sum, students of global civil society argue that NGOs are an important part of global governance, not only through their role in lobbying governments but also through their concerted—and often successful—efforts to change individual perceptions and behavior across national boundaries.

This is a compelling argument that presents a strikingly different image of international governance from that offered by either intergovernmental or transgovernmental models of governance. Nevertheless, we remain cautious about the empirical claims put forward by the global civil society model. Wapner's definition of governance, for example, stretches an already elastic term to the point where almost any action that affects the behavior of individuals constitutes "governance"; and we might question whether such a definition robs the term of its theoretical bite.
The concept of global civil society itself has come under close scrutiny in a recent critique by Clark, Friedman, and Hochstetler (1998), who disaggregate the concept of global civil society into its component parts and look for empirical indicators, in a series of UN World Conferences, that transnational relations are indeed global and civil and compose a society. As the authors point out, the concept of global civil society sets a demanding standard for the assessment of transnational NGO activity, and their findings are, not surprisingly, mixed. In terms of the first criterion, globality, the authors find that NGO participation in UN conferences has increased dramatically in recent years and includes groups from all regions of the globe; yet they also find that geographical representation remains skewed in favor of northern NGOs, which are more numerous, better funded, and more influential than their southern counterparts. Second, turning to the “civility” of transnational relations, the authors find that NGOs have developed shared procedural repertoires, which include not only the lobbying of governments but also a “parallel repertoire” of direct NGO-to-NGO networking whose primary purpose is not to influence governments but to exchange information, resources, and mutual support. However, they also find limits to global civility, insofar as governments remain the gatekeepers for the most important decisions in global governance and jealously guard access to the key decision-making forums in the various UN world conferences. Third and finally, Clark, Friedman, and Hochstetler look for evidence of shared, intersubjective understandings among NGOs, and between NGOs and states, regarding the ground rules for NGO participation in global governance. Simplifying slightly, they find considerable NGO agreement regarding their proper role in global governance, but they also find evidence of fundamental disagreements, or “unaligned frames,” among NGOs, and between NGOs and governments, on both procedural and substantive issues. In sum, while the authors find “evidence of a deepening society of global NGOs,” progress toward the ideal type of global civil society remains uneven. They conclude that “state sovereignty sets the limits of global civil society” (1998, 33–35).

Summing up this section, the literature on transnational relations and international civil society presents a very different model of governance, with a wider conception of both the process of international governance and its key participants. Governance itself is conceived broadly as any intentional effort by actors to influence behavior across borders; the key actors are nongovernmental organizations, which influence policy outcomes through direct action as well as indirectly by lobbying governments and international organizations. This third model of governance poses an additional set of questions for our contributors, especially for the final three chapters on the transatlantic civil society dialogues, specifically:

- How should we assess the new “transatlantic civil society” dialogues established under the NTA to build direct contacts among corporations, labor,
environmentalists, consumers, and other societal actors in the US and the EU? Are these dialogues conducted independent of government officials, as in the global civil society model? Or, conversely, do these contacts serve COG interests, either as agents providing information or as foils providing legitimation?

- Do these dialogues constitute a single public sphere in which actors pursue common goals on the basis of shared intersubjective understandings, as in Wapner's definition of global civil society? Or, conversely, do we find the persistence of "unaligned frames" among transatlantic NGOs regarding the purposes and the rules of the transatlantic dialogue?

- What role, if any, do these transatlantic civil society dialogues play in the larger process of transatlantic governance? Do transnational actors "matter" within the NTA? If so, do these transatlantic civil links serve primarily to provide input into US and EU government positions, as per Putnam's two-level games model? Or do they shape agendas and outcomes through direct action, as per Wapner's global civil society model?

- Finally, do all transnational actors—from corporations to labor unions to consumers—matter equally and in the same way? Or do corporate interests (generally ignored by the literature on global civil society) play a predominant role in transatlantic governance vis-à-vis their counterparts in the labor, environmental, and consumer movements? If corporate interests do dominate, has the formalization of the civil society dialogues strengthened or weakened the influence of corporate interests?

In the final section of this chapter, we provide a preliminary look at some of the answers to these questions, as provided by the contributors to the volume.

