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Göteborg augusti 2008

Rutger Lindahl Per Cramér

EU-ASEAN trade facing free trade negotiations[1]

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Introduction

The political and commercial relations of the European Union (EU) with non-member states in its closer neighbourhood, as well as in other parts of the world, have become an increasingly crucial issue at a time when the Single Internal Market project is about to mature, and when the slower growth of the US economy and the stumbling US Dollar towards the Euro in 2007 have put Europe's role in the global economy more in the limelight than in earlier years. The external commercial relations of the EU have shifted gradually from being westbound to being eastbound during the last three decades. The trade turnover (exports + imports) with ASEAN+3 (ASEAN, China (incl. Hong Kong), Japan and Korea) accounted for 24 per cent of EU-27 total extraregional trade in 2007, a significant increase since 1977 when the share was 6 per cent for the then nine members of the European Community (EC). This can be compared with the at that time 16 per cent that went to the NAFTA[2] states (the US, Canada and Mexico), today accounting for 20 per cent.[3]

The main reason for this notable geographical shift is the soaring foreign trade with China, but it is equally of importance to point at the efforts

[1] An earlier version of this paper was presented at the 10th Annual Conference on European Integration, the Swedish Network for European Studies in Economics and Business (SNEE), Mölle, Sweden, 20-23 May 2008.

[2] NAFTA: the North American Free Trade Agreement.

[3] Preliminary figures based on data for Jan.-Sept. 2007 (IMF, Direction of Trade Statistics database, accessed on April 9, 2008).

of the EU to sustain its traditional political and commercial linkages with the ten Southeast Asian nations constituting the Association of Southeast Asian Nations (ASEAN), historically closely linked with Europe in a common colonial past and today balancing its external trade relations between America, Europe and its own neighbours in the East Asian region. When it comes to trade policy preferences, both ASEAN and the EU are characterised by an ambivalence between on the one hand an active support to the multilateral process within the World Trade Organization (WTO), and, on the other, an even more pronounced endeavour to support and to enforce intraregional trade relations, but also to explore opportunities to promote interregional trade agreements. Furthermore, separate states within ASEAN may in parallel aim at speeding up the process of liberalisation by closing bilateral trade agreements with other individual states or entire trade blocs.

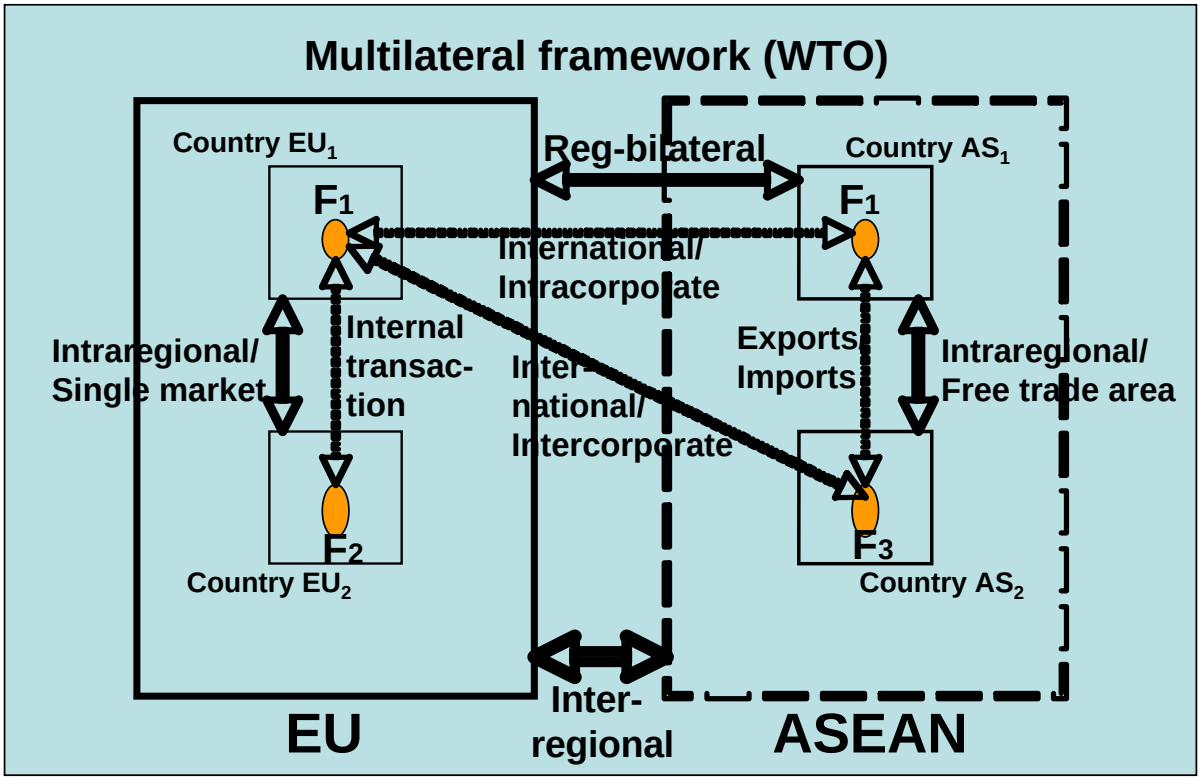
This paper is an initial piece of a larger research study on the EU's external economic relations. The overall research question is how multilateral and interregional trade negotiations, in which the EU is involved, create rules and regulations for cross-border transactions of goods, services and capital, which in turn have geographical implications. The negotiations between the EU and ASEAN to create an interregional free trade agreement (FTA), complementary to an expected outcome of the Doha Development Agenda (DDA) within the WTO, will be used as a specific empirical example.

General institutional framework

The specific research problem is dealt with through the application of an institutional approach, observing the interaction between firms and states at different geographical levels (figure 1). The negotiations between states regarding common rules in foreign trade is principally regulated within the multilateral framework represented by the WTO, in which all EU states and all ASEAN countries but one[4] are members. Due to the uncertainty regarding the future of multilateralism, there has been a strong trend in the direction of the creation of regional and bilateral trade arrangements, thus representing two sub-levels to multilateralism: regionalism respectively bilateralism, where the regional level can also be divided into intraregionalism and interregionalism.

[4] Lao PDR (Laos) is currently negotiating membership in the WTO.

Figure 1: The political-economic framework of EU-ASEAN trade relations



Source: Authors' elaboration.

Note: The ovals F_1, F_2 and F_3 represent companies, while the four boxes are individual countries (EU_1, EU_2, AS_1 and AS_2) within respective trade bloc. "Reg-bilateral" refers to an agreement between a regional trade bloc and a single country.

While the EU is characterised by supranational decision-making in the trade policy area, resulting in limited opportunities for the individual member state to design and decide upon its own trade policy, ASEAN has yet no such authority to represent the opinions of its members by a common voice. The EU-ASEAN relation is thus characterised by asymmetry in the sense that one single ASEAN member can potentially take the initiative to a bilateral trade agreement with the EU as a whole, which could be referred to as a "reg-bilateral" agreement. Similarly, the EU can initiate an agreement with a single ASEAN country. However, a single EU country is not permitted to close bilateral deals, neither with ASEAN as a group nor with a single ASEAN member.

It could not be repeated too often that the states themselves are not the true actors in cross-border transactions, but only act as 'containers' for rules and regulations in foreign trade. The selling and buying companies across

national borders certainly need to pay attention to rules that apply in each separate transaction, at the national and bilateral levels, as well as at the multilateral level. However, they do also have the freedom to make independent decisions regarding the location of manufacturing activity, the choices of suppliers and customers, and their own managerial organisation. In these respects, the corporate actors represent a parallel level within the world trade system, and the growth of intra-corporate transfers across national borders imposes a new dimension in the theory of foreign trade policy, in the sense that such transactions do not necessarily follow the logic of trade between independent companies at an 'arm's length distance' from each other.

The firm may act both as an importer and as an exporter, giving rise to paradoxical priorities in the interaction between firm and state. On the one hand, the firm may be reluctant to supporting the home country to open up the domestic market for foreign competitors. At the same time, it may push its home country, as well as various host countries, to reduce trade barriers in order to enhance its own internationalisation process. The national borders can, accordingly, be seen as barriers to market access, but also as shelters for domestic actors. Many companies view trade barriers merely as bureaucratic problems, creating unnecessary transaction costs, and they often have limited knowledge of, and even less influence on, the negotiations between states and trade blocs that may facilitate international trade and benefit them by the end of the day. The attitude of the international firm towards trade barriers is often passive and gradually adjusting, rather than proactive and lobbying, while an evading or even counteracting attitude, involving for example the relocation of activities to other countries with less restraints and regulations, can also be observed.

The state can therefore be seen as a 'double agent', i.e. both as an agent for domestic pressure groups to control market access, and at the same time as an agent for export-oriented industries by promoting trade and opening up foreign markets. At the multilateral stage, the individual member in a larger trade bloc may, explicitly or implicitly, act in accordance with geopolitical aspirations, and may also express a need to maintain its national identity within the multilateral or regional context. The cooperation between members within a bloc is formally and logically based on voluntary participation, but represents at the same time a subtle balance between a 'give-and-take' forced cooperation aiming at consensus-building.

There are also technical and methodological aspects to consider when creating a basic framework for understanding mutual trade talks between states, as well as between trade blocs. Negotiations regarding political and

economic relations between two parties are, needless to say, based on empirical facts of the historical and current status of these relations. In the case of free trade negotiations, the main source of information is official statistics of foreign trade, compiled by customs authorities and/or by financial/monetary institutions in each country involved. National secondary data are thereafter aggregated to the regional and multilateral level – in this case to the EU and ASEAN respectively. The common statistical institution of the EU, Eurostat, has in this respect the formal power to represent national statistical authorities in its member countries, while the much more inconspicuous statistical office within the ASEAN Secretariat has a mere coordinating and communicative role in relation to the national statistical authorities, where the latter possess the ultimate power to decide which data to publish or not.

Due to the seemingly exact nature of foreign trade data compared with other types of economic statistics, there arises confusion in the negotiations when it is revealed that there is often a huge discrepancy between the basic figures regarding the bilateral trade between the two parties[5]. The reasons for these discrepancies are well-known, for example the occurrence of transit trade, and it should be technically possible to establish an 'objective' and mutually recognised bilateral balance of trade in each separate case, but despite this fact both parties in a bilateral negotiation tend to argue their respective case from their own records of a 'perceived' balance. There is thus a great need for creating a deeper understanding of how to bridge the mental gap between the two perceived pictures of the mutual trade relations before a free trade negotiation reaches the level of technical details (see further Lindberg & Alvstam, 2007b).

These aspects should be taken into consideration when assessing the free trade negotiations between one bloc characterised by supranational decision-making, and a negotiation partner consisting of a group of separate countries with different objectives and visions, thus being to a higher or lesser degree inclined to take an active part in such talks.

[5] One example: Sweden recorded a large bilateral trade deficit with P.R. China (2.1 bn USD in 2006), while Chinese statistics at the same time published a slight bilateral deficit with Sweden (200 mn USD) (IMF, Direction of Trade Statistics Yearbook, 2007).

The global political environment of EU-ASEAN trade

The WTO today embraces 153 member states, and should be seen as the most powerful arena for common rules governing international trade in all sectors of industry. The original signatories of the European Economic Community (EEC) as well as those Western European states that later joined the EC/EU, were among the inaugural contracting parties of the General Agreement on Tariffs and Trade (GATT) in 1948 or were incorporated into the agreement shortly thereafter. The centrally planned economies of Eastern Europe applied for membership in the EU as well as in the GATT/WTO soon after the collapse of the Soviet-led Council of Mutual Economic Assistance (CMEA). The intricate balance between multilateral and regional/bilateral cooperation is as sensitive today as it was in the 1970s, although the number of bilateral agreements that challenged the dominance of the multilateral trade order was limited at that time.

The Common Commercial Policy within the EEC, operationalised through the implementation of the customs union, can be seen as the most notable practical application of Article XXIV within the GATT treaty, regulating the opportunities for regional trade cooperation to coexist with the GATT rounds. Thirty years ago, the Tokyo Round of Multilateral Trade Negotiations (MTNs) within the GATT (MTN VII) was entering its final phase. This process was later successfully brought to an end in 1979, six years after its formal start. The likewise successful conclusion in 1993 of the Uruguay Round (MTN VIII) represented an even higher ambition in the long-term mission to liberalise world trade. Despite the subsequent launching of the WTO, the DDA, the latest MTN, is already nearly four years delayed in relation to the original deadline that was commonly decided in 2001. During the last seven years political leaders have repeated the 'mantra' of optimism regarding the opportunity to achieve a final deal in the DDA despite very little visible progress in reality.[6] Business leaders, however, express on their side an increasing pessimism, pointing out the concern about rising protectionist forces, particularly in a time when the uncertainty about the economic

[6] Mr. Pascal Lamy, the director-general of the WTO, told the Davos World Economic Forum in January 2008 that "we're much nearer to 'nearly there' than last year". Peter Mandelson, the European trade commissioner, said: "If it is not concluded this year, it will not be concluded next year". Susan Schwab, the US trade representative, said a deal was 'doable' in 2008 (*Financial Times*, January 28, 2008). The WTO Ministerial Meeting held in Geneva in July 2008, attended by some 30 member countries, aimed at reaching an ultimate conclusion of the Doha Round, but yet again the deal was blocked by the failure of key actors to compromise. At the time of writing (September 2008), there is little chance to conclude the DDA within the near future.

growth in the Western world is growing.[7] It is therefore logical that many individual states, as well as regional organisations, frequently also pushed by business interests, consider alternative measures to the multilateral trade order to keep the liberalisation process moving forward.

However, the attempts to complement the Doha process with various forms of bilateral and regional trade agreements (BTAs and RTAs) are controversial and disputed, not least from the academic community. While all parties maintain full support to the WTO, insisting that a multilateral agreement would be the best outcome to promote global economic growth, the views on the implications of FTAs differ. Critics regard these as a cobweb of rules and regulations, a 'spaghetti bowl', or a 'noodle soup', of mutually contradictory agreements, resulting in slow and bureaucratic processes and confusion as to how to interpret what tariff rates should apply (cf. e.g. Bhagwati and Panagariya in *Financial Times*, July 14, 2003; Low, 2003; Sally, 2007a; 2007b). Proponents, on the other hand, stress the complementary nature of these FTAs to the multilateral talks, and the fact that properly designed and ambitious FTAs can create new trade and investment[8] (cf. Bergsten, 1997; Michalak & Gibb, 1997; Desker, 2004; Lindberg & Alvstam, 2006).

The ASEAN countries have overall been loyal supporters of the GATT/WTO (Aggarwal & Koo, 2005; Sally, 2004). Thus, there is no formal contradiction between participation in the multilateral process and a parallel negotiation of regional free trade. In the cases of Cambodia and Lao PDR, the regional process was actually ahead of the multilateral process, since both countries have committed themselves to liberalisation within the ASEAN Free Trade Agreement (AFTA) scheme ever since they joined ASEAN and before they did so in their respective processes towards becoming WTO members (Lindberg, 2007b).

The plan to create an EU-ASEAN FTA should not, as was indicated above, be seen as a deviation away from efforts and priorities at the multilateral level within the WTO and the DDA, to which both parties are first and foremost committed. Rather, they seek complementary ways to facilitate trade and liberalisation, as have many other trading partners done since

[7] Mr. James Quigley, chief executive of Deloitte Touche Tohmatsu said in the same debate: "I am worried that if markets slow and people get worried about their jobs, then protectionism will creep into the dialogue" (*Financial Times*, ibid).

