



The Expanded Powers of the European Parliament: Implications for the EU and Canada

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On March 28, 2011, the Canada-Europe Transatlantic Dialogue at Carleton University and the Department of Foreign Affairs and International Trade Canada (DFAIT) co-sponsored a policy workshop to examine the expanded powers of the European Parliament and the implications for the EU and Canada. It was officially opened by the EU's Ambassador to Canada, H.E. Matthias Brinkmann. With the entry into force of the Lisbon Treaty, the European Parliament has gained considerable new powers, some of which involve an ability to block or amend international agreements. Several key decisions of importance to Canada may be affected by these changes, including future agreements between the EU and Canada. At the workshop, experts from the EU and Canada provided insights into the significance and nature of the European Parliament's enhanced foreign policy role, with a particular focus on implications for Canada.

A Number of key points emerged from the discussion:

- The Lisbon Treaty gives the European Parliament the right to veto legislation including international trade agreements. The European Commission is now obliged to consult the European Parliament before and during negotiations for international agreements.
- A majority of European Parliamentarians must ratify international agreements. This need to negotiate a majority consensus has increased the importance of parliamentary committee procedures, giving coordinators representing party groups and policy experts in committees, in particular the “rapporteurs”, increased significance.
- Lobbying has traditionally targeted the European Commission; the increased powers of the European Parliament afford a new point of access for Canadians to get their views across to European policy makers.

Session 1: The European Parliament Empowered: Implications for the EU

Professor Arthur Benz from the Institut für Politikwissenschaft, Technical University Darmstadt in Germany described how the European Parliament functions and how this has changed since the adoption of the Lisbon Treaty. He said that in terms of formal structure the European Parliament (EP) is similar to most other parliaments: it is headed by a president and supported by the Conference of Presidents and a secretariat.¹ Members of the European Parliament (MEPs) are organised in party groups, and the plenary can delegate work to standing

¹ The Conference of Presidents consists of the President of the Parliament and the Chairs of the political groups

and special committees. However, as the parliament has evolved, the structures and modes of operation have changed significantly. Since 1979, members have been directly elected. Prior to this, legislative powers in the EU remained with the Council of Ministers (representing the governments of the member states). Even the directly elected Parliament had limited rights to participate in legislation and was a deliberating institution influencing politics by expressing opinions on salient issues. Only since 1986 have Treaty reforms incrementally extended its powers.

The Lisbon Treaty, which entered into force in December 2009, made co-decision with the Council the ordinary legislative procedure and gives the Parliament a veto right over EU legislation. Despite these changes this has not constituted a Westminster style parliamentary system. The EP cannot elect a responsible European government supported by a majority and confronted by an opposition. Benz said that the EP could be compared and contrasted with the US Congress, a legislature in a presidential government. The EU system of governance constitutes a similarly divided “two-chamber”-system. The EP is a supranational institution that works alongside the intergovernmental Council. However, the powers of the executive and legislative institutions of the EU are not clearly separated as in the US. The institutions cooperate from the beginning, when the European Commission submits a legislative proposal to the EP and Council, and in the co-decision process, the EP and the Council must come to a joint decision.

Members of the European Parliament (MEPs) are organised in factions formed by European parties. But voting behaviour is not determined by affiliation with these groups; it may also be influenced by national parties or governments. Party discipline is limited. However, with the extended use of the co-decision procedure, party membership has an increasing impact on negotiations, as well as the allocation of powerful committee positions (rapporteurs) and voting behaviour. Benz said that national orientations continue to play a role even if MEPs increasingly support European interests over national ones.

The co-decision procedure has changed the political system of the EU into a type of consensus democracy with fluctuating non-stable majority coalitions formed for particular issues both in the EP and between the Parliament and the Council. In this context, committees play a decisive role. Coordinators representing party groups and policy experts in committees, in particular the “rapporteurs”, have gained significant influence. These actors are responsible for forming coalitions in the parliament and for coordinating opinions with the other legislative institutions. Their power has become even more significant with the tendency to end legislative processes by “early agreements” after the first reading. At this stage, an act can be passed by simple majority in the EP and a qualified majority in the Council. This way, both institutions avoid the need for an absolute majority in the EP, which is required in the second reading for amending a proposal and is curtailed by time constraints.

The EP is also engaged in relations with national parliaments. Some national parliaments have included MEPs in their European Affairs Committees. By introducing the subsidiarity control procedure, the Lisbon Treaty further reinforces the role of national parliaments in EU decision-making.² Therefore inter-parliamentary relations arguably become more significant, in particular since the EP negotiated an inter-institutional agreement with the Commission requesting that both institutions cooperate on legislative initiatives and coordinate their relations with national parliaments. The emerging inter-institutional and inter-parliamentary relations can strengthen national groups as well as policy experts in the EP. To what extent this will counterbalance the relevance of European party groups is open to question.

Achim Hurrelmann, Associate Professor at Carleton University, Canada said that it is striking how powerful the EP has become and that it needs to be taken very seriously as an actor.