**PLAN OF THE BOOK**

The chapters of this book all pursue a dual agenda. At one level, they provide empirical analyses of recent developments in particular sectors of transatlantic relations, including trade negotiations and disputes, regulatory cooperation and conflict, and the development of direct ties among civil society groups on both sides of the Atlantic. Empirically, therefore, this book can be read as a report on the state of the transatlantic relationship at the turn of the century, five years after the official declaration of the New Transatlantic Agenda. At another level, however, we approach the transatlantic relationship through a broader theoretical lens, as a laboratory for assessing new forms of international governance. We therefore seek to answer each of the aforementioned questions about the nature and conduct of intergovernmental negotiations and disputes over international trade, the role of transgovernmental networks of regulatory officials in the new "behind-the-border" issues, and finally the possible development of a transat-
Atlantic civil society of NGOs interacting in a thin but existent public sphere straddling the Atlantic.

The chapters in this volume are divided into three groups, dealing with intergovernmental, transgovernmental, and transnational relations, respectively. Chapters 2–4 examine intergovernmental relations in the area of trade. In chapter 2, John Peterson examines US–EU trade negotiations within the broader context of the New Transatlantic Agenda, the Transatlantic Economic Partnership, and the other major trade initiatives of the 1990s. Peterson argues that the transatlantic relationship of the 1990s can be characterized by “considerable complicity” among the highest levels of government—the Clinton administration and the European Commission—both of which have demonstrated a clear commitment to forging a strong transatlantic partnership and proceeding with liberalization of trade and investment at the bilateral and global levels. This commitment, which takes place against the background of extensive US–EU interdependence in both trade and investment as well as the end of the Cold War, has manifested itself in a top-down approach to transatlantic relations, beginning in the early 1990s with the Transatlantic Declaration and expanding into an elaborate, ongoing process of policy coordination under the New Transatlantic Agenda.

Peterson points out, however, that both the US administration and the European Commission are constrained by domestic opposition to further liberalization of trade and investment. In the US, the Clinton administration faced considerable opposition to further liberalization from its erstwhile allies among labor and the environmental movement. Most strikingly, it failed in attempts to secure “fast-track” negotiating authority for future trade talks. The European Commission is, if anything, even more tightly constrained by a coalition of southern states (led by France) that are suspicious of US economic hegemony and by the institutional complexities of the EU trade-policy process. The result, according to Peterson, is a transatlantic relationship that is regularly and predictably buffeted by trade disputes over issues ranging from bananas and beef hormones to genetically modified foods and airplane “hush kits,” and where the fruits of cooperation take the form of relatively banal mutual recognition agreements. Despite these problems, Peterson concludes that the New Transatlantic Agenda, by fostering extensive communication and collaboration across a range of issue areas, has arguably prevented or restrained the inevitable trade conflicts that arise among two economies as interdependent as those of the EU and US, and it has offered real, if unexciting, economic gains to both sides.

In chapter 3, Ernst-Ulrich Petersmann examines why US and EU governments, although they may execute trade liberalization agreements, often fail to comply with them. He assesses what constitutional and procedural mechanisms can be implemented to ensure better compliance. Petersmann uses the controversial US–EU trade dispute over the EU’s regime for the importation of bananas to critique the current intergovernmental approach to international trade
law, whereby only states and, in particular, the executive departments of states, enjoy standing to initiate legal proceedings. In line with a central goal of the NTA, Petersmann supports multilateral and transatlantic trade liberalization pursuant to which US and EU governments bind themselves to liberalize trade, thereby protecting foreign producers and domestic consumers from discrimination. Petersmann, however, goes further, stating that these liberal agreements only become meaningful if they are enforced in a liberal way, involving those ultimately affected by them—private parties. According to Petersmann, trade agreements should be effectively enforced by permitting private parties to invoke international trade rules in lawsuits brought before domestic courts. Petersmann concludes, however, that there are few signs that the EU or US will agree to implement these procedural changes in the near future, noting that the hurdles are even greater in the US because of its more federalist and decentralized regulatory policy.