[8] In an interview with the *Financial Times* (May 11, 2007), the Philippine President Gloria Macapagal Arroyo, at the time holding the ASEAN chair, pointed out that even though she was optimistic that the Doha Round "would soon reach a breakthrough, [...] regional trade deals should move ahead in the meantime". "We are not going to stand by and do nothing", she said. "We will move forward on our own".

the early 1990s by launching BTAs and RTAs, resulting in 380 FTAs notified to the GATT/WTO, 205 of which are in force (as of July 2007).[9]

Three decades of an EU-ASEAN dialogue

Thirty years after having formalised the political dialogue[10], the EU and ASEAN in 2007 agreed to take the next step towards the deepening of mutual economic integration by launching negotiations aiming at an interregional FTA. During the first two decades after the initiation of the dialogue, the ASEAN-EU trade expanded rapidly in both directions. However, after 1997 there was a sharp decline of ASEAN imports from the EU, while the exports to the EU continued to grow, although more slowly than before. The starting-point for the FTA talks will, accordingly, be the persistent imbalance in ASEAN's favour in the region-to-region relations. It is also evident that the two blocs have drifted apart since 1997, in the sense that their relative interdependence has declined, due to ASEAN's growing focus on economic relations with Northeast Asia, particularly China, and the EU's enlargement into Central and Eastern Europe (Lindberg, 2007a; Lindberg & Alvstam, 2007a, 2007b).

While the specific design and membership of the proposed ASEAN-EU agreement has been widely discussed, the EU-ASEAN Economic Ministers (AEM) Consultations in Brunei Darussalam in May 2007 concluded that negotiations should be launched for an FTA based on an interregional approach. On the sidelines of the ASEAN Summit in Singapore in late November 2007, an ASEAN-EU Commemorative Summit was held to mark the 30th anniversary of formal interregional relations. This Summit should also be seen in the light of the Nuremberg Declaration on the EU-ASEAN Enhanced Partnership that was endorsed in March 2007. During the Summit, leaders stressed their intention to enhance economic relations by "expeditiously negotiating the ASEAN-EU [FTA] based on a region-to-region approach, mindful of the different levels of development and capacity of individual ASEAN countries, providing for comprehensive trade and in-

[9] When taking into account RTAs that are in force but have not been notified, those signed but not yet in force, those currently being negotiated, and those in the proposal stage, the figure arrived at comes close to 400 RTAs which are scheduled to be implemented by 2010 (www.wto.org/english/tratop_e/region_e/region_e.htm, accessed on August 26, 2008).

[10] For a brief yet informative account of the evolution of EU-ASEAN relations since the 1970s, see Severino (2006, pp. 329-336).

vestment liberalisation and facilitation".[11] The process is facilitated by a so-called Joint Committee, comprising officials from both regions, that was assigned in 2007 to develop the details of the modalities, work programme and time schedule for negotiating the FTA. The fifth Joint Committee meeting was held in June 2008. An ambitious target of completing the negotiations by the end of 2009 has been set (*Jakarta Post*, 12 April, 2008).

While showing support to multilateral talks, ASEAN has, in parallel, since the year 2000 engaged in a number of different partnership and free trade agreements with China, Japan, Korea, India, Australia/New Zealand, and the US. The EU, on the other hand, avoided launching new FTAs at that time. As noted by Woolcock (2007), the EU exercised a *de facto* moratorium on new FTA negotiations after 1999, due to a consensus among members to focus on the multilateral negotiations within the WTO (ibid). This position has changed lately as the outlook for the DDA has deteriorated at the same time as non-EU countries, such as the US, have been increasingly active in signing FTAs with the major trading partners of the EU. Hence, the EU has reappraised its standpoint, and recognised that, in order for European companies not to risk losing competitiveness, it has to integrate its trade policy with its wider approach to competitiveness in a globalised world. This point is highlighted within the 'Global Europe' strategy, under which the EU currently sets its agenda for its trade policy. Broad FTAs are here seen as essential complements to the WTO negotiations, as the EU has realised that it needs to look after its interests by means of stronger presence in certain key markets. Not only is ASEAN a rapidly expanding and developing region, it may also potentially work as a gateway to other East Asian markets. For ASEAN, it is crucial to further strengthen the ties with one of its most important trade partners and export markets. Hence, the two parties are now seeking to integrate with one another by means of an FTA expected to facilitate trade and investment flows between the regions.

Main issues in the current EU-ASEAN trade relations

The decision to launch FTA negotiations in 2007 should be viewed in the light of a number of conditions that need to be taken into consideration. Some of these issues may even in different ways create restraints towards a successful completion of a mutual agreement.

[11] www.13thaseansummit.sg/asean/index.php/web/layout/set/print/content/view/full/843, accessed on February 8, 2008.

1) There is a clear asymmetry in the trade relations, in the sense that ASEAN only plays a marginal role in EU external trade, while the dependence among the ASEAN countries on the EU is traditionally much stronger. Despite a long economic relationship between Western Europe and Southeast Asia, the trade volume between today's EU and ASEAN is fairly modest in relative terms. While the share of the EU in ASEAN trade has fluctuated between 11.5 and 16 per cent over the three decades, the share of ASEAN in EU trade has varied within the interval of 1-3 per cent. When the EU intra-trade is excluded, the share has declined from 6.3 per cent at its peak in 1997 to 5 per cent in 2007 (table 1).

Table 1: EU-ASEAN trade 1977-2007 (percentages)

	1977	1982	1987	1992	1997	2002	2005	2006	2007*
Share of the EU in ASEAN exports	15.3	10.7	14.4	16.7	15.3	14.4	13.2	2.9	12.7
Share of the EU in ASEAN imports	16.5	13.6	15.7	15.5	14.7	11.3	10.5	9.8	10.3
Share of the EU in ASEAN trade	15.9	12.2	15.0	16.0	15.0	13.0	11.9	11.5	11.5
Share of ASEAN in EU total exports	1.1	1.4	1.1	1.7	2.5	1.5	1.4	1.4	1.3
Share of ASEAN in EU total imports	1.1	1.1	1.2	1.8	2.9	2.6	2.3	2.1	2.0
Share of ASEAN in EU total trade	1.1	1.3	1.1	1.7	2.7	2.0	1.9	1.7	1.7
Share of ASEAN in EU extra-exports	2.9	3.5	3.1	5.5	6.0	4.4	4.3	4.2	4.3
Share of ASEAN in EU extra-imports	2.8	2.5	3.4	5.4	6.6	7.3	6.1	5.7	5.6
Share of ASEAN in EU extra-trade	2.8	3.0	3.2	5.3	6.3	5.9	5.3	5.0	5.0

Source: IMF, Direction of Trade Statistics, various issues.

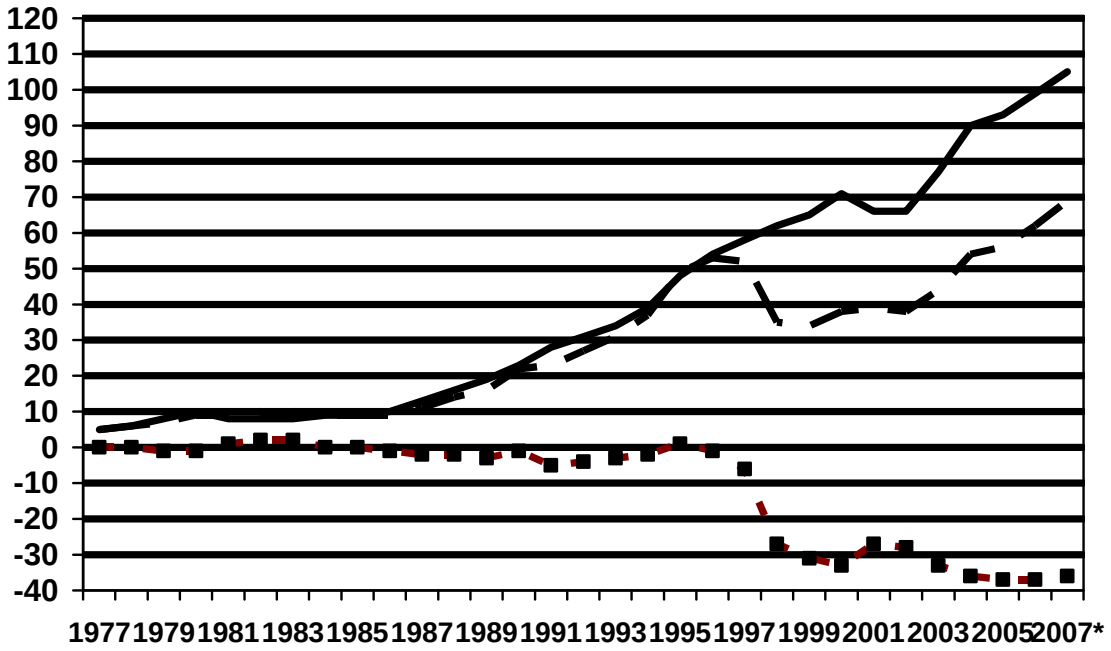
Note 1: In order to facilitate comparison over time, the figures are based on the EU-25 and the ASEAN-10 during the entire period.

Note 2: 2007 data cover January-June.

2) The respective dependence on each other, measured in shares of reciprocal foreign trade of goods in relation to total trade values, has decreased in recent years. This decline is the result of the fact that each party has given priority to intraregional rather than interregional trade. The EU has expanded from 9 to 27 members between 1977 and 2007, at the same time as the intra-trade ratio has grown from 51 per cent to 66 per cent. In the case of ASEAN, the share of intra-trade has increased from 17 to 26 per cent during the past thirty years.

Accordingly, the share of the EU in ASEAN trade has declined, as seen over the entire period (table 1). On the other hand, the share of ASEAN in EU trade has grown compared to 1977, but at a modest level. After ten years of minor changes between 1977 and 1987, there was a take-off in EU-ASEAN trade during the following decade, with an accelerated growth in both exports and imports. This boom period came to an abrupt end with the Asian financial crisis in 1997-1998. The EU exports to ASEAN suffered considerably, due to a combination of a depreciation of many ASEAN currencies, the imposed tight regulation of imports to individual ASEAN countries, and, generally, the stagnation in national economic growth. It took several years to recover from this decline, and it was not until 2004-2005 when the total EU exports to ASEAN surpassed the 1997 level in absolute terms. Since the EU imports from ASEAN were not as affected by the financial crisis as its exports, the trade deficit with ASEAN widened after 1997, and has thereafter remained large. The EU has almost always, according to its own records, reported a deficit with ASEAN (Lindberg & Alvstam, 2007b) (see figure 2).

Figure 2: EU trade with ASEAN-10 1977-2007 (billions of USD)

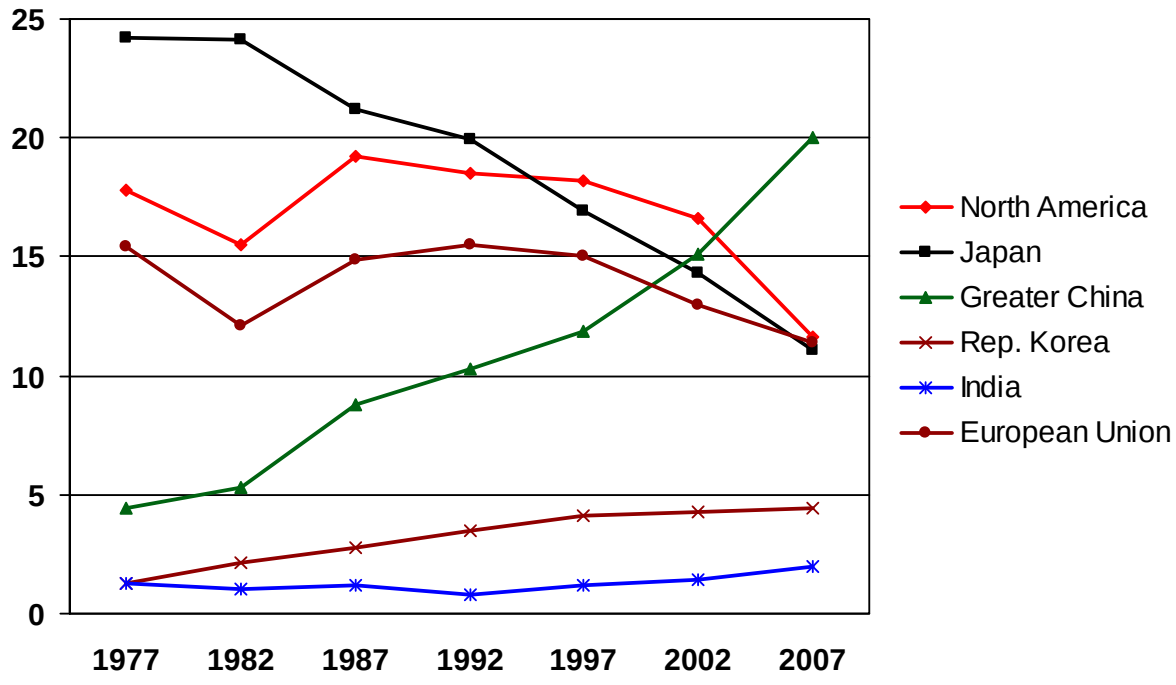


Source: IMF, Direction of Trade Statistics, various issues.

Note: EU-15 1977-1994; EU-25 1995-2007. 2007: forecast based on the first half-year.

Traditionally, ASEAN external economic relations have been dominated by three partners – the USA, Japan and Western Europe. Lately, however, ASEAN's rapid growth of foreign trade has instead shifted towards Greater China, including the Mainland, Hong Kong and Taiwan. An FTA between the EU and ASEAN could therefore be seen as an attempt to slow down the mutual decline of dependence, or at least to stabilise the current level, if not to raise it. The same concern should also be the case regarding North American and Japanese trade relations with ASEAN. Korea and India have on the other hand slowly increased their shares of ASEAN's foreign trade, although from a low level (figure 3).

Figure 3: The external trade relations of ASEAN-5 1977-2007 (shares of total trade turnover)



Source: IMF, Direction of Trade Statistics, various issues.

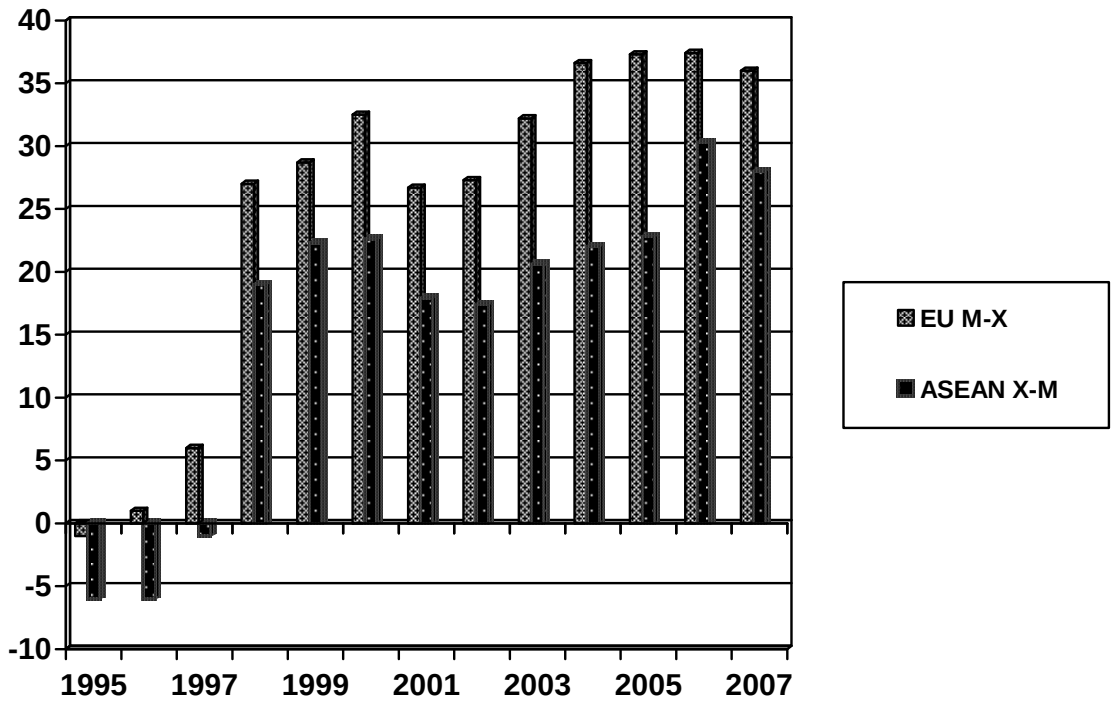
Note 1: ASEAN-5: Indonesia, Malaysia, Philippines, Singapore and Thailand. Greater China: P.R. China, Hong Kong and Taiwan.

Note 2: 2007 data cover January-June.