² The subsidiarity principle means that EU decisions are taken as closely as possible to the citizen. In other words, the EU only acts if it can be more effective than action taken at the national, regional or local level.

He explained that the EP is important not only because of its legislative function in the European Union but because it also plays a central role in the EU's attempts to secure its democratic legitimacy. As the only directly elected EU institution, the EP is the "voice of the citizens" in EU decision making, while the Commission stands for independent technocratic expertise and the Council represents the voice of the member states.

The Lisbon Treaty declared "co-decision", which gives the Parliament a veto right, to be the "ordinary procedure" in EU legislation. Even before the Lisbon Treaty officially created the EU's "ordinary legislative procedure," it was an established principle in the EU Treaties that decisions in which the Council acts by qualified majority voting (QMV) – meaning that individual member states can be overruled – should generally be subject to co-decision by the EP.

Hurrelmann said that the weak electoral link with citizens means there is a gap between theory and practice. EP elections are interpreted by many experts as "second-order," dominated by concerns relevant to the national (first-order) political arena with, in the eyes of the voters, little at stake. The parties that compete in EP elections are national political parties, and the topics on which the campaign focuses are largely issues of national politics. As a result, many voters either do not participate in the election – turnout across the EU was only 43% in the 2009 EP election – or use the election mainly as an opportunity to send messages of protest to national governments or mainstream opposition parties. Additional EP powers have not led to increased voter turnout.

This weakness of the electoral connection between the EP and the European citizens limits the extent to which the EP can play a legitimizing function for the EU as a whole. MEPs are elected based on considerations that have relatively little to do with the political positions that they take on important EU-level controversies. MEPs win or lose their seats largely because of their party's current popularity (or lack thereof) in the domestic realm, and hence EP elections

do not provide MEPs with a democratic mandate to use the EP's powers in any particular manner; the mandate that they do receive from the voters is largely unrelated to the job they have to do. This also implies that EP elections do not provide an effective accountability mechanism that would allow voters to exercise control (and render sanction) over an MEP's performance.

In addition, Hurrelmann questioned whether the EP's existence has had any positive influence on the perceptions and evaluations of the EU that are formed by European citizens and/or opinion-leading elites. His analysis of the print media of four member states (Germany, UK, Austria, Ireland) reveals that debates about the legitimacy of European integration usually focus on "the EU as a whole" rather than on specific institutions. If the EP is addressed in a specific fashion, most assessments are negative. Hurrelmann said it is striking that the use of democratic criteria usually produces negative evaluations, while the EU is assessed much more positively if output-oriented criteria (such as its effectiveness in addressing political problems or its impact on the member states) are applied.

These results were corroborated by focus groups with European citizens that his research team conducted in December 2010. He found that even citizens with a decent level of information had informed opinions *only* about constitutional or current questions of European integration (one's country's membership; the introduction and rescue of the Euro; past and future enlargements, etc.), which tend to be decided inter-governmentally rather than by the EP. By contrast, there was virtually no awareness of – or interest in – the EU's legislative activities. The idea of democratizing the EU by further strengthening EP powers was perceived by most participants as a step towards centralization, and hence viewed with scepticism.

Most lobbying activities in the EU are directed at the European Commission. The EP provides additional possibilities for special interest advocacy. The lobbying efforts directed at MEPs are counterbalanced by constituency pressures to a lesser extent than lobbying activities directed at MPs in national parliaments.

Session II: The European Parliament in EU External Relations: Implications for Canada and other Third Countries

A presentation supplied by **Andreas Maurer, EP, Committee on International Trade, Brussels and German Institute for International and Security Affairs** explained that prior to the Lisbon Treaty, the EC Treaty did not require the consultation of the EP on Common Commercial Policy (CCP) measures nor on the conclusion of trade agreements unless the agreements established a larger political framework (e.g. association, partnership, or economic partnership agreements). The views of Parliament were not sought until the Commission had reached a deal with the respective third country and the Council endorsed it. The options for the EP to influence the substance of an agreement were almost non-existent.

The Lisbon Treaty provides substantial changes in the area of international agreements, including the EU's CCP, and for the EP's related powers and responsibilities:

- The EP and Council now act as co-legislators on an equal footing when determining the framework for implementing the CCP.
- CCP is extended and not only covers goods, services, and the commercial aspects of intellectual property, but also foreign direct investment.
- Parliament's consent is required for the conclusion of all trade agreements and most international agreements.
- The Treaty establishes the EP as a co-legislator in the field of economic, financial and technical cooperation measures, including assistance, in particular, financial assistance, with third countries other than developing countries.
- The Commission is under a legal obligation to keep Parliament regularly informed about on-going negotiations, with the same degree of information that it provides to the special committee appointed by the Council (Trade Policy Committee - TPC).