In chapter 4, Gregory Shaffer demonstrates that, although only states are formally entitled to enforce international trade rules, private commercial interests nonetheless play an increasing role. He finds that international trade disputes cannot be seen as “purely intergovernmental,” nor can they be viewed as a simple cooptation by businesses, particularly large and well-organized ones, of government agents. Rather, he finds that public authorities and private firms work together to advance their reciprocal (but not identical) interests by forming “public-private partnerships” to challenge foreign trade barriers. He concludes that these developing partnerships take advantage of the trade liberalizing focus of WTO rules to help shift US and EU commercial policy to become more outward looking and export oriented. Shaffer examines, in particular, the role private actors play through firm coordination via trade associations, routinized exchanges of information with public representatives, organized bureaucratic and political lobbying, strategic use of leverage points facilitated by a more legalized WTO judicial process, and the provision of critical support to understaffed governmental agencies in the preparation of WTO complaints. He finds that, to date, although the US has a more developed and effective system of public-private partnerships than the EU, the EU is moving in a similar direction.

The next three chapters in this volume turn to behind-the-border regulatory cooperation and to the possible development of “transgovernmental relations” linking subnational branches of government in Slaughter’s “Real New World Order.” In chapter 5, Youri Devuyst provides a rich and detailed analysis of the development of transgovernmental networks among competition policy agencies on both sides of the Atlantic, tracing the extensive cooperation among the US Justice Department, the Federal Trade Commission, and the European Commission’s Directorate-General for Competition to the early 1990s, before the declaration of the NTA. Devuyst conveys the well-established and routinized transatlantic cooperation among the US and EU competition authorities, which have successfully cooperated in the resolution of some 241 cases, with only a
single (albeit famous) dispute in the Boeing/McDonnell-Douglas case. This overwhelming record of low-key regulatory cooperation, according to Devuyst, stands in sharp contrast to the “conflict management” approach of international trade negotiators seeking to defend their constituents/clients, and it highlights the specificity of competition policy as a regulatory arena characterized by transatlantic agreement about the basic goals and tools of policy, as well as a mutual commitment to law rather than power as the ultimate arbiter of policy disputes. Indeed, one might read Devuyst’s chapter as a model illustration of Slaughter’s new world order, potentially featuring “fast, flexible, and effective” transatlantic cooperation among networks of technocratic experts. Nevertheless, Devuyst concedes that transatlantic competition policy cooperation remains limited by persistent differences in the scope and focus of competition law, the divergent goals and procedures of competition policy, and the exigencies of confidentiality that limit information sharing between US and EU agencies.

In chapter 6, Pollack and Shaffer examine the very different history of cooperation—and conflict—between Europe and the United States over the issue of food safety, with special attention to the regulation of foods containing genetically modified organisms (GMOs). By contrast with Devuyst’s portrayal of competition policy as an arena of transgovernmental cooperation governed by consensus and the rule of law, Pollack and Shaffer depict food safety as an arena marked by a much higher frequency of conflict, including clashes of basic societal values over the marketing of GMOs and hormone-treated beef. They assess the various difficulties that officials on both sides of the Atlantic have encountered in the area of food safety, including persistent transatlantic differences regarding the scientific assessment of risks from foods such as GMOs, as well as the relative weakness of EU bureaucracies on environmental and food safety issues.

In chapter 7, Michelle Egan broadens the scope of the analysis to examine the use of two key strategies for international regulation—mutual recognition and standard setting—in both the European Union and the transatlantic context. As Egan points out, the spectacular decline in tariffs and quotas in international trade has increased the importance of regulatory barriers to trade, and it has exposed previously domestic, “behind-the-border” regulations to international scrutiny, at both the EU and transatlantic levels. The result has been an increase in international regulatory conflicts in areas ranging from food safety (e.g., beer, beef hormones, genetically modified foods) to environmental regulations (e.g., airplane hush kits), and a corresponding increase in the demand for both European and transatlantic regulatory coordination. In the European Union, such regulatory barriers to trade have been dealt with alternately through mutual recognition of national regulations or by the creation of quasi-public standard-setting bodies that create voluntary standards, adherence to which guarantees access to the single European market. Egan suggests that both of these strategies, although instrumental in the creation of the single market, have created
significant implementation problems, which are likely to be magnified in a transatlantic context characterized by the lack of a binding legal system comparable to EC law and significant differences in standard-setting bodies and procedures on the two sides of the Atlantic.