3) The imbalance in the reciprocal trade in ASEAN's favour was established during and after the financial crisis of 1997-98, when many ASEAN

currencies were heavily depreciated towards Western European currencies along with the depreciation towards the US Dollar. In parallel, the financial crisis resulted in the curbing of imports by imposing a number of regulations in many ASEAN countries. As was illustrated in figure 2, it took 7-8 years for the EU to reach the same absolute export value to ASEAN as compared to the situation before 1997-98. Furthermore, there is an increasing gap in the statistical reporting of the trade between the two blocs, where the EU reports a larger deficit with ASEAN than the corresponding surplus reported by ASEAN (see figure 4). This gap can be seen as a representation of the difference in the "perceived" trade balance between the two parties. The gap between the statistical reporting and an "objective" balance of trade can be given many explanations (see Lindberg & Alvstam, 2007b). Despite a widespread consciousness regarding this statistical discrepancy, the starting-point in a trade-political negotiation is usually to use data produced in the own realm rather than expressing an ambition to establish a common, mutually accepted picture of the real trade flows.

Figure 4: EU-ASEAN and ASEAN-EU trade balances 1995-2007 (billions of USD)

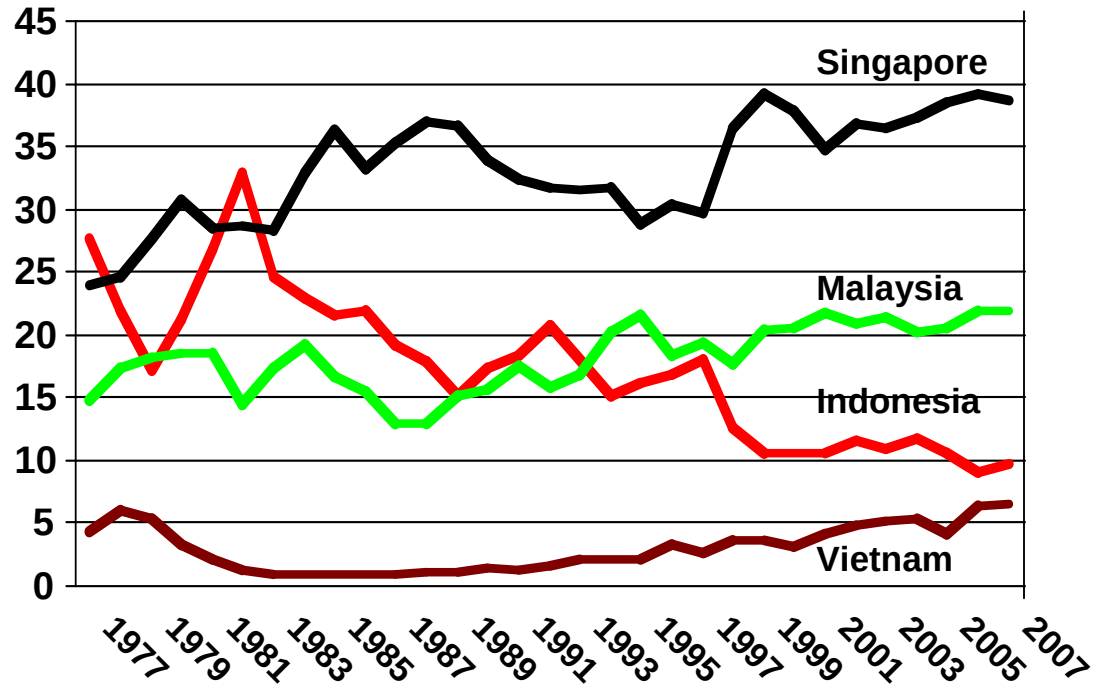


Source: IMF, Direction of Trade Statistics Yearbook, various issues; Quarterly December 2007.

Note 1: Data for EU-25 and ASEAN-10 throughout the entire period. Note 2: 2007 data cover January-June.

4) The country composition in the mutual trade has become more concentrated as Singapore has grown to become the dominant ASEAN partner in EU trade (figure 5). Accordingly, other ASEAN countries may express a far lower interest to promote trade with the EU than Singapore.

Figure 5: EU exports to individual ASEAN countries 1977-2007 (per cent of total EU exports to ASEAN-10)



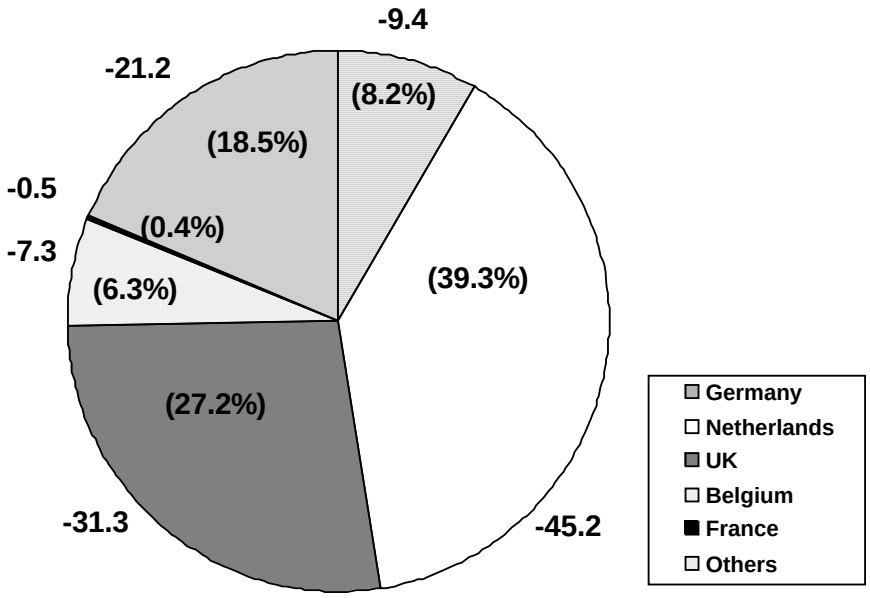
Source: IMF, Direction of Trade Statistics, various issues.

Note 1: EU-15 1977-1994; EU-25 1995-2007. Note 2: Data for 2007 are based on the first half-year.

On the other hand, as seen from the viewpoint of the EU, a major part of the current deficit is due to the large deficits reported by a few countries, notably the Netherlands and the UK. Roughly 40 per cent of the total imports of the EU from ASEAN were shipped to these two countries, compared to only 21 per cent of EU exports to ASEAN (2006 data). Of the cumulated deficit amounting to 112 bn USD between 2004 and 2006, the Netherlands and the UK alone accounted for 76 bn USD, or two thirds (figure 6). Also Germany and Belgium report large deficits, but Germany is at the same time by far the

most important country of origin for EU exports to ASEAN with almost 30 per cent of the total export value (2006).

Figure 6: The EU cumulated deficit with ASEAN 2004-2006 (billions of USD)



Source: IMF, Direction of Trade Statistics Yearbook 2007.

Note: 'Others' refers to the remaining net trade deficit of the EU with ASEAN.

The situation has changed dramatically since 1977 when the UK still showed a surplus, while Southern European countries - Italy and Spain - were the only countries together with the Netherlands to report large deficits.

The German share of total EU exports to ASEAN has increased during the last ten years, while exports from the UK have faced a slight decline. The role of the Netherlands in the two-way EU-ASEAN trade has been strengthened during this period of thirty years, while those of France and Germany have been weakened. The dominance of the Netherlands can be

explained by its growing importance as a hub for imports to the EU for transit to final destinations within the single internal market.[12]

It should be noted that EU members can be divided into two groups based on their overall attitude to external trade liberalisation - the "Northern Liberals" and the "Club Med" (Ahnlid, 2007). These diverging standpoints, as well as the individual countries' specific trade patterns with the ASEAN region may have implications for their readiness to actively support the negotiations with ASEAN.

5) The commodity structure of EU-ASEAN trade has undergone a dramatic change, in which the exports from ASEAN have been transformed from being dominated by raw materials, basic manufactures and low-end consumer goods, to consist of almost the same composition of high-value parts and components, semi-manufactures and capital goods that have characterised the EU's exports to ASEAN. In this sense, the trade relations have become more equal between the two parties. A much larger extent of the trade is today generated within global production networks of transnational corporations, and, accordingly, a fair share of the EU-ASEAN trade can be characterised as intra-corporate transfers, partly outside the influence of the governments of the member countries in the two blocs, respectively.

6) There is a certain degree of substitution between foreign trade and foreign direct investment (FDI) in the EU-ASEAN relation. The characteristic feature of ASEAN has been the fact that FDI has been exogenously rather than endogenously derived, and that inward FDI from the EU and others has played a role in the transformation and upgrading of domestic manufacturing. While exports have normally been forerunners of outward FDI in the EU, the opposite pattern is typical for ASEAN, where inward FDI has been a forerunner to exports. The EU Commission has accordingly announced that trade-related investment measures (TRIMs), which are a part of the so-called Singapore issues within the WTO framework, should be included in the FTA negotiations. This initiative has not been met with approval by the majority of the ASEAN member states.

A fairly large share of the present imports from ASEAN to the EU consists of goods manufactured and assembled in plants that have originally been established by foreign transnational corporations, mainly American and Japanese, but also European. A part of these imports is therefore, as was mentioned above, to be considered as intra-firm transfers, and should par-

[12] Data regarding individual EU countries in external trade relations should be interpreted with caution, since the current system of statistical reporting tends to overestimate the role of countries of first entrance and last exit, i.e. countries with a higher degree of transit traffic to and from other member countries.

ticularly be identified as such in the general assessment of the apparent EU trade deficit with ASEAN.

Conclusion

The start of the free trade negotiations between the EU and ASEAN should be seen in the light of the current situation at the multilateral level, in which the DDA for a long time proceeded at a low speed and is at the time of writing[13] essentially deadlocked. In the absence of a visible result within the WTO system, there has been an incentive for both the EU and ASEAN to explore other alternatives to promote trade liberalisation. Individual countries in both groups may have different options and priorities to push for or detain these negotiations. The EU-ASEAN relation should also be seen in the shadow of much larger trade flows between ASEAN and Northeast Asia, particularly with P.R. China, as well as the likewise growing trade contacts between the EU and China. The negotiations between the EU and ASEAN should rather play the role of curbing the present decline in mutual foreign trade (as measured in relative terms), rather than paving the way for a return to the old days when Western European countries played a major role in Southeast Asian external economic relations. The present imbalance of trade at the EU's disadvantage, as well as the widening gap between a "perceived" trade balance and an assumed "objective" balance between the EU and ASEAN, will create an obstacle to a successful completion of an FTA, considering other trade relations with higher priorities among private companies as well as governmental decision-makers from both sides. Other obstacles concern the membership and design of the FTA. There is also a need to incorporate a couple of additional issues within an FTA framework, e.g. to view the present apparent imbalance of trade flows in the light of a global production network approach, in which the FDI flows between the EU and ASEAN countries are also taken into consideration. However, such an attempt to bring the TRIMs into the FTA negotiations is not likely to make these talks easier to conclude. Finally, a future EU-ASEAN FTA must also be interpreted in the context of other strategic alternatives faced by both parties in order to maintain a better position in the global trade system for its respective members.

[13] September 2008.

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The Existence of a Risk Assessment

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Introduction

The World Trade Organization (WTO) opened its doors in 1995, and at the same time a number of new multilateral trade agreements entered into force. One of these agreements was the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement).[1] This agreement regulates WTO members' use of measures taken to protect the life or health of humans, animals or plants. Why does an international trade organization need such an agreement? The problem, from a trade perspective, is that SPS measures may constitute trade barriers, if they are designed differently in different countries. The SPS Agreement was created to prevent SPS measures from being discriminatory or unnecessarily strict, and to prevent states from using such measures as disguised restrictions on international trade.

One of the most important issues, which the negotiating parties had to deal with when creating the SPS Agreement, was how to distinguish between *legitimate* and *illegitimate* SPS measures. How should it be decided if a SPS measure was a disguised or unnecessary restriction on international trade? Since the purpose of such a measure normally is to protect the life or health of humans, animals or plants, it seems natural to require that it be applied only to the extent necessary to achieve this protection. That is

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[1] Agreement on Sanitary and Phytosanitary Measures, 15 April 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1A.

also what the negotiating parties could agree on. But this solution leads to another question. How does one know what is necessary to achieve a certain level of protection? The parties agreed that *science* should provide the answer.[2]

However, the parties also realized that it would be a very difficult task for the lawyers in the WTO to use science to decide if a certain measure was necessary to protect life or health. Hence, they decided to "outsource" a significant part of this task to a number of international, specialised organizations.[3] The SPS Agreement stipulates that if a SPS measure conforms to an international standard, guideline or recommendation from one of these organizations, it shall be presumed to be consistent with the SPS Agreement and the General Agreement on Tariffs and Trade 1994 (GATT 1994).[4] Through this construction, two goals were achieved. First, the scientific task was left to the scientists. Second, the incentive to use international standards, guidelines and recommendations would lead to further harmonization of SPS measures, and accordingly to less hindrances to international trade.

Obviously, the above-described construction was practical, but it did not solve all the problems. Using an international standard, guideline or recommendation basically means that one has to accept the *level of protection* decided by the relevant international organization. The negotiating parties did not want to deprive the WTO members of their right to decide their own level of protection. Hence, they included a possibility to introduce or maintain a higher level of protection, as long as it was scientifically justified.[5] However, if a WTO member used this possibility, it would not benefit from the presumption of conformity, and would thus have to show that all other requirements in the SPS Agreement were fulfilled. One of these requirements is that a SPS measure shall be *based on a risk assessment*.[6]

Since the SPS Agreement entered into force, the Dispute Settlement Body (DSB) of the WTO has settled five disputes concerning SPS meas-

[2] Art. 2.2 of the SPS Agreement.

[3] The most important of these organizations are the Codex Alimentarius Commission, the International Office of Epizootics, and the international and regional organizations operating within the framework of the International Plant Protection Convention. Art. 3.4 and Annex A.3 of the SPS Agreement.

[4] Art. 3.2 of the SPS Agreement.

[5] Art. 3.3 of the SPS Agreement.

[6] Art. 5.1 of the SPS Agreement.

ures.[7] In all five disputes, a crucial task for the respondent has been to show that the measure in question was based on a risk assessment, as required by Article 5.1 of the SPS Agreement. This task contains two parts. The first one is to show that a risk assessment *exists*. The other one is to show that the SPS measure is *based on* the assessment. This article is about the first part.

From a scholarly point of view, the requirement to show the existence of a risk assessment can be examined in different ways. Many articles and books focus mainly on the provisions in the agreement and the interpretations of them.[8] They use the statements made by panels and the Appellate Body to draw general conclusions about the requirement. That is of course one of the most common approaches when examining legal provisions. This article approaches the subject from a different angle. The purpose is *not* to answer the question: What do we know about what the SPS Agreement requires from a risk assessment? The purpose is to focus on the *facts* to which the legal provisions have been applied. In this case, the facts are the scientific evidence examined under Article 5.1 of the SPS Agreement.[9]

Why this approach, and what does it mean? The case law on the SPS Agreement is still rather limited, and it is not very clear what concrete form a risk assessment can take, or how it should be performed. It is easy to understand that the scientific nature of such an assessment has been problematic to handle for both the parties and the adjudicator. Moreover, in most cases, the scientific evidence examined under Article 5.1 has *not* been considered to fulfil the requirements in the article. From the perspective of a WTO member, this situation can be frustrating. How should the member

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[7] *European Communities – Measures Affecting Livestock and Meat (Hormones)*, complaint by the United States (WT/DS26) and complaint by Canada (WT/DS48), Panel and Appellate Body reports adopted on 13 February 1998 (*EC-Hormones*); *Australia – Measures Affecting the Importation of Salmon*, complaint by Canada (WT/DS18), Panel and Appellate Body reports adopted on 6 November 1998, Article 21.5 Panel report adopted on 20 March 2000 (*Australia-Salmon*); *Japan – Measures Affecting Agricultural Products*, complaint by the United States (WT/DS76), Panel and Appellate Body reports adopted on 19 March 1999 (*Japan-Agricultural Products II*); *Japan – Measures Affecting the Importation of Apples*, complaint by the United States (WT/DS245), Panel and Appellate Body reports adopted on 10 December 2003, Article 21.5 Panel report adopted on 20 July 2005 (*Japan-Apples*); and *European Communities – Measures Affecting the Approval and Marketing of Biotech Products*, complaint by the United States (WT/DS291), complaint by Canada (WT/DS292) and complaint by Argentina (WT/DS293), Panel reports adopted on 21 November 2006 (*EC-Approval and Marketing of Biotech Products*). Note also *United States – Continued Suspension of Obligations in the EC-Hormones Dispute* and *Canada-Continued Suspension of Obligations in the EC-Hormones Dispute*, complaint by the European Communities (WT/DS320 and WT/DS321), Panel reports not made public at the time of writing (*US-Continued Suspension* and *Canada-Continued Suspension*).