For both the EP and the Commission, obtaining information before a process begins is seen as mutually beneficial for decision making. For the EP, such ex-ante information allows the EP to

influence negotiations and make its position known before the conclusion of the negotiations. If an agreement has already been concluded, the EP cannot easily amend its content but can only give or withhold consent to the entire agreement. Early feedback from the EP enables the Commission to take on board the opinions of the EP as negotiations progress, increasing the chances of a successful agreement which will be agreeable to the EP.

Since 1990, a Framework Agreement, updated every five years, governs relations between the EP and the Commission. In concluding a Framework Agreement with the EP, the Commission agreed to the EP's essential aim to be fully informed "at all stages of the negotiation and conclusion of international agreements, including the definition of negotiating directives" in order to increase the chances that the EP would approve a negotiated agreement, to allow for a more predictable procedure and to reduce the chances of failing to conclude international agreements when negotiations had already been completed.

Dietmar Nickel, Director General for External Policies for the European Parliament (2004-2010), Senior fellow, German Institute for International and Security Affairs (*Stiftung Wissenschaft und Politik*) discussed the role of the European Parliament in EU External Relations after the Lisbon Treaty which he described as the "coming of age" of the EP. Nickel said that the most important changes for the EP in terms of external relations reside in the extension of the legislative co-decision procedure. It is now called the "ordinary legislative procedure", and applies to almost every legislative area. This includes the EP's increased role in the conclusion of international agreements as laid down in Article 218 of the new Treaty which requires that Parliament be kept informed at all stages of the negotiations procedure. The former, the legislative procedure, does not seem to have any direct bearing on foreign policy, yet it covers areas such as trade and development policies, economic, financial and technical cooperation with third countries and newly established humanitarian aid. The latter, the need to

keep the EP informed at all stages of the negotiations procedure, brings a very high percentage of international agreements to be concluded by the European Union under the consent procedure, meaning that the EP can not only block any draft agreement in its final vote, but also has considerable influence throughout the negotiations. The impact that parliaments in the western world have upon the external relations of their states or entities varies considerably. With the Treaty of Lisbon, the EP has moved up the ladder but falls far short of the US Senate. For example, the Treaty now states that the EP shall hold a debate twice a year (previously it was once a year) on common foreign and security policy, although it has not gained a legislative role here, as it does in other areas.

Nickel said that prior to having these substantive powers, the EP, on occasion, annoyed European and non-European executives by making numerous statements, even if these had no legally binding effect. Delegations of European parliamentarians travel abroad and raise policy concerns with overseas governments outside any legally defined process. Europe's professional diplomats sometimes consider them as a form of competition. Nickel said the expansion of the EP's powers could have implications for several dimensions of EU-Canada relations. An example would be the Fuel Quality Directive, which addresses issues relating to oil sands and shale oil. He said the treatment of these issues shows how internal legislative procedures can have a huge bearing on external relations. Nickel said that some members of the EP could try to link unrelated issues (such as an EU ban on the trade in seal products and the Canadian requirement for visas from Czech citizens) to passage of the Comprehensive Economic and Trade Agreement (CETA), currently under negotiation between the EU and Canada.

In its relations with the US, Nickel said the EP has brought up concerns over agricultural reform; genetically-modified organisms (GMOs); animal cloning; a Data Protection Framework Agreement and many other issues. He said that this list shows that in today's world the impact a Parliament can have depends not exclusively upon the explicit powers provided for it in a Treaty,

but also to a large extent on its impact on legislative acts, which, although sometimes directed primarily at the domestic context, can have immediate effects in other countries as a result of the interdependence of world markets.

Alain Hausser, Minister-Counsellor and Deputy Head of Canada's Mission to the European Union briefly described his day to day experience engaging with the European Parliament. He outlined some of the challenges in identifying and accessing influential parliamentary contacts and reviewed Canada's record to date in defending its interests on key issues arising in the European Parliament.

Discussion

The discussion touched on issues of Canadian access to European parliamentarians and how best to compete with lobbyists and get the Canadian message across to the EP. For Canada, minority governments were seen as posing a challenge to encouraging greater engagement from Canadian parliamentarians with their European counterparts.

The issue of transparency was raised. Panellists agreed that the EP is a fairly transparent institution and offers a similar series of checks and balances on lobbyists to that found in Canada. The speakers noted that the European Commission is making a conscious effort to increase transparency via the European Transparency Initiative.

The panellists noted that for Canadians wishing to 'get their message across' to the EP, it is essential to engage in dialogue with as many individuals as possible from staffers to MEPs, to country delegations. Professor Nickel specifically recommended engaging rapporteurs, shadow-rapporteurs, group coordinators and party representatives in country delegations. He noted that the latter can facilitate access to their party. Establishing contacts with as many decision-makers

as possible can result in multiple access points to ensure Canadian views on policy issues of concern are registered in a timely fashion.

While lobbyists were identified as having an influence on the debate in the EP, panellists noted that they are but one of many actors who are not necessarily all conveying the same message. The transparent system and the accessibility of the EP affords Canada an opportunity to engage in policy debates.

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