The three chapters included in part 4 of this volume examine the development of the various transnational civil society dialogues, inquiring whether these dialogues approximate the model of an "international civil society." In chapter 8, Maria Green Cowles provides a comprehensive overview of the development of the Transatlantic Business Dialogue, which is the oldest and most influential of the transatlantic civil society dialogues. Cowles traces the origins of the TABD to 1995, when, prior to the declaration of the New Transatlantic Agenda, officials in the European Commission and the US Commerce Department sought to create a direct dialogue among major firms on both sides of the Atlantic, as well as between these firms and their governments, in order to advance the liberalization of bilateral and multilateral trade and investment. The resulting dialogue, Cowles argues, goes beyond the ideal type of international civil society, which is theorized to exist below the level of the state and across state boundaries, and in which governance consists of either lobbying or direct action. Rather, Cowles argues, the TABD blurs the traditional distinction between public and private governance, with businessmen effectively negotiating in quadrilateral forums alongside their governmental counterparts. Furthermore, Cowles demonstrates clearly that the Transatlantic Business Dialogue has been highly influential, shaping the agenda for the NTA, participating in official negotiations, and keeping governments accountable for the effective implementation of agreements.

In contrast to the early and influential role of the business community in the NTA, organized labor entered the NTA after the fact, and with considerably less impact than the TABD. In chapter 9, Jody Knauss and David Trubek trace and explain the development of the Transatlantic Labor Dialogue (TALD). As Knauss and Trubek point out, labor has featured only vaguely in the grand design of the New Transatlantic Agenda, and no significant role for labor was envisaged in the 1995 NTA or the Joint Action Plan that accompanied it. Moreover, although an official TALD was created in 1996 and has held several joint meetings since then, organized labor itself has been slow to adopt an activist stance within the NTA, due to the embeddedness of labor unions within their national contexts, the weakness of peak-level trade confederations on both sides of the Atlantic, and perhaps most importantly the joint priorities of the US and EU, which stress the liberalization of trade and investment over labor market regulation. Given these unfavorable conditions, US and EU trade unions have understandably focused their attention not on the transatlantic region but rather on global trade issues, such as the adoption of voluntary codes of conduct, and on the domestic arena, where labor's influence derives largely from its ability to block steps toward further transatlantic and global trade liberalization.
In chapter 10, Francesca Bignami and Steve Charnovitz broaden the scope of our inquiry into the possible creation of a transatlantic civil society, looking broadly at the range of transatlantic civil society dialogues that have sprung up during the 1990s for the purpose of influencing transatlantic governmental negotiations. The New Transatlantic Agenda, they note, advocates cultural exchanges between European and American universities and other institutions, as well as direct civil society dialogues among groups on both sides of the Atlantic. Both of these phenomena have roots in earlier efforts, ranging from the anti-slavery movement to the creation of the Atlantic Council and other postwar transatlantic groups; yet the systematic creation of new transatlantic dialogues, and their sponsorship by governments eager for input and legitimation, makes these dialogues a genuinely new phenomenon that is worthy of closer study. Like the other contributors, Bignami and Charnovitz note the early and still dominant role of the TABD within the New Transatlantic Agenda and the relatively weak role played by the TALD, especially regarding labor policies in the United States and Europe. In addition, however, Bignami and Charnovitz also examine the relatively rapid formation since 1998 of two new dialogues, among consumers and environmentalists. These dialogues, although relatively new and therefore difficult to assess definitively, seem likely to produce opinions that are genuinely transatlantic in orientation, independent of (and sometimes contradictory to) the views of the governments that created them, and possibly influential. Nevertheless, the authors conclude that these efforts fall short of a genuine transatlantic civil society, most notably because of the segmented nature of the existing dialogues and, above all, the lack of a “dialogue among dialogues” that would approximate a genuine civil society.

In the final chapter of the book, we return to the broad questions posed at the beginning of this chapter, summarize the findings of our contributors, and assess the evidence for each of the three competing models of international governance. We find that transatlantic governance involves and implicates a large number of public and private actors and that the transatlantic relationship is indeed a process of governance through networks, as Rhodes and others have suggested. Our chapters do not, however, support the notion that transnational governance is radically decentered or that governments are reduced to just one set of actors among others. Instead, we find that transatlantic governance in the 1990s had a clear center in the bilateral relationship between the Clinton administration and the European Commission. In effect, these two COGs have designed a set of governance mechanisms to minimize transatlantic trade conflicts, promote transatlantic and global trade liberalization, and manage the ever-growing transatlantic networks of public and private actors that play an important, but nonetheless secondary, role in the process. In conclusion, we argue that Rhodes's network analysis—with its emphasis on resource interdependencies as both the glue holding governance networks together and the determinant of relative power and influence within those networks—provides a useful explanation for the continuing centrality of governments,
the rise of the European Commission as a pivotal actor in some issue areas, and the variable influence of lower-level governmental and nongovernmental actors within the New Transatlantic Agenda.