[8] See e.g. Scott, Joanne, *The WTO Agreement on Sanitary and Phytosanitary Measures, A Commentary*, Oxford University Press 2007; Button, Catherine, *The Power to Protect, Trade, Health and Uncertainty in the WTO*, Hart Publishing 2005; and Gruszczynski, Lukasz, *Science in the Process of Risk Regulation under the WTO Agreement on Sanitary and Phytosanitary Measures*, German Law Journal Vol. 7 No. 4 – 1 April 2006.

[9] In this article, the term *scientific evidence* encompasses all material examined under Article 5.1, or any other article in the SPS Agreement containing scientific obligations. It does not say anything about the scientificity of the material.

act to fulfil its obligations? The provisions themselves, and the general interpretations of them, may not be very helpful to answer this question. It may, however, be of some help to look at the circumstances in previous cases. If one is obliged to show the existence of a risk assessment, but is not really sure about what is required, it may be of interest to know if others have done or tried to do it before, and how the results looked like.

Hence, this article attempts to complement the somewhat blurry legal picture of a risk assessment by looking at the facts in the cases where the issue has been examined, and at how the legal provisions have been applied to the facts. The article is organized as follows. Section *two* describes the relevant provisions in the SPS Agreement and the most basic interpretations of them. Section *three* discusses when the existence of a risk assessment has been examined in WTO dispute settlement. Section *four* discusses what scientific evidence has been examined under Article 5.1. Section *five* discusses what has been considered to constitute or not to constitute risk assessments in the different SPS disputes. Section *six* discusses how the panels' and the Appellate Body's findings in respect of the existence of a risk assessment were justified. Section *seven* contains a summary and some conclusions.

Which are the Relevant Provisions in the SPS Agreement?

There are four paragraphs in the SPS Agreement dealing specifically with the form and substance of a risk assessment: Article 5.1-5.3, and paragraph 4 of Annex A.[10]

> **Article 5.1**
>
> Members shall ensure that their sanitary or phytosanitary measures are based on an assessment, as appropriate to the circumstances, of the risks to human, animal or plant life or health, taking into account risk assessment techniques developed by the relevant international organizations.
>
> **Article 5.2**
>
> In the assessment of risks, Members shall take into account available scientific evidence; relevant processes and production methods; relevant inspection, sampling and testing methods; prevalence of specific diseases or pests; existence of pest- or disease-free areas; relevant ecological and environmental conditions; and quarantine or other treatment.

[10] The Annexes are an integral part of the SPS Agreement. Art. 1.3 of the SPS Agreement.

Article 5.3

> In assessing the risk to animal or plant life or health and determining the measure to be applied for achieving the appropriate level of sanitary or phytosanitary protection from such risk, Members shall take into account as relevant economic factors: the potential damage in terms of loss of production or sales in the event of the entry, establishment or spread of a pest or disease; the costs of control or eradication in the territory of the importing Member; and the relative cost-effectiveness of alternative approaches to limiting risks.

Paragraph 4 of Annex A

> Risk assessment – The evaluation of the likelihood of entry, establishment or spread of a pest or disease within the territory of an importing Member according to the sanitary or phytosanitary measures which might be applied, and of the associated potential biological and economic consequences; or the evaluation of the potential for adverse effects on human or animal health arising from the presence of additives, contaminants, toxins or disease-causing organisms in food, beverages or feedstuffs.

Article 5.1 of the SPS Agreement contains the obligation for WTO members to base SPS measures on risk assessments. Consequently, it also contains the requirement to show that a risk assessment exists. Moreover, Article 5.1-5.3 lists certain factors, which a risk assessment shall take into account. Article 5.1 states that an assessment shall take into account risk assessment techniques developed by relevant international organizations. Article 5.2 contains a number of different factors, e.g. available scientific evidence, which all types of risk assessments shall take into account. Article 5.3 contains economic factors, which shall be taken into account when risks to animal or plant life or health are assessed, and when the measure to be applied is determined. Article 5.1 also contains a requirement that a risk assessment shall be appropriate to the circumstances.

However, the most interesting paragraph for the purposes of this article is paragraph 4 of Annex A, which contains the two definitions of a risk assessment. For natural reasons, the primary focus for the panels and the Appellate Body when examining the existence of a risk assessment in the SPS disputes has been these two definitions. The other paragraphs have of course also been relevant in the examinations, but in most cases requirements connected to the definitions have been decisive when deciding whether a risk assessment existed or not. Below, we will review some of the most basic interpretations of the definitions. The more specific interpretations will be discussed in the analysis of the panels' and the Appellate Body's explanations in section 6.

The two definitions have been considered to address assessments of different types of risks. The Panel in *Australia-Salmon* stated that there is a close link between the *first* definition and the definition of a SPS measure in paragraph 1 (a) of Annex A of the SPS Agreement.[11] Similarly, the Panel found a close link between the *second* definition and the definition of a SPS measure in paragraph 1 (b) of Annex A of the SPS Agreement.[12] The panels and the Appellate Body in all the following SPS disputes have accepted this interpretation. Hence, the *first* definition has been considered applicable in situations when the measure aims at protecting "animal or plant life or health […] from risks arising from the entry, establishment or spread of pests, diseases, disease-carrying organisms or disease-causing organisms".[13] The *second* definition has been considered applicable when the measure aims at protecting "human or animal life or health […] from risks arising from additives, contaminants, toxins or disease-causing organisms in foods, beverages or feedstuffs".[14]

Among the five SPS disputes settled so far, three disputes (*Australia-Salmon*, *Japan-Agricultural Products II*, and *Japan-Apples*) have involved measures falling under the first definition, one dispute (*EC-Hormones*) has involved a measure falling under the second definition, and one dispute (*EC-Approval and Marketing of Biotech Products*) has involved measures falling under both definitions. Hence, most interpretations made by panels and the Appellate Body have concerned the first definition.

In respect of the first definition in paragraph 4 of Annex A of the SPS Agreement, the Appellate Body in *Australia-Salmon* upheld the Panel's finding that the definition contains three requirements.[15] An assessment has to "(1) *identify* the diseases whose entry, establishment or spread a Member wants to prevent within its territory, as well as the potential biological and economic consequences associated with the entry, establishment or spread of these diseases; (2) *evaluate the likelihood* of entry, establishment or spread of these diseases, as well as the associated potential biological and economic consequences; and (3) evaluate the likelihood of entry, establishment or spread of these diseases *according to the SPS measures which might be applied*."[16] These requirements have been used in all subsequent SPS disputes, where the first definition of a risk assessment has been applicable.

As described above, the second definition in paragraph 4 of Annex A of the SPS Agreement has not been interpreted to the same extent as the first definition. The Panel in *EC-Hormones* stated that an assessment according to the second definition should fulfil two requirements. In the dispute in question, it should "(i) *identify* the *adverse effects* on human health (if any)

[11] Panel Report, *Australia-Salmon*, para. 8.68.
[12] Ibid.
[13] Para. 1 (a) of Annex A of the SPS Agreement.
[14] Para. 1 (b) of Annex A of the SPS Agreement.
[15] Panel Report, *Australia-Salmon*, para. 8.72, and Appellate Body Report, *Australia-Salmon*, para. 122.
[16] Appellate Body Report, *Australia-Salmon*, para. 121.

arising from the presence of the hormones at issue when used as growth promoters *in meat or meat products*, and (ii) if any such adverse effects exist, *evaluate* the *potential* or probability of occurrence of these effects".[17]

Examinations of Risk Assessments under Article 5.1 of the SPS Agreement

When can the Existence of a Risk Assessment be Examined?

In WTO dispute settlement, there are four instances where the existence of a risk assessment can be examined: (1) a panel, and after appeal, (2) the Appellate Body, (3) an Article 21.5 panel, and after appeal, (4) the Appellate Body. The panels examine both factual and legal issues, while the Appellate Body only examines legal issues.

If a dispute between two WTO members arises, and the parties cannot find a solution, the complaining party may request the establishment of a panel.[18] The findings of the panel are issued in a report, and one or both of the parties may appeal the legal findings to the Appellate Body.[19] If a breach of a WTO obligation has been found, the failing party will be recommended to bring its measure into conformity with the obligation.[20] Subsequently, if there is a disagreement on whether the party has brought its measure into conformity with the obligation, the matter shall be examined by an Article 21.5 panel.[21] Once again, the panel will issue its findings in a report, and one or both of the parties may appeal the legal findings to the Appellate Body.

Hence, a dispute may include one, two, three or four of the instances, but not necessarily all of them. Many disputes are of course resolved during consultations, without any panel or Appellate Body proceedings at all.

However, even if a dispute concerning a SPS measure is subject to proceedings in one, two, three or four of the above instances, it does not necessarily mean that the existence of a risk assessment will be examined in each instance, or in any of the instances. In order for the issue to be examined in a panel proceeding, the complainant will of course have to claim that a risk assessment does not exist, i.e. that the respondent is in breach of Article 5.1 of the SPS Agreement. Moreover, in an Appellate Body proceeding, the complainant or the respondent will normally have to claim that the panel's legal finding concerning the existence of a risk assessment was

[17] Panel Report, *EC-Hormones*, para. 8.98 (US) and para. 8.101 (Canada).
[18] Art. 6.1 of the Dispute Settlement Understanding (DSU).
[19] Art. 12.7 and 17.6 of the DSU.
[20] Art. 19.1 of the DSU.
[21] Art. 21.5 of the DSU.

wrong.[22] An Article 21.5 panel examination presupposes two things. The first is that the original panel, and/or the Appellate Body, if the issue was appealed, have found that a risk assessment did not exist. The second is that the complainant claims that the respondent has not brought its measure into conformity with the obligation in Article 5.1. Finally, an Article 21.5 appellate review requires that one or both of the parties claim that the finding of the panel, in respect of the existence of a risk assessment, was wrong.

It should be noted that the above claims do not necessarily mean that the existence of a risk assessment will be examined in a particular instance. If a panel or the Appellate Body decides to start its examination under another obligation than Article 5.1, and finds that the respondent is in breach of this other obligation, it may practice judicial economy and stop its analysis without examining Article 5.1.[23] Furthermore, if a panel or the Appellate Body finds that the measure conforms to an international standard, guideline or recommendation, the measure will be presumed to be consistent with all obligations in the SPS Agreement, including Article 5.1.[24] In such case, the existence of a risk assessment will most likely not be examined, even though there is a possibility for the complainant to rebut the presumption.

When has the Existence of a Risk Assessment been Examined?

In all five SPS disputes settled so far, the complainant has claimed that the measure was not based on a risk assessment, as required by Article 5.1 of the SPS Agreement. None of the measures have been considered to conform to an international standard, guideline or recommendation. Consequently, none of the measures have benefited from the presumption of conformity. An examination of the existence of a risk assessment has been performed in each of the five disputes, but not in all instances. The only instance where the issue has never been examined is in an Article 21.5 appellate review (see Table 1).

[22] Note, however, that there have been cases when the Appellate Body has examined the existence of a risk assessment without a claim concerning this particular issue, and conversely, cases when the issue has not been examined in spite of a claim. The Panel in *Australia-Salmon* assumed that a risk assessment existed. This assumption was not appealed, but the Appellate Body was not satisfied with it when examining if the measure was based on the assessment. Hence, it performed its own examination of whether a risk assessment existed. Moreover, in its appeal to the Appellate Body in *EC-Hormones*, the EC claimed *inter alia* that the Panel's finding that the reports of the European Parliament were non-scientific was manifestly wrong, especially with regard to the Pimenta Report. However, the Appellate Body does not seem to have considered this claim.

[23] Appellate Body Report, *India-Patents (US)*, para. 87.

[24] Art. 3.2 of the SPS Agreement.

Table 1. Instances where the existence of a risk assessment has been examined.

Dispute	Panel	Appellate Body	Article 21.5 Panel
EC-Hormones	Yes	No	
Australia-Salmon	Yes	Yes	Yes
Japan-Agricultural Products II	No	Yes	
Japan-Apples	Yes	Yes	Yes
EC-Approval and Marketing of Biotech Products	Yes		

The first SPS dispute settled was *EC-Hormones*, which concerned a claim from the United States and Canada, that an EC import ban on meat and meat products treated with certain growth hormones violated *inter alia* a number of provisions of the SPS Agreement, including Article 5.1. Hence, the Panel examined if the EC measure was based on a risk assessment, as required. After having examined the existence of a risk assessment, the Panel assumed that an assessment existed.[25] This assumption was not appealed, and therefore not examined by the Appellate Body.

However, the Panel's finding that the EC measure was not *based on* a risk assessment was appealed, and the Appellate Body upheld the finding.[26] Consequently, the EC was recommended to bring its measure into conformity with the obligation in Article 5.1. Even though there is still disagreement as to whether the EC has implemented this recommendation, an Article 21.5 panel has not been established in the dispute. The EC has, however, initiated new proceedings, regarding the retaliatory measures taken by the United States and Canada. In this new dispute, the EC claims that it has enacted new legislation based on a comprehensive risk assessment.[27] This Panel report has not been made public at the time of writing.

The second SPS dispute settled was *Australia-Salmon*, which concerned a Canadian claim that an Australian import ban on salmon violated *inter alia* Article 5.1 of the SPS Agreement. Like in *EC-Hormones*, the Panel assumed that a risk assessment existed, and once again the assumption was not appealed.[28] However, in this dispute the Appellate Body was not satis-

[25] Panel Report, *EC-Hormones*, para. 8.111 (US) and 8.114 (Canada).
[26] Appellate Body Report, *EC-Hormones*, para. 208.
[27] WT/DS320/1, p. 1 and WT/DS321/1, p. 1.
[28] Panel Report, *Australia-Salmon*, para. 8.92.

fied with the Panel's assumption when examining whether the measure was *based on* a risk assessment. Consequently, the Appellate Body decided to examine itself whether an assessment existed. It found that it did not.[29] Subsequently, an Article 21.5 panel was established in the dispute, to examine if Australia had brought its measure into conformity with its obligations. The Panel examined *inter alia* whether a risk assessment now existed, and found that it did.[30] This finding was not appealed.

The third SPS dispute settled was *Japan-Agricultural Products II*, which concerned claims from the United States regarding a Japanese import ban on certain agricultural products. One of the claims was that the measure was not based on a risk assessment, as required by Article 5.1 of the SPS Agreement. Unlike in *EC-Hormones* and *Australia-Salmon*, the Panel did not start its examination under Article 5.1, but under Article 2.2. Since it found a violation of the latter article, it did not consider it necessary to perform an examination under the former article.[31] Consequently, the Panel did not examine whether a risk assessment existed.

However, the Panel's finding under Article 2.2 only covered a part of the products at issue. The United States found this unsatisfactory. In its appeal, it claimed that if the Panel's finding under Article 2.2 was not extended to the uncovered products, or if the Appellate Body reversed the Panel's finding under Article 2.2, an examination under Article 5.1 should be performed.[32] It should also be found that the Japanese measure was not based on a risk assessment.[33] The Appellate Body did not reverse the Panel's finding under Article 2.2, and agreed with the United States that it was necessary to perform an examination under Article 5.1 in respect of the products not covered by the Panel's finding.[34] After having performed this examination, the Appellate Body found that a risk assessment did not exist.[35] Since Japan subsequently implemented the Appellate Body recommendations, no Article 21.5 panel has been established in the dispute.