NOTES

This introduction is a revised version of our presentation at a conference entitled "The New Transatlantic Dialogue: Intergovernmental, Transgovernmental, and Transnational Perspectives," University of Wisconsin, Madison, 31 May–2 June 1999. A second, revised version was presented at the annual meeting of the American Political Science Association in Atlanta, 2–5 September 1999. The authors gratefully acknowledge comments from Jonathan Davidson, Albrecht Funk, Thomas Risse, and David Vogel and from all our coauthors in the project.

1. The terms "EU" and "EC" are used interchangeably in this book. The name of the regional European entity has changed over time as Europe has integrated. Originally, the correct legal term was the European Economic Community (EEC) or, more accurately, the European Economic Communities. The plural term notes that there are still three European "Communities," one governing the coal and steel sector formed under the Treaty Establishing the European Coal and Steel Community (1951), one governing the atomic energy sector formed under the Treaty Establishing the European Atomic Energy Community (Euratom) (1957), and one governing all other economic sectors, formed under the Treaty Establishing the European Economic Community (EEC) (1957). The Merger Treaty of 1965 created a single institutional structure for these three communities. The Treaty of European Union (TEU) of 1992 changed the name of the EEC to the EC (European Community), to designate that the European Community had integrated beyond purely economic matters. The TEU also created three separate pillars of activities for the regional bloc. The first pillar concerned all traditional EC matters, as expanded by the TEU to cover, in particular, European economic and monetary union. The second and third pillars (respectively named Common Foreign and Security Policy, and Justice and Home Affairs) concerned matters not previously within the competence of the EC institutions. The term that encompasses all three pillars is the European Union (or EU). Technically, the trading powers of the European regional bloc are governed under the first pillar. The name for the entity representing Community interests before the WTO is thus the European Community or European Communities (Article XI of the 1994 Agreement Establishing the WTO refers to "the European Communities" as an original member of the WTO). WTO case law refers to international trade law complaints brought by the EC (not by the EU). Similarly, the internal procedures pursuant to which the EC initiates complaints before the WTO are conducted by EC institutions (not EU institutions). The term "EU" (European Union), however, is often used by Community authorities and academic and news commentators.

2. By 1990, EC domestic production was only slightly smaller than US production (Smith and Woolcock 1993, 35). By 1997, following the accession of Sweden, Finland, and Austria, the positions reversed, with the EC gross domestic production of US$8,360.9 billion being slightly more than US production of US$8,178.8 billion in 1998 (OECD 1999, 215). Collectively, the two represent over 50 percent of global production (Vogel 1997).
Japan was a distant third, its economy having retracted since 1996. In 1998, Japan had a GDP of US$3,797.2 billion.

3. The term “globalization” is, of course, a controversial and contested one, with a growing number of authors insisting on the continued relevance of national borders and the resilience of the nation-state (see, e.g., Wade 1996; Hirst and Thompson 1996). For the purposes of this volume, we refer to globalization as a process of widening, deepening, and speeding up of worldwide interconnectedness, particularly in the economic sphere (adapted from Held et al. 1999, 2). Other, broader definitions, which address globalization as a cultural as well as an economic phenomenon, include the following: (1) “A process (or set of processes) which embodies a transformation in the spatial organization of social relations and transactions—assessed in terms of their extensity, intensity, velocity and impact—generating transcontinental or interregional flows and networks of activity, interaction and the exercise of power” (Held et al. 1999, 16); and (2) “A social process in which the constraints of geography on social and cultural arrangements recede and in which people become increasingly aware that they are receding” (Waters 1995, 3).

4. Featherstone and Ginsberg also address security interests, which were a particularly important consideration in transatlantic relations during the early years of the Cold War. In this volume, we shall touch upon security issues insofar as they intersect with the transatlantic mechanisms for economic governance, which form the primary subject of the book. A thorough treatment of security issues, however, lies outside the scope of the volume. For useful discussions, see Lundestad 1998; Dembinski 1998; Jordan 1991.