The fourth SPS dispute settled was *Japan-Apples*, which concerned claims from the United States regarding certain restrictions imposed by Japan on the importation of apples. The complainant claimed *inter alia* that the Japanese measure was not based on a risk assessment, and hence violated Article 5.1 of the SPS Agreement. The Panel examined if an assessment existed, and found that it did not.[36] Consequently, it also found that there was nothing for the Japanese measure to be based on. This finding was appealed to the Appellate Body, which performed its own examination of whether a risk assessment existed. Like the Panel, it found that an as-

[29] Appellate Body Report, *Australia-Salmon*, para. 135.
[30] Article 21.5 Panel Report, *Australia-Salmon*, para. 7.84.
[31] Panel Report, *Japan-Agricultural Products II*, paras. 8.43 and 8.63.
[32] Appellate Body Report, *Japan-Agricultural Products II*, para. 41.
[33] Ibid.
[34] Ibid., para. 111.
[35] Ibid., para. 113.
[36] Panel Report, *Japan-Apples*, para. 8.290.

sessment did not exist, and thus, that there was nothing for the measure to be based on.[37] Subsequently, an Article 21.5 panel was established to examine if Japan had brought its measure into conformity with its WTO obligations. Hence, the Panel examined whether a risk assessment existed, and found that it did not.[38] This finding was not appealed.

The fifth and most recent SPS dispute was *EC-Approval and Marketing of Biotech Products*, which concerned claims from the United States, Canada and Argentina, regarding measures taken by the EC and its member states, which affected the importation of certain agricultural products and food. The complainants claimed that the measures violated *inter alia* Article 5.1 of the SPS Agreement. Hence, the Panel examined whether a risk assessment existed, and found that it did.[39] The findings of the Panel were not appealed.

Scientific Evidence Examined under Article 5.1 of the SPS Agreement

How to Decide what Scientific Evidence to Examine?

In order to show that a SPS measure is based on a risk assessment, the respondent will have to present some sort of scientific evidence.[40] In other words, present the risk assessment upon which the measure is supposed to be based. There is no problem if the respondent states that the purpose of a certain piece of evidence is to prove that a risk assessment exists. In that case, the evidence will logically be examined under Article 5.1 of the SPS Agreement. But what if the respondent presents a body of scientific evidence, and does not state what is supposed to be a risk assessment and what is not supposed to be an assessment? Can it be presumed that all evidence presented is supposed to prove that a risk assessment exists? Not necessarily.

The basic scientific obligations in the SPS Agreement are found in Article 2.2, which states *inter alia* that members shall ensure that SPS measures are based on *scientific principles* and that the measures are not maintained without *sufficient scientific evidence*. The relationship between Article 2.2 and Article 5.1 was defined in *EC-Hormones*, where the Appellate Body confirmed the Panel's finding that the obligation in Article 5.1 can be viewed as a *specific application* of the basic obligations in Article 2.2.[41]

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[37] Appellate Body Report, *Japan-Apples*, para. 216.
[38] Article 21.5 Panel Report, *Japan-Apples*, para. 8.145.
[39] Panel Report, *EC-Approval and Marketing of Biotech Products*, para. 7.3027.
[40] Note that the initial burden of proof lies on the complainant. Appellate Body Report, *EC-Hormones*, para. 98.
[41] Appellate Body Report, *EC-Hormones*, para. 180.

The Appellate Body also stated: "Articles 2.2 and 5.1 should constantly be read together. Article 2.2 informs Article 5.1: the elements that define the basic obligation set out in Article 2.2 impart meaning to Article 5.1".[42]

Hence, consistency with Article 5.1 can be considered to constitute consistency with a *part* of Article 2.2, but not with the whole article. If a panel or the Appellate Body finds that a measure is based on a risk assessment, it does not necessarily mean that all requirements in Article 2.2 are fulfilled. Or as the Panel in *Australia-Salmon* put it, "[w]e do recognize […] that given the more general character of Article 2.2 not all violations of Article 2.2 are covered by [Article 5.1]".[43]

This means that the scientific evidence put forward by the respondent may be examined under Article 2.2 or Article 5.1, but not necessarily under both articles. Logically, all scientific evidence will always be relevant for examination under Article 2.2, but the same is not true for Article 5.1, since its scope is narrower. If the respondent states what part of its scientific evidence is supposed to prove the existence of a risk assessment, and what part is only supposed to prove the fulfilment of the more general obligations in Article 2.2, there is no problem. If this is not the case, the panel will have to decide by itself what should be examined under Article 5.1.

What Scientific Evidence has been Examined?

In all the SPS disputes settled so far, the complainants have claimed that the measure in question violated both Article 2.2 and Article 5.1 of the SPS Agreement. Hence, the respondents have put forward scientific evidence to prove consistency with both articles. In some of the cases, the respondent has stated explicitly what it considered to constitute a risk assessment. In other cases, the situation has been less clear, and the panel has had to decide by itself what to examine under Article 5.1. Moreover, the scientific evidence put forward has been rather different in character. It has included *inter alia* studies, conferences, reports, opinions, governmental documents, and articles (see Table 2 in Appendix).

In three of the five disputes, the respondents stated clearly that they considered certain pieces of evidence to constitute risk assessments. In *Australia-Salmon*, the respondent put forward the 1996 Final Report in the original panel proceedings, and the 1999 IRA in the Article 21.5 panel proceedings. Both documents were named "risk analysis", and there was no doubt that Australia considered them to be risk assessments in the sense of Article 5.1. Consequently, it was not very difficult for the panels to decide that the documents should be examined under the article. In *Japan-Agricultural Products II*, the respondent put forward the 1996 Risk As-

[42] Ibid.
[43] Panel Report, *Australia-Salmon*, para. 8.52.

sessment, and like in *Australia-Salmon*, there was no doubt that Japan intended the document to be an assessment in the sense of Article 5.1. In *Japan-Apples*, the respondent put forward the 1996 PRA and the 1999 PRA in the original panel proceedings, and the 2004 PRA in the Article 21.5 panel proceedings. All three documents were named "risk analysis". Like in the other two disputes, it was clear that the documents were intended to be risk assessments, and that they should be examined under Article 5.1.

In the other two disputes, the situation was less clear. In *EC-Hormones*, the respondent claimed that the SPS measure at issue was based on a risk assessment. However, it did not present the assessment as a concrete study or report. Instead it argued that the assessment was part of its complex legislative process, including *inter alia* different consultations and proposals.[44] In addition to this, it submitted a rather large amount of scientific evidence in the form of studies, reports etc. The Panel decided to examine all the evidence under Article 5.1. This was made in spite of the fact that the respondent explicitly stated that the studies did *not* constitute risk assessments, but only formed part of available scientific evidence.[45]

In *EC-Approval and Marketing of Biotech Products*, only the safeguard measures taken by the EC member states were examined under Article 5.1. The EC argued that these measures were provisional, and that they consequently should be examined under Article 5.7 of the SPS Agreement, not Article 5.1.[46] In line with this argument, it would not be necessary for the EC to present a risk assessment that fulfilled the requirements in Article 5.1. The Panel did, however, find it relevant to perform an examination under both articles.[47]

The fact that the respondent regarded the measures as provisional may explain why most of the scientific evidence put forward was not characterised as risk assessments in the same way as in the above disputes. The scientific evidence consisted of a long list of different studies and other documents, upon which the EC member states had relied when taking the safeguard measures. It also consisted of assessments carried out by the Competent Authorities of the member states to which the product applications was originally submitted, and by the relevant EC scientific committees.

[44] Panel Report, *EC-Hormones*, para. IV.124 (Canada).
[45] Ibid., paras. IV.115 (US) and IV.142 (Canada).
[46] Panel Report, *EC-Approval and Marketing of Biotech Products*, paras. 7.2954 and 7.2955.
[47] Ibid., para. 7.3005.

What Scientific Evidence has been Found to Constitute a Risk Assessment According to Article 5.1 of the SPS Agreement?

Of all scientific evidence examined under Article 5.1 of the SPS Agreement, only three items (or categories of items) have been found to constitute risk assessments. The first item is the 1999 IRA, which was examined by the Article 21.5 Panel in *Australia-Salmon*. The other items are the assessments carried out by the lead Competent Authorities of the EC member states, and by the relevant EC Scientific Committees, which were examined by the Panel in *EC-Approval and Marketing of Biotech Products*.

Some of the material examined was *assumed* to be risk assessments. This is the case with the Lamming Report and the 1988 and 1989 JECFA Reports, which were examined by the Panel in *EC-Hormones*. The Panel stated "[w]e note that the European Communities has invoked several scientific reports which appear to meet [the] minimum requirements of a risk assessment (in particular the Lamming Report and the 1988 and 1989 JECFA Reports […]".[48] Hereafter, it assumed that a risk assessment existed.[49] In *Australia-Salmon*, the Panel assumed that the 1996 Final Report constituted a risk assessment. This assumption was, however, subsequently rejected by the Appellate Body, who found that the report did not constitute an assessment.[50]

In respect of a number of documents, *no clear finding* was made. The Panel in *EC-Hormones* examined the 1983 OIE Symposium, the 1987 IARC Monographs, the 1995 EC Scientific Conference, and the articles and opinions of individual scientists, under Article 5.1. It did, however, not state whether it considered these documents to constitute risk assessments or not. As can been seen in the quotation in the previous paragraph, it is not clear whether the Panel meant that any other documents than the Lamming Report and the JECFA Reports met the minimum requirements of a risk assessment. The use of the words "in particular" does, however, indicate that the Panel considered that at least some of the other documents also appeared to meet the minimum requirements.

Another dispute where no clear finding was made in respect of a particular document is *Japan-Apples*. In the original panel proceedings, the Panel noted that the respondent had put forward both the 1996 PRA and the 1999 PRA as potential risk assessments, but that the parties agreed that the 1999 PRA was the main relevant report.[51] On this ground, the Panel stated that it

[48] Panel Report, *EC-Hormones*, paras. 8.111 (US) and 8.114 (Canada).
[49] Ibid.
[50] Appellate Body Report, *Australia-Salmon*, para. 135.
[51] Panel Report, *Japan-Apples*, paras. 8.246 and 8.247.

would treat principally the latter report as the potential risk assessment in the dispute.[52] Hence, it did not make any findings in respect of the 1996 PRA.

All other documents examined under Article 5.1 have been found *not* to constitute risk assessments. This is the case with the reports of the European Parliament and the opinions of the EC Economic and Social Committee examined by the Panel in *EC-Hormones*, the 1996 Final Report examined by the Appellate Body in *Australia-Salmon*, the 1996 Risk Assessment examined by the Appellate Body in *Japan-Agricultural Products II*, the 1999 PRA examined by the original Panel and the Appellate Body in *Japan-Apples*, the 2004 PRA examined by the Article 21.5 Panel in *Japan-Apples*, and the long list of individual studies and other documents examined by the Panel in *EC-Approval and Marketing of Biotech Products* (see Table 3 in Appendix).

How were the Findings in Respect of the Existence of a Risk Assessment Justified in the SPS Disputes?

The Obligation to Explain

Why and how an adjudicator reaches a certain conclusion *in reality* can be difficult to know. In most judicial proceedings, however, there is an obligation to *explain* this. When examining how the panels and the Appellate Body justified their findings in respect of the existence of a risk assessment, we have to rely on this obligation.

According to the DSU, the panels "shall set out the findings of fact, the applicability of relevant provisions and the basic rationale behind any findings and recommendations that [they make]".[53] The Appellate Body has interpreted this provision. It stated in *Mexico-Corn Syrup (Article 21.5-US)* that panels "must set forth explanations and reasons sufficient to disclose the essential, or fundamental, justification for [their] findings and recommendations". It also stated "[i]n particular, in cases where a Member has been found to have acted inconsistently with its obligations under the covered agreements, that Member is entitled to know the reasons for such finding as a matter of due process", and "[i]n applying [the] legal norms to the relevant facts, the reasoning of the Panel must reveal how and why the law applies to

[52] I Panel Report, *Japan-Apples*,., para. 8.248.
[53] Art. 12.7 of the DSU.

the facts".[54] In respect of Appellate Body reports, the DSU only states that the Appellate Body "shall address each of the issues raised".[55]

Analytically, a distinction can be made between explaining *why* a certain conclusion was reached, and explaining *how* it was reached. The why-question has to do with the *legal reasons* for the conclusion. Presume, for example, that we have found that obligation A entails that requirements 1, 2 and 3 have to be fulfilled. If we find that only requirements 1 and 2 are fulfilled, then we can conclude that there is a violation of obligation A. In that case, the answer to the why-question would be that requirement 3 was not fulfilled. The how-question, on the other hand, has to do with the *methodology* used when reaching the conclusion. Hence, the question we would like an answer to in the above example is: Do we know anything about in what way the panel or the Appellate Body reached the conclusion that requirement 1 and 2, but not 3, were fulfilled? For example, did they refer to the content of the scientific evidence, or did they rely on the experts advising them? Below, we will look at both the legal reasons given by the panels and the Appellate Body in respect of the existence or non-existence of a risk assessment, and the explanations about the methodology used.

From Hesitation to Thoroughness and Back Again

The explanations given by the panels and the Appellate Body in respect of the existence of a risk assessment in the SPS disputes have been different in character. For the purposes of this article, the disputes can be divided into three phases. The first, which includes the Panel in *EC-Hormones* and partly the Panel in *Australia-Salmon*, is characterized by hesitation. Instead of making findings, the panels only assumed that a risk assessment existed. Moreover, in *EC-Hormones* the Panel's whole explanation was very brief and non-informative. The second phase is characterized by thoroughness. The panels, the Appellate Body and the Article 21.5 panels in *Australia-Salmon* and *Japan-Apples* analysed the existence of a risk assessment systematically in light of certain requirements, and gave rather long explanations to why and how they reached their conclusions. The third phase includes the most recent SPS dispute, *EC-Approval and Marketing of Biotech Products*. Here, it seems that the Panel returned to a more hesitant approach. With regard to a part of the examined material, the Panel did not explain how it made its finding. In respect of the other part, explanations to the findings were given, but not in the same thorough way as in the previous cases. Below, we will examine the three different phases, and why and how the conclusions were reached in respect of the different pieces of scientific evidence.

[54] Appellate Body Report, *Mexico-Corn Syrup (Article 21.5-US)*, paras. 106-108.
[55] Art. 17.12 DSU.

A Hesitant Start

In the first SPS disputes, the panels were hesitant when examining the existence of a risk assessment. As described above, in *EC-Hormones* and *Australia-Salmon* the panels *assumed* that a risk assessment existed. In *Australia-Salmon* the Panel was even careful enough to explicitly state that it did *not* make a finding in respect of the existence of a risk assessment: "we shall […] assume – without making a finding on this issue – that the 1996 Final Report meets the requirements of a risk assessment".[56] It would have been interesting to know *why* the panels made assumptions and not findings. This was, however, not explained in the reports. We can only assume that the hesitation was a result of the new and difficult task to examine complicated scientific material, and to decide whether it fulfilled the requirements in the SPS Agreement.

Furthermore, the explanation to why and how the Panel in *EC-Hormones* reached its assumption was very brief. To start with, it made a distinction between *scientific* and *non-scientific* material. It considered the reports from the European Parliament, and the opinions from the EC Economic and Social Committee, to be non-scientific, since they only *evaluated* the scientific and other reports submitted to them.[57] Without making any direct references to the content of the reports and opinions, the Panel concluded that they could not be considered part of the risk assessment process, but rather of the risk management process.[58] According to the Panel, risk assessment was a "*scientific* examination of data and factual studies; […] not a policy exercise involving social value judgments made by political bodies".[59]

Subsequently, even though the Appellate Body did not examine the existence of a risk assessment, it rejected the distinction between risk assessment and risk management, on the ground that it had no textual basis.[60] In respect of the scientific nature of a risk assessment, the Appellate Body made the following well-known statement: "It is essential to bear in mind that the risk that is to be evaluated in a risk assessment under Article 5.1 is not only risk ascertainable in a science laboratory operating under strictly controlled conditions, but also risk in human societies as they actually exist, in other words, the actual potential for adverse effects on human health in the real world where people live and work and die".[61]

The Appellate Body's rejection of the Panel's restrictive notion of a risk assessment, makes the Panel's explanation, to why the reports from the

[56] Panel Report, *Australia-Salmon*, para. 8.92.
[57] Panel Report, *EC-Hormones*, paras. 8.109 (US) and 8.112 (Canada).
[58] Ibid.
[59] Ibid., paras. 8.94 (US), and 8.98 (Canada).
[60] Appellate Body Report, *EC-Hormones*, para. 181.
[61] Ibid., para. 187.

European Parliament and the opinions of the EC Economic and Social Committee did not constitute risk assessments, less interesting. However, in light of the obligation to explain, it is still worth noting the lack of explanation in the panel report. As can be seen above, the only answer the Panel gave to the why-question was that the reports and opinions were *non-scientific*, apparently because they only *evaluated* scientific material, and possibly because they came from *political bodies* and contained *social value judgments*. However, the Panel did not elaborate on these criteria, and consequently we do not know much about them. What was an "evaluation" of scientific material according to the Panel? Did the Panel mean that a political body under *no* circumstances could be the source of a risk assessment? Did it mean that a risk assessment could not contain *any* social value judgments? Moreover, in respect of the how-question even less information was given. The Panel did not refer to the content of the reports and opinions, and it did not in any way explain how it examined the material.

With regard to the rest of the material examined in *EC-Hormones*, the Panel noted that "the European Communities has invoked several scientific reports which appear to meet [the] minimum requirements of a risk assessment (in particular the Lamming Report and the 1988 and 1989 JECFA Reports) and that the scientists advising the Panel seemed to consider these reports, from a scientific and technical point of view, to be risk assessments".[62] The minimum requirements, which the Panel referred to in this statement, were the requirements in the second definition of a risk assessment in paragraph 4 of Annex A of the SPS Agreement, the scientific nature of an assessment, and the other factors set out in the SPS Agreement, which an assessment should take into account.[63]

However, once again there was not much clarity in the Panel's language. The wording above indicates that the Panel was not certain that the Lamming Report and the JECFA Reports met the minimum requirements of a risk assessment; the reports only *appeared* to do so. But why did they appear to meet the minimum requirements? Did the Panel explain how it applied the requirements to the reports? Did it elaborate on the requirements? No, and consequently we do not know much about the Panel's legal reasons, or its methodology. What we do know is that it relied on the experts advising it. But the Panel was hesitant also in this respect. Its statement that the scientists advising it *seemed* to consider the reports to be risk assessments suggests that it was not entirely sure about the expert opinions. Furthermore, it is not clear whether the reports appeared to meet the minimum requirements only because the scientists seemed to consider them to be assessments, or also because the Panel itself considered the reports to meet the requirements.

Finally, did the Panel state anything about the rest of the scientific evidence put forward in the dispute, i.e. the 1983 OIE Symposium, the 1987 IARC Monographs, the 1995 EC Scientific Conference, and the articles and

[62] Panel Report, *EC-Hormones*, paras. 8.111 (US) and 8.114 (Canada).
[63] Ibid., paras. 8.110 (US) and 8.113 (Canada).

opinions of individual scientists? No, it did not make any findings or assumptions in respect of this material, and it did not explain whether it had examined the material. The wording "*in particular* the Lamming Report and the 1988 and 1989 JECFA Reports" (emphasis added), in the quote above, does however suggest that the Panel considered at least some of the other scientific evidence to meet the minimum requirements of a risk assessment.

Table 4. Legal reasons and methodology used by the Panel in EC-Hormones when examining the existence of a risk assessment.

Scientific Evidence	Legal Reasons	Methodology
The Reports from the European Parliament	Non-scientific, since they only evaluated scientific material, came from political bodies, and contained social value judgments.	Not explained.
The Opinions of the EC Economic and Social Committee		
The Lamming Report	Appeared to meet the minimum requirements of a risk assessment: they were scientific, they fulfilled the requirements in the second definition in paragraph 4 of Annex A of the SPS Agreement, and they took into account the other factors set out in the SPS Agreement.	Short reference to the experts. No references to the content of the material.
The 1988 and 1989 JECFA Reports		
The 1983 OIE Symposium	Not explained.	Not explained.
The 1987 IARC Monographs		
The 1995 EC Scientific Conference		
Articles and Opinions of Individual Scientists		

A Period of Thoroughness

Three Requirements

After the hesitant start, it appears that the panels and the Appellate Body gained more confidence when examining the existence of a risk assessment. As mentioned above, the Panel in *Australia-Salmon*, like the Panel in *EC-Hormones*, only assumed that a risk assessment existed. However, its explanation to why and how it reached this assumption was much longer and more thorough than the one given in *EC-Hormones*. Moreover, the Appellate Body and the Article 21.5 Panel in *Australia-Salmon*, and the Panel, the Ap-

pellate Body and the Article 21.5 Panel in *Japan-Apples* made both findings in respect of the existence of a risk assessment, and explained rather thoroughly why and how they reached their conclusions.[64]

Hence, this phase of thoroughness constitutes a period when the existence of a risk assessment was examined in six different instances, in two disputes. Both disputes only involved the first definition of a risk assessment in paragraph 4 of Annex A of the SPS Agreement. As described in section 2, the Appellate Body in *Australia-Salmon* upheld the Panel's finding that this definition contains the following three requirements: "(1) *identify* the diseases whose entry, establishment or spread a Member wants to prevent within its territory, as well as the potential biological and economic consequences associated with the entry, establishment or spread of these diseases; (2) *evaluate the likelihood* of entry, establishment or spread of these diseases, as well as the associated potential biological and economic consequences; and (3) evaluate the likelihood of entry, establishment or spread of these diseases *according to the SPS measures which might be applied*."[65]

In five of the six instances, the examination of the existence of a risk assessment focused mainly on these three requirements. The Article 21.5 Panel in *Japan-Apples* used a different approach. It should also be noted that, even though the original Panel in *Japan-Apples* focused mainly on the three requirements, its approach differed slightly from the other instances. The Panel first defined three factors, which it stated had to be considered when examining the existence of a risk assessment.[66] The *first* was that the assessment involves an evaluation of the three requirements described above; the *second* was that it involves an evaluation of whether it is "appropriate to the circumstances" (as required by Article 5.1); and the *third* was that it involves an evaluation of whether it takes "into account risk assessment techniques developed by the relevant international organizations" (as required by Article 5.1).[67] However, in its examination of the 1999 PRA, the Panel nearly ignored the second factor, and the third factor was mainly used as guidance when applying the three requirements. Hence, like in the other instances, the analysis focused mainly on the three requirements.

Below, we will first look at how the three requirements have been interpreted and applied in the different instances (see Table 5 in Appendix). Then we will look at the different approach used by the Article 21.5 Panel in *Japan-Apples*.

[64] In *Japan-Agricultural Products II*, the Appellate Body did not give a very long explanation. This was however not necessary, since it could conclude rather quickly that the 1996 Risk Assessment did not even discuss the measure in dispute. Consequently, the Appellate Body found that the report did not fulfil the requirements in Article 5.1 of the SPS Agreement. Appellate Body Report, *Japan-Agricultural Products II*, paras. 113-114.
[65] Appellate Body Report, *Australia-Salmon*, para. 121.
[66] Panel Report, *Japan-Apples*, para. 8.236.
[67] Ibid.

The First Requirement

The *first* of the three requirements has not played a major role in the examinations of the existence of a risk assessment. The Panel in *Australia-Salmon* made a quick finding that the 1996 Final Report fulfilled the first requirement, since it identified the relevant diseases, and the consequences associated to the entry, establishment or spread of these diseases.[68] In connection to this statement the Panel referred to a list of diseases in the report.[69] The Appellate Body agreed with the Panel.[70] In the Article 21.5 panel proceedings in *Australia-Salmon*, and the original panel and Appellate Body proceedings in *Japan-Apples*, no claims were made in respect of the first requirement.

The Second Requirement

The *second* requirement has been given a lot more attention than the first. A major concern in this respect has been whether the examined scientific evidence evaluated *probability* properly. Already the Appellate Body in *EC-Hormones* stated: "[t]he ordinary meaning of 'potential' relates to 'possibility' and is different from the ordinary meaning of 'probability'.[…] 'Probability' implies a higher degree or a threshold of potentiality or possibility."[71] Subsequently, the Panel in *Australia-Salmon* referred to this statement, and concluded "[t]he Appellate Body, referring to the ordinary meaning of 'probability', thus related 'likelihood' (the word used in the definition of a risk assessment applicable in this case) to 'probability'. The dictionary meaning of 'likelihood' refers, indeed, to 'a thing that is likely, a probability'."[72] Hence, an evaluation of likelihood, as required by the second requirement, is an evaluation of probability.

The Panel in *Australia-Salmon* examined the content of the 1996 Final Report, and found that it addressed some elements of both *possibility* and *probability*.[73] According to the Panel, this was satisfactory. The Appellate Body did not agree. It stated: "[w]e do not agree with the Panel that a risk assessment of this type needs only *some* evaluation of the likelihood or probability. The definition of this type of risk assessment in paragraph 4 of Annex A refers to 'the evaluation of likelihood' and not to *some* evaluation of the likelihood".[74] Consequently, the Appellate Body did not consider the 1996 Final Report to fulfil the second requirement. The original Panel in *Japan-Apples* came to the same conclusion when examining the 1999 PRA.[75]

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[68] Panel Report, *Australia-Salmon*, para. 8.73.
[69] Ibid., footnote 257.
[70] Appellate Body Report, *Australia-Salmon*, para. 126.
[71] Appellate Body Report, *EC-Hormones*, para. 184.
[72] Panel Report, *Australia-Salmon*, para. 8.77.
[73] Ibid., para. 8.83.
[74] Appellate Body Report, *Australia-Salmon*, para. 124.
[75] Panel Report, *Japan-Apples*, para. 8.280.

The Article 21.5 Panel in *Australia-Salmon* and the Appellate Body in *Japan-Apples* did not focus on probability when examining the second requirement.

The methodology used by the adjudicating bodies, when examining whether the scientific evidence evaluated probability properly, consisted partly of an examination of the *content* of the reports, and partly of reliance on the advising *experts*. In respect of the first part, the main focus was on the *wordings* in the reports. The original Panel in *Australia-Salmon* quoted different parts of the 1996 Final Report, where words like *likelihood*, *probability*, and *possibility* were used.[76] On the basis of this, it concluded that the report addressed both possibility and probability. The original Panel in *Japan-Apples* also quoted parts of the 1999 PRA where the words *possibility* and *can* were used. For example: "[s]uch fruit *can* be the source of transmission after being imported" (emphasis added).[77] According to the Panel, the use of these words indicated that the report evaluated possibility, rather than probability.

Moreover, in both proceedings, the panels referred to the experts advising them. However, while the Panel in *Japan-Apples* decided in line with the expert opinions, the Panel in *Australia-Salmon* decided against the expert opinions. The Panel in *Japan-Apples* recalled that two of the experts advising it had found inadequacies in respect of the report's evaluation of probability.[78] These statements were taken into account when the Panel decided that the report did not fulfil the second requirement. The Panel in *Australia-Salmon*, on the other hand, assumed that the 1996 Final Report fulfilled the second requirement.[79] This was made in spite of the fact that the experts stated explicitly that the report *did not* evaluate probability properly.[80]

Furthermore, the second requirement has been found to contain a number of other sub requirements. The Panel in *Australia-Salmon* found that a risk assessment has to *identify risks on a disease specific basis*.[81] When finding that this was the case in the 1996 Final Report, the Panel relied almost entirely on the experts advising it. Except from making some very short references to the report, the Panel simply noted that according to the experts, the report identified risks on a disease specific basis.[82]

In the Article 21.5 panel proceedings in *Australia-Salmon*, the issue was not whether the 1999 IRA evaluated probability properly, but rather whether the evaluation itself was appropriate, adequate and objective.[83] The Panel found that an evaluation in a risk assessment has to achieve a certain *level of objectivity*. It stated: "we hold the view that the level of objectivity to be

[76] Panel Report, *Australia-Salmon*, para. 8.82.
[77] Panel Report, *Japan-Apples*, para. 8.275.
[78] Ibid., para. 8.279.
[79] Panel Report, *Australia-Salmon*, para. 8.83.
[80] Ibid., footnote 285.
[81] Ibid., para. 8.74.
[82] Ibid., para. 8.75.
[83] Article 21.5 Panel Report, *Australia-Salmon*, para. 7.46.

achieved in a risk assessment must be such that one can have reasonable confidence in the evaluation made, in particular in the levels of risk assigned".[84] The Panel found that the 1999 IRA met the required level of objectivity.[85] To reach this conclusion, it first made some references to the *methodology* used in the report.[86] However, it did not explain why the methodology met the required level of objectivity, or how it created a reasonable confidence. The Panel also relied to a certain extent on the experts advising it, by noting that two of the three experts considered the 1999 IRA to contain an appropriate evaluation.[87] The third expert had reached the opposite conclusion, on the basis of certain flaws in the report. According to the Panel, these flaws were not serious enough to prevent it from having a reasonable confidence in the evaluation.[88]

Finally, the Panel in *Japan-Apples* found that in order for a risk assessment to meet the second requirement, it has to be *specific* in respect of the *source of the risk*. When examining the 1999 PRA, the Panel found that the report was not specific enough.[89] It noted *inter alia* that the report did not make an assessment of risks connected specifically to the source (i.e. fresh apple fruit), but rather a general assessment of a number of sources, including the source in question.[90] Subsequently, the issue of specificity was appealed to the Appellate Body. In its appeal, the respondent claimed that the question of whether to analyse a risk on the basis of a particular pest or disease, or on the basis of a particular commodity (e.g. fresh apple fruit), was a question of *methodology*, which was within the discretion of the member.[91] The Appellate Body agreed, but stated that no matter which methodology was used, the risk has to be examined in relation to *particular pathways*.[92]

The Third Requirement

The *third* requirement entails an evaluation of likelihood "according to the measure, which might be applied". Hence, the difference between the second and the third requirements is that the former concerns the evaluation of likelihood in general, while the latter concerns an evaluation of likelihood that takes into account the measure, i.e. the effectiveness of the measure. The Panel in *Australia-Salmon* stated: "we find that for the measure at issue in this dispute a risk assessment […] has to evaluate the likelihood of entry, establishment or spread of the diseases of concern according to and taking

[84] Ibid., para. 7.51.
[85] Ibid., para. 7.52.
[86] Ibid., paras. 7.53, 7.54 and 7.55.
[87] Ibid., para. 7.56.
[88] Ibid., para. 7.57.
[89] Panel Report, *Japan-Apples*, para. 8.271.
[90] Ibid., paras. 8.268 and 8.270.
[91] Appellate Body Report, *Japan-Apples*, paras. 201 and 204.
[92] Ibid., *Japan-Apples*, para. 205.

into account the sanitary measures or options – *considered to reduce the alleged risk* – which might be applied" (emphasis added).[93] When applying this finding to the 1996 Final Report, the Panel made some short references to different parts of the report. It noted that the report examined factors on a disease-by-disease basis, and that for *most* of these factors the report provided *some* evaluation of the extent to which they could reduce risk.[94] In respect of the options considered to reduce the *total* risk, the Panel noted that the report was less explicit, and that it did not in any substantial way evaluate or assess the relative effectiveness in risk reduction.[95] On the basis of these observations, the Panel assumed that the third requirement was fulfilled.[96]

However, the Appellate Body did not agree with the Panel. It recalled what the Panel had stated about the risk reduction factors and their effectiveness, but concluded: "[o]n the basis of its factual findings, the Panel should have come to the conclusion that the 1996 Final Report does not fulfil the third requirement […], i.e. it does not contain the required evaluation of the likelihood of entry, establishment or spread of the diseases of concern according to the SPS measures which might be applied. We recall that, contrary to the Panel, we consider that *some* evaluation of likelihood is not enough".[97] Consequently, the Appellate Body found that the third requirement was not fulfilled.