5. The agreement to form the IMF and IBRD was reached at the Bretton Woods Conference held in Bretton Woods, New Hampshire, in 1944. An International Trade Organization was to be formed as the third pillar of the Bretton Woods system but was never created because of US congressional opposition. Rather, a trade agreement, the General Agreement on Tariffs and Trade (GATT), was signed in 1947. The GATT became a de facto institution with a secretariat based in Geneva, Switzerland. This de facto institution has since been formally replaced by the World Trade Organization.

6. Among the proposed initiatives was one to increase the powers of the European Parliament, raising French fears of European federalism (Shaw 1996, 35).

7. In the 1960s and 1970s, the EEC was only a complainant in 10 percent of GATT cases. In the 1980s, this rose to 20 percent (Hudec, 1993, 299). During the first 3.3 years of the WTO, the EC was a complainant in 22 percent of WTO cases (Hudec 1999, 22). Since 1998, the EC has surpassed the US as the most frequent complainant in WTO cases (Shaffer, this volume).

8. EU barriers to foreign investment have dramatically receded not just on account of the removal of member state investment and capital controls, but more generally through the creation of a more integrated European market, which has heightened foreign business interest in investing there. The privatization of previous government monopolies and the creation of new technologies by private companies that compete with state-controlled telecommunications and other enterprises have also opened new investment opportunities.

9. The EC, for example, signed a free trade agreement with Mexico in late 1999 in an attempt to counter US commercial advantages provided under NAFTA.

10. As identified by Rhodes, the six uses of “governance” define the term alternately as (1) the minimal state, (2) corporate governance, (3) the “new public management,” (4) “good governance,” (5) a sociocybernetic system, and (6) self-organizing networks.
11. The idea of public functions being governed by shifting combinations of public and private actors is, of course, not entirely "new," contrary to the term "new governance." The blurring of the public and private becomes an increasingly problematic issue in modern, complex societies. This blurring, however, has long been an issue addressed by legal realists and scholars of law and society. See, e.g., Horowitz 1982; Macaulay 1986.

12. The term "tying hands" itself comes from the tendency of US presidents to refer to (and possibly even instigate) hard-line declarations from the US Congress, which allow US trade delegates to assert that they cannot possibly be more forthcoming in international negotiations, as their "hands are tied." Another notable example is the 1992 EU reform of the Common Agricultural Policy, which the Commission represented to the US as the Union's bottom-line position on agricultural trade, beyond which the Council of Ministers would refuse to follow.

13. Examples might include the Clinton administration's effort to expand its domestic win-set through the adoption of the fast-track ratification procedure or the famous use of sectoral side payments to the Portuguese textile industry to secure the assent of a recalcitrant Portuguese government for the conclusion of the Uruguay Round. (See Devuyst 1995, 449–67.)

14. See, for example, the list of US retaliatory targets in its dispute with the EC over its implementation of the WTO decision EC-Regime for the importation, sale, and distribution of bananas.

15. See, however, Paarlberg (1997) for an argument that synergistic issue linkage is more difficult and entails higher costs than Putnam's model implies.

16. These networks may be composed of various types of actors. Sikkink (1993) and Keck and Sikkink (1998), for example, offer a useful tripartite distinction among three types of transnational networks based on their goals and ideas: "(1) transnational relations motivated by instrumental goals such as the goal of profit or economic gain; (2) transnational relations motivated by shared causal ideas (epistemic communities); and (3) transnational relations motivated by shared values or principled ideas—beliefs about what is right or wrong (issue-networks)." The first group, according to Sikkink, is typically composed of corporations, banks, and other interest groups; the second of scientists; and the third of activist NGOs (Sikkink 1993, 440). As we shall see, the transatlantic relationship includes all three of Sikkink's categories.

17. Wapner offers the following, succinct definition: "Global civil society ... is the domain that exists above the individual and below the state but also across state boundaries, where people voluntarily organize themselves to pursue various aims" (1997, 66). Price, by contrast, eschews the term "global," reflecting the de facto northern dominance of NGO networks and thus defines "transnational civil society" as "a set of interactions among an imagined community to shape collective life that are not confined to the territorial and institutional spaces of states" (Price 1998, 615).

18. See, for example, Keck and Sikkink, who begin their analysis with the claim that "transnational advocacy networks are proliferating, and their goal is to change the behavior of states and of international organizations" (1998, 1). Risse-Kappen (1995) and his coauthors similarly focus on the attempts of transnational actors to alter the behavior of states.