Like the Appellate Body in *Australia-Salmon*, the Panel in *Japan-Apples* found that the report under examination did not evaluate likelihood properly. It stated: "[w]hile [the] analysis might be considered to provide 'some' evaluation of the risk of entry, establishment or spread and its mitigation through the relevant measure, it seems to suffer from flaws in part linked to the insufficiency of the evaluation of the likelihood itself, and provides only a cursory assessment of some of the proposed measures".[98]

Moreover, the Panel in *Japan-Apples* noted that the 1999 PRA only considered the measures that were already in place.[99] According to the Panel, the wording "which might be applied" in Article 5.1 suggests that consideration should be given to at least a *potential range of relevant measures*.[100] On the above grounds, the Panel found that the third requirement was not fulfilled. In reaching this conclusion, the Panel both made some references to the content of the 1999 PRA, and relied on the experts advising it.[101] Subsequently, the Appellate Body agreed with the Panel that a risk assessment

[93] Panel Report, *Australia-Salmon*, para. 8.88.
[94] Ibid., para. 8.89.
[95] Ibid., para. 8.90.
[96] Ibid., para. 8.91.
[97] Appellate Body Report, *Australia-Salmon*, para. 134.
[98] Panel Report, *Japan-Apples*, para. 8.287.
[99] Ibid., para. 8.283.
[100] Ibid., para. 8.285.
[101] Ibid., paras. 8.288 and 8.289.

should not be limited to an examination of the measure already in place, and that the 1999 PRA thus did not fulfil the third requirement.[102]

Unlike the above instances, the Article 21.5 Panel in *Australia-Salmon* found that the report under examination evaluated the effectiveness of the measures properly. The Panel stated "[c]ritically – and contrary to what was done in the 1996 Final Report – the discussion provided in the 1999 IRA for each of the 'Risk Management Measures' is made *in light of the effect these measures would have on the 'Key Risk Factors' previously identified*. On the basis of these discussions – which we consider to be evaluations – certain conclusions are made and a list of pre-export and/or post-import requirements is adopted for each specific disease […] ".[103] On this ground, the Panel found that the third requirement was fulfilled.[104] In reaching this conclusion it made references to the content of the report, and relied partly on the experts advising it. It noted that two of the three experts considered the third requirement to be fulfilled.[105]

The Different Approach

The Article 21.5 Panel in *Japan-Apples* did not use the three requirements described above when examining the existence of a risk assessment. Instead it focused on *the substantive validity* of the 2004 PRA, i.e. whether the scientific evidence contained in the report supported the conclusions.[106] The Panel stated: "if the conclusions of the risk assessment are not sufficiently supported by the scientific evidence referred to in the 2004 PRA, then there cannot be a risk assessment appropriate to the circumstances […], within the meaning of Article 5.1".[107] The Panel concluded that the scientific evidence, which it had examined mainly under Article 2.2 of the SPS Agreement, did not support the conclusions in the report, and that the 2004 PRA consequently did not constitute a risk assessment in the sense of Article 5.1.[108] In reaching this conclusion, it relied to a large extent on the experts advising it.[109]

However, the Panel also stated that even if the studies, which Japan relied on, supported the conclusions in the 2004 PRA, their relevance could still be questioned.[110] In connection to this statement, the Panel emphasized the difference between *laboratory* and *non-laboratory* conditions, when deciding whether a risk assessment is appropriate to the circumstances.[111] The Panel

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[102] Appellate Body Report, *Japan-Apples*, paras. 208 and 209.
[103] Article 21.5 Panel Report, *Australia-Salmon*, para. 7.65.
[104] Ibid., para. 7.71.
[105] Ibid., para. 7.67.
[106] Article 21.5 Panel Report, *Japan-Apples*, paras. 8.130 and 8.136.
[107] Ibid., para. 8.136.
[108] Ibid., para. 8.145.
[109] Ibid.
[110] Ibid., para. 8.140.
[111] Ibid.

stated "as recalled by the experts, laboratory experiments may not reflect natural conditions, whereas production and trade in apples take place in the real world. […] In this case, [the requirement that a risk assessment must be appropriate to the circumstances] implies that the assessment reflect the real production and trade conditions".[112]

Back to Hesitation?

The systematic methodology adopted in the disputes discussed in the previous section was not upheld in the most recent dispute, *EC-Approval and Marketing of Biotech Products*. In this dispute, the Panel examined a large amount of scientific evidence under Article 5.1 of the SPS Agreement. A part of the material was considered to constitute risk assessments. However, in respect of this material the Panel's explanation was very short. The other part of the scientific evidence put forward was not considered to meet the requirements of a risk assessment. With regard to this material, the explanations were longer, and the Panel used the three requirements described above, but not in the same systematic way as in *Australia-Salmon* and *Japan-Apples*.

The Panel started by noting that the parties agreed that two types of assessments existed, which constituted risk assessments in the sense of Article 5.1. These were the assessments carried out by the Competent Authorities of the EC member states to which the product applications were originally submitted (lead CA:s), and the assessments carried out by the relevant EC scientific committees. The Panel stated: "[i]t is common ground among the Parties that the assessments carried out by the lead CA and by the EC scientific committees constitute 'risk assessments' within the meaning of Annex A(4) and Article 5.1 of the *SPS Agreement*. It is apparent from the assessments provided to us that they evaluated the likelihood of potential adverse effects on human health and/or the environment, as well as the associated potential consequences, according to the proposed use of the specific biotech product under consideration".[113]

However, the Panel did not explain *why* it was apparent that the assessments constituted risk assessments in the sense of Article 5.1, or *how* it came to this conclusion. Moreover, the Panel's statement that the assessments "evaluated the likelihood of potential adverse effects on human health and/or the environment" is a bit puzzling. As described above, the two definitions in paragraph 4 of Annex A of the SPS Agreement entail either an "evaluation of the likelihood of entry, establishment or spread […]", or an "evaluation of the potential for adverse effects on human or animal health […]". Even though both definitions were relevant in the case, the Panel seems to have mixed them in the above statement. It is for example hard to believe

[112] Article 21.5 Panel Report, *Japan-Apples*, para. 8.140
[113] Panel Report, *EC-Approval and Marketing of Biotech Products*, para. 7.3027.

that the Panel really meant that the assessments evaluated the probability (likelihood) of possibility (potential), which the wording seems to suggest.

The other scientific evidence put forward in the dispute was examined in connection to the different products at issue. The Panel found that in respect of all documents but three – France's Reasons document, and the 2001 and 2003 BEC Reports – both definitions of a risk assessment applied (with regard to the three documents only the first definition applied).[114] Hence, most of the documents had to contain evaluations of both likelihood (i.e. probability) and potentiality (i.e. possibility).

Initially, the Panel made a reference to the three requirements described above, which applied in respect of the first definition.[115] It also noted that the WTO jurisprudence gave little guidance regarding the interpretation of the second definition.[116] However, unlike in *Australia-Salmon* and *Japan-Apples*, the Panel did not discuss each requirement separately. Compared to these cases, the examinations of the material were rather short and unstructured. All documents were examined in a similar way. The Panel made some short references to the content of the documents, before reaching its conclusions. According to the Panel, *none* of the documents constituted a risk assessment in the sense of Article 5.1 of the SPS Agreement.[117]

As can be seen from Table 6 (in Appendix), the reasons for the conclusions differed. In some cases, the Panel did not consider the document to contain an evaluation at all. In other cases, there was an evaluation, but not in respect of probability or potentiality, as required. Yet in other cases, the document was not specific enough, or did not evaluate probability according to the measures, which might be applied. Finally, unlike in *EC-Hormones*, *Australia-Salmon* and *Japan-Apples*, the Panel did not in any case rely directly on the experts advising it when reaching its conclusions.

Summary and Conclusions

The purpose of this article has been to shed some light over the obligation in Article 5.1 of the SPS Agreement – to show the existence of a risk assessment – by looking on the facts in the SPS disputes. The article has reviewed *when* the existence of a risk assessment has been examined, *what* scientific evidence has been examined, and *how* the adjudicating bodies have *justified* their findings in the specific cases.

Obviously, Article 5.1 has played a major role in the SPS disputes. An examination of the existence of a risk assessment has been performed in each of the five disputes settled so far. The issue has been examined in nine

[114] Panel Report, *EC-Approval and Marketing of Biotech Products*, para. 7.3039, 7.3047, 7.3076, 7.3092, 7.3113, 7.3144, 7.3166, 7.3184, and 7.3202.
[115] Ibid., para. 7.3040.
[116] Ibid., para. 7.304
[117] Ibid., paras. 7.3051, 7.3080, 7.3101, 7.3122, 7.3152, 7.3172, 7.3190 and 7.3206.

different instances: in four panel proceedings, in three Appellate Body proceedings, and in two Article 21.5 panel proceedings. However, only in two instances – the Article 21.5 Panel in *Australia-Salmon* and the Panel in *EC-Approval and Marketing of Biotech Products* – has a risk assessment been found to exist. In the former instance, the main reasons why the 1999 IRA fulfilled the requirements were that it evaluated probability properly, and that its evaluation met the required level of objectivity. In the latter instance, the reasons for the finding were not explained.

Moreover, the scientific evidence put forward by the respondents, and examined under Article 5.1, has been rather different in character. In *EC-Hormones* and *EC-Approval and Marketing of Biotech Products*, the scientific evidence consisted of a long list of different studies, reports and other documents. In *Australia-Salmon*, *Japan-Agricultural Products II* and *Japan-Apples*, on the other hand, the evidence consisted of only one or two reports.

The way the adjudicating bodies have justified their findings in respect of the existence of a risk assessment has been quite different in different disputes. In this article, we have divided the disputes into three phases. During the first phase, the justifications were marked by hesitation. The panels in *EC-Hormones* and *Australia-Salmon* made assumptions, and not findings. Moreover, the former instance did not explain much about why or how it reached its assumption. Then, during the second phase, the justifications became more thorough. The different instances in *Australia-Salmon* and *Japan-Apples* examined the existence of a risk assessment systematically, in the light of certain requirements. They explained both why and how they made their findings. During the third phase, consisting of the most recent SPS dispute, the Panel seems to have left the thorough path, at least to a certain extent. With regard to a part of the scientific evidence examined, the Panel did not explain why and how it reached its finding. In respect of the other part, the Panel explained its findings shortly, but not in the same thorough and systematic way as in *Australia-Salmon* and *Japan-Apples*.

Furthermore, most of the cases where the existence of a risk assessment has been examined have concerned the first definition of a risk assessment in Paragraph 4 of Annex A of the SPS Agreement. A common flaw in the scientific material examined under this definition has been that it has not evaluated *likelihood* (probability) properly. Other important flaws have been that the scientific material was not *specific* enough, in respect of the source of the risk, and/or not *broad* enough, in respect of the SPS measures which might be applied.

What conclusions can be drawn from the above? First, even though the case law on the SPS Agreement is growing, it is still rather limited, and we do not know much about what Article 5.1 requires from a risk assessment. This uncertainty is frustrating, since showing the existence of a risk assessment is one of the most important obligations in the SPS Agreement. As explained in the introduction, the purpose of this article has not been to find out everything we know about what Article 5.1 requires from a risk assessment. The purpose has been to examine how the legal provisions have been

applied to the facts. By doing this, we have been able to see that there are not many "good examples". Only in a couple of cases has something actually been found to constitute a risk assessment. These examples are not much to be guided by when trying to perform a risk assessment that meets the requirements in Article 5.1.

Hence, if there is a lack of good examples, we have to look at the bad examples. More specifically, which were the most important flaws in the scientific material that was found not to constitute risk assessments, and how did the adjudicating bodies find these flaws? As described above, perhaps the most important flaw was that the material did not evaluate likelihood properly. The two main methods used by the adjudicating bodies when finding these flaws were to refer to the *content* of the material, and to rely on the advising *experts*. Even though it can be difficult to suggest other methods, these methods can be criticised for different reasons.

In respect of the first method, the adjudicating bodies mainly referred to different wordings in the scientific material, where words like *possibility* and *some probability* were used. According to the panels and the Appellate Body, such wordings indicated that there was not a proper evaluation of probability. However, one might question whether the use of particular words should be decisive when deciding whether a document constitutes a risk assessment. Would the documents have passed the test if they consistently used the word probability? It seems preferable to focus on the evaluation itself, rather than on the wordings.

Moreover, in respect of the second method, the adjudicating bodies relied totally on the experts in some cases, and partly in some cases. In some case, they even decided against the expert opinions. Although the use of expert advise is essential in cases with complicated scientific material, it seems important to use such advise in a consistent manner, and not to leave the whole decision to the experts. The adjudicating body is of course responsible for the final decision, and if expert advice is used to reach this decision, it should be explained how the advice has been used. In line with the general obligation to explain, this promotes foreseeability. Needless to say, it is even more important to explain when a decision goes against the expert opinion.

Consequently, to sum up, in future SPS disputes, it is important that the panels and the Appellate Body return to a more thorough, systematic and transparent way of examining the existence of a risk assessment. Even though it will take some time before the case law can give us a better picture of a risk assessment, all parties will benefit from as much clarity as possible.

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Other Documents

WT/DS320/1

WT/DS321/1

Appendix

Table 2. Scientific evidence examined under Article 5.1 of the SPS Agreement.

Dispute	Instance	Scientific evidence examined under Article 5.1 of the SPS Agreement
EC-Hormones	**Panel**	► The 1982 Report of the EC Scientific Veterinary Committee, Scientific Committee for Animal Nutrition and the Scientific Committee for Food on the basis of the Report of the Scientific Group on Anabolic Agents in Animal Production. (The Lamming Report) ► The 1983 Symposium on Anabolics in Animal Production of the *Office international des epizootics* (OIE). (The 1983 OIE Symposium) ► The 1987 Monographs of the International Agency for Research on Cancer (IARC) on the Evaluation of Carcinogenic Risks to Humans, Supplement 7. (The 1987 IARC Monographs) ► 1988 and 1989 JECFA Reports. ► The 1995 European Communities Scientific Conference on Growth Promotion in Meat Production. (The 1995 EC Scientific Conference) ► Three articles in the journal Science, one article in the International Journal of Health Service, one report in The Veterinary Record and separate scientific opinions of Dr. H. Adlercreutz, Dr. E. Cavalieri, Dr. S.S. Epstein, Dr. J.G. Liehr, Dr. M. Metzler, Dr. Perez-Comas and Dr. A. Pinter, all of whom were part of the EC delegation at the Panel's joint meeting with experts. (Articles and opinions by individual scientists) ► The Nielsen Report of 1981, the first Collins Report of 1985, the second Collins Report of 1989 and the Pimenta Report of 1989. (Reports of the European Parliament) ► Opinions of the EC Economic and Social Committee of 1981 and 1984.
Australia-Salmon	**Panel and Appellate Body**	► The Australian Salmon Import Risk Analysis, Australian Quarantine and Inspection Service, Australian Department of Primary Industries and Energy, December 1996. (The 1996 Final Report)
	Article 21.5 Panel	► The Import Risk Analysis on Non-Viable Salmonids and Non-Salmonid Marine Fish, Australian Quarantine and Inspection Service, July 1999. (The 1999 IRA)
Japan-Agricultural Products II	**Appellate Body**	► The 1996 Pest Risk Assessment of Codling Moth. (The 1996 Risk Assessment)
Japan-Apples	**Panel and Appellate Body**	► The 1996 Pest Risk Analysis. (The 1996 PRA) ► The 1999 Pest Risk Analysis. (The 1999 PRA)
	Article 21.5 Panel	► The 2004 Pest Risk Analysis. (The 2004 PRA)

EC-Approval and Marketing of Biotech Products	**Panel**	► Assessments carried out by the Competent Authorities. ► Assessments carried out by the relevant EC Scientific Committees. ► Reasons Documents of Austria, France, Germany, Greece and Luxembourg. ► "Concepts of GMO-Free Environmentally Sensitive Areas", Austrian Federal Ministry of Women's Affairs and Consumer Protection. (The Hoppichler Study) ► "Toxicology and Allergology of GM Products: Investigations into practice and recommendations on the standardization of risk assessment of genetically modified food", Federal Ministry of the Environment (Umweltbundesamt GmbH) and IFF/IFZ – Inter-University Research Centre for Technology, Work and Culture. (The March 2003 Document) ► Studies published in the National Academy of Science from March and April 1997. (The March and April 1997 Studies) ► "Transgenic pollen harms monarch larvae" (1999). (Study by Losey) ► "Toxicity of Bacillus thuringiensis Cry1Ab Toxin to the Predator Chrysoperla carnea (Neuroptera: Chrysopidae)" (1998). (Study by Hilbeck et al. 1998A) ► "Effects of transgenic Bacillus thuringiensis corn-fed prey on mortality and development time of immature Chrysoperla carnea (Neuroptera: Chrysopidae)" (1998). (Study by Hilbeck et al. 1998B) ► "Prey-mediated effects of Cry1Ab toxin and protoxin and Cry2A protoxin on the predator Chrysoperla carnea" (January 1999). (Study by Hilbeck et al. 1999) ► "Insecticidal toxin in root exudates from Bt corn" (1999). (Study by Saxena et al.) ► "Hybridization Between Brassica napus and B. rapa on a National Scale in the United Kingdom" (2003). (Study by Wilkinson et al.) ► "Therapeutical relevance of antibiotics in connection with the use of antibiotic resistance genes in transgenic plants" (December 1999). (Study by Öko-Institut e. V.) ► "The biology and ecology of canola (Brassica napus)" (July 2002). (Study by the Office of the Gene Technology Regulator) ► Studies that constituted part of the Farm Scale Evaluations of Spring-Sown Genetically Modified Crops (October 2003). ► Italian Decree of 4 August 2000. ► Opinion of the Italian Superior Institute of Health of July 2000. ► 2001 BEC Report. ► 2003 BEC Report.

Table 3. Findings regarding the existence of a risk assessment.

Scientific Evidence	Panel	Appellate Body	Article 21.5 Panel
The Lamming Report	Assumed		
The 1983 OIE Symposium	No finding		
The 1987 IARC Monographs	No finding		
The 1988 and 1989 JECFA Reports	Assumed		
The 1995 EC Scientific Conference	No finding		
Articles and Opinions of Individual Scientists	No finding		
Reports of the European Parliament	No		
Opinions of the EC Economic and Social Committee	No		
The 1996 Final Report	Assumed	No	
The 1999 IRA			Yes
The 1996 Risk Assessment		No	
The 1996 PRA	No finding		
The 1999 PRA	No	No	
The 2004 PRA			No
Assessments carried out by the Competent Authorities	Yes		
Assessments carried out by the relevant EC Scientific Committees	Yes		
Reasons Documents of Austria, France, Germany, Greece and Luxembourg	No		
The Hoppichler Study	No		
The March 2003 Document	No		
The March and April 1997 Studies	No		
Study by Losey	No		
Study by Hilbeck et al. 1998A	No		
Study by Hilbeck et al. 1998B	No		
Study by Hilbeck et al. 1999	No		

Study by Saxena et al.	No		
Study by Wilkinson et al.	No		
Study by Öko-Institut e. V.	No		
Study by the Office of the Gene Technology Regulator	No		
Studies that constituted part of the Farm Scale Evaluations of Spring-Sown Genetically Modified Crops	No		
Italian Decree of 4 August 2000	No		
Opinion of the Italian Superior Institute of Health of July 2000	No		
The 2001 BEC Report	No		
The 2003 BEC Report	No		

Table 5. Findings regarding the three requirements contained in the first definition of a risk assessment in paragraph 4 of Annex A of the SPS Agreement.

Scientific Evidence	First Requirement	Second Requirement	Third Requirement
The 1996 Final Report (Panel, Australia-Salmon)	► Quick finding that the requirement was fulfilled.	*Interpretation* ► A risk assessment has to identify risks on a disease-specific basis. ► To evaluate likelihood means to evaluate some probability. *Application* ► The Panel relied on the experts advising it, and found that the report identified risks on a disease-specific basis. ► The Panel examined the content of the report, and found that it evaluated some probability. The Panel noted that the experts did not consider the report to assess probability properly. ► The Panel assumed that the requirement was fulfilled.	*Interpretation* ► A risk assessment has to contain an evaluation that takes into account measures considered to reduce the alleged risk. *Application* ► The Panel examined the content of the report and found that it, for most of the measures, provided some evaluation of the extent to which they could reduce risk. ► The Panel assumed that the requirement was fulfilled.
The 1996 Final Report (Appellate Body, Australia-Salmon)	► Agreed with the Panel.	*Interpretation* ► It is not enough for a risk assessment to evaluate *some* probability. *Application* ► The Appellate Body referred to the Panel's examination of the report, and found that the report only evaluated some probability. ► The Appellate Body found that the requirement was not fulfilled.	*Interpretation* ► It is not enough for a risk assessment to evaluate *some* probability. *Application* ► The Appellate Body referred to the Panel's examination of the report, and found that the report only evaluated some probability. ► The Appellate Body found that the requirement was not fulfilled.
The 1999 IRA (Article 21.5 Panel, Australia-Salmon)	► No claim.	*Interpretation* ► An evaluation of probability has to achieve a certain level of objectivity. *Application* ► The Panel referred to the methodology used in the report, and to the experts advising it, and found that the report met the required level of objectivity. ► The Panel found that the requirement was fulfilled.	*Interpretation* ► It is not enough for a risk assessment to evaluate *some* probability. ► A risk assessment has to evaluate the effectiveness of the measures. *Application* ► The Panel referred to the methodology used in the report, and to the experts advising it, and found that the report evaluated probability properly. ► The Panel referred to

			the methodology used in the report, and to the experts advising it, and found that the report evaluated the effectiveness of the measures properly. ► The Panel found that the requirement was fulfilled.
The 1999 PRA (Panel, Japan-Apples)	► No claim.	*Interpretation* ► A risk assessment has to be specific in respect of the source of the risk. ► A risk assessment has to evaluate probability. *Application* ► The Panel examined the content of the report, and found that it was not specific enough, since it only made a general assessment of a number of sources. ► The Panel examined the content of the report, and relied on the experts advising it, and found that the report did not evaluate probability properly. ► The Panel found that the requirement was not fulfilled.	*Interpretation* ► A risk assessment has to consider at least a potential range of relevant measures. ► It is not enough for a risk assessment to evaluate *some* probability. *Application* ► The Panel examined the content of the report, and relied on the experts advising it, and found that the report did not consider a potential range of measures, only the measure in place. ► The Panel examined the content of the report, and relied on the experts advising it, and found that the report only evaluated some probability. ► The Panel found that the requirement was not fulfilled.
The 1999 PRA (Appellate Body, Japan-Apples)	► No claim.	*Interpretation* ► The Appellate Body agreed with the Panel that a risk assessment has to be specific. *Application* ► The Appellate Body agreed with the Panel that the report was not specific enough. ► The Appellate Body found that the requirement was not fulfilled.	*Interpretation* ► The Appellate Body agreed with the Panel that a risk assessment has to consider at least a potential range of measures. *Application* ► The Appellate Body agreed with the Panel that the report only considered the measure in place. ► The Appellate Body found that the requirement was not fulfilled.

Table 6. Legal reasons and methodology used by the Panel in EC-Approval and Marketing of Biotech Products when examining the existence of a risk assessment.

Scientific Evidence	Legal Reasons	Methodology
Assessments carried out by the Competent Authorities	Not explained.	Not explained.
Assessments carried out by the relevant EC Scientific Committees	Not explained.	Not explained.
Reasons document of Austria	Refers to possibilities, but does not evaluate likelihood of the risk of establishment, entry or spread of a pest, or the potential for adverse health effects. (paras. 7.3041, 7.3077, 7.3094 and 7.3096)	References to the content of the material.
Reasons document of France	Calls for further study, rather than presents an assessment. Does not evaluate likelihood according to the measures, which might be applied. (paras. 7.3115, 7.3116 and 7.3132)	References to the content of the material.
Reasons document of Germany	Includes references to possibilities of risks, but does not evaluate the potential or likelihood of such risks occurring. Does not contain the information necessary to an evaluation. (7.3145 and 7.3146)	References to the content of the material.
Reasons document of Greece	Reaches conclusions regarding likelihood without any prior evaluation of relevant data. Does not evaluate likelihood according to the measures, which might be applied. Only addresses the likelihood of risks in the situation where no SPS measure is applied. Does not evaluate potential for adverse effects. (paras. 7.3167 and 7.3168)	References to the content of the material.
Reasons document of Luxembourg	Calls for further evaluation, but does not provide an evaluation of likelihood of the spread of diseases, or potential for adverse effects, itself. (paras. 7.3204 and 7.3205)	References to the content of the material.
The Hoppichler Study	Does not indicate relative probability of the potential risks, but rather makes reference to possibilities of risks, or to the inability to determine probabilities. (paras. 7.3043, 7.3044 and 7.3046)	References to the content of the material.
The March 2003 Document	Evaluates risk assessment procedures, not the potential for adverse effects on human or animal health. (paras. 7.3049, 7.3079 and 7.3100)	References to the content of the material.
The March and April 1997 Studies	Do not assess the likelihood of risk. (para. 7.3078)	References to the content of the material.
Study by Losey	No evaluation of the potential implications. The study notes that the results point to possible environmental outcomes. (paras. 7.3097 and 7.3147)	References to the content of the material.
Study by Hilbeck et al. 1998A	Does not evaluate the potential for adverse effects, or the likelihood of an outcome in the field. (paras. 7.3098 and 7.3147)	References to the content of the material.

Study by Hilbeck et al. 1998B	States that no conclusions can be drawn as to how results from laboratory trials might translate in the field. Does not evaluate the alleged risks. Does not provide an evaluation of the potential for adverse effects. (paras. 7.3099 and 7.3147)	References to the content of the material.
Study by Hilbeck et al. 1999	Does not provide an evaluation of likelihood. (para. 7.3148)	References to the content of the material.
Study by Saxena et al.	Does not purport to evaluate the potential consequences. Does not provide information specifically related to the product at issue. (para. 7.3149)	References to the content of the material.
Study by Wilkinson et al.	Does not take into account all factors that are relevant to an evaluation of likelihood. (para. 7.3171)	References to the content of the material.
Study by Öko-Institut e. V.	Refers to possibilities. Does not evaluate the potential for adverse effects, or the likelihood of spread of diseases. (paras. 7.3150 and 7.3151)	References to the content of the material.
Study by the Office of the Gene Technology Regulator	Evaluates the likelihood of outcrossing from canola, but not for Topas oilseed rape. Only canola in general, including canola, which is not genetically modified. Does not evaluate the likelihood according the measures, which might be applied. (para. 7.3169)	References to the content of the material.
Studies that constituted part of the Farm Scale Evaluations of Spring-Sown Genetically Modified Crops	Each of the studies discusses GMHT crops in general, rather than focusing specifically on Topas oilseed rape. None of the studies evaluates the likelihood of adverse effects according to the measures, which might be taken. (para. 7.3170)	References to the content of the material.
Italian Decree of 4 August 2000	Does not itself provide an evaluation of the potential for adverse effects, or of the likelihood of the establishment or spread of a pest. (para. 7.3186)	References to the content of the material.
Opinion of the Italian Superior Institute of Health of July 2000	Does not itself evaluate the potential for any adverse effects. Does not contain all the information necessary for an evaluation. Does not address risks arising from the environmental release of the relevant GMOs or their products. (paras. 7.3188 and 7.3189)	References to the content of the material.
The 2001 BEC Report	Appear to provide some evaluation of the likelihood of entry, establishment or spread of one of the pests of concern. However, this is addressed with respect to all herbicide tolerant oilseed rape varieties, and not specifically those, which are genetically modified. Does not provide any analysis of the associated potential biological and economic consequences. Does not purport to evaluate likelihood according to the measures, which might be applied. (paras. 7.3120 and 7.3132)	References to the content of the material.
The 2003 BEC Report	Does not contain any evaluation of new information. Calls for further analysis. (paras. 7.3121 and 7.3132)	References to the content of the material.

Studiet av islam och muslimer i Sverige.
Tillbakablickar, trender och framtidsutsikter

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Att reflektera över hur ett forskningsfält har vuxit fram, dess historia och aktuella trender är avgörande för ett ämnes identitet, utformning och framtida målsättning. Syftet med föreliggande korta text är att ge en bild av hur studiet av islam och muslimer i Sverige har utformats under de senaste två decennierna. Min målsättning är dels att ge tillbakablickar och dels att peka på aktuella trender och möjliga framtidsutsikter.

Frånsett att exemplen och analysen är baserad på ett svenskt material är diskussionen överförbar till en större europeisk kontext. Ur detta perspektiv är det svenska studiet av islam och muslimers historia i väst att jämföra med liknande studier i andra europeiska länder. Precis som i övriga Europa är den muslimska närvaron i Sverige framför allt betraktad som ett invandringsfenomen som dateras till slutet av 1960-talet. Vid denna tidpunkt tog bland annat arbetskraftsinvandringen fart från länder dominerade av muslimska kulturer, seder och traditioner. Den billiga arbetskraften innebar dock en stor utmaning för arbetarrörelsen och med oljekrisen 1973 kom situationen att förändras. En allt kärvare ekonomi och ett nytt politiskt läge begränsade arbetskraftsinvandringen från första halvan av 1970-talet. Vid denna tidpunkt börjar dock familjemedlemmar och släktingar till de första invandrarna att anlända i en större omfattning till Europa. Med denna migration ökar också behovet av att kunna tradera, bevara och säkerställa kulturella och religiösa traditioner till den uppväxande generationen. Från slutet av 1970-talet och 1980-talet etableras därför ett allt större antal muslimska institutioner och organisationer i både Sverige och övriga Europa.

Från och med slutet av 1970-talet och revolutionen i Iran har studiet och diskussionen om islam och muslimer också blivit allt mer politiserad. I vilken omfattning är det möjligt att integrera muslimer i västvärlden och i vilken utsträckning är muslimer intresserade av att bli delaktiga i samhället? I kölvattnet av dessa diskussioner frodas dels islamofobiska, nationalistiska och invandringsfientliga och populistiska röster och dels röster som förespråkar mångkulturalism och mångfald (Maussen 2007; Parekh 2008).

Oberoende av det faktum att Europa genomgick en omfattande etnisk och religiös transformering efter andra världskrigets slut dröjde det till mitten av 1980-talet innan forskarvärldens intresse för islam väcktes. Frånsett vissa lokala skillnader – som bland annat kan förklaras av historia, geografiskt läge och koloniala erfarenheter – har merparten av Europas länder gått igenom en snarlik utveckling. Det vill säga en övergång från monokultur till mångkultur.

Tillbakablickar

För att ge en korrekt bild är det dock viktigt att betona att den muslimska närvaron i Europa är långt ifrån ett nytt fenomen. Redan på 700-talet hade muslimer etablerat sig och byggt upp en betydande maktposition på den Iberiska halvön och längst merparten av Medelhavets östra sida. Spåren från Europas muslimska historia är tydlig på Sicilien och Balkan, men också i Centraleuropa och ända upp till Östersjön. Under till exempel det polsk-litauiska väldet som varade mellan åren 1385 och 1795 sammanbands Östersjön och den baltiska regionen med Krim och Svarta havet. Det senare området befolkades bland annat av tatarer och turkiska folkgrupper som bekände sig till islam. Till skillnad från många andra områden i Europa fick muslimer i det polsk-litauiska riket religionsfrihet och de hade samma möjligheter som andra grupper att idka handel (Račius, In print). Trots att de baltiska ländernas historia utgör en viktig del i det norra Europas historia är denna del av vårt förflutna ofta negligerad. Denna ”glömska” kan förmodligen förklaras med Rysslands och sedermera Sovjetunionens inflytande över området. Ett faktum som bland annat kan ha föranlett svenska forskare att vända ryggen till de baltiska ländernas historia och deras nära kontakter med den muslimska världen.

Ur ett svenskt perspektiv är Krim och tatarernas historia av ett speciellt intresse. Den första muslimska församlingen i Sverige startades till exempel av tatariska flyktingar år 1949 i Stockholm (Otterbeck 1998). Trots att dessa kontakter är okända för de flesta svenskar hade den svenska stats-

makten redan under 1500-talet försökt att etablera diplomatiska kontakter med Krim. Syftet med kontakterna var att upprätta en allians mellan Sverige och Krim mot Ryssland. Samtidigt som diplomatiska kontakter knyts vittnar svenska predikosamlingar om att prästerskapet kunde använda ”turken” som en sinnebild för den straffande Guden (Malmstedt 1999). Även Martin Luther visade intresse för islam och muslimer och inte mindre än fyra av hans skrifter är ägnade åt ”turkfaran ”och turkarnas religion (det vill säga islam) (Francisco 2007).

Under 1700-talet fördjupades kontakterna ytterligare med det Osmanska imperiet som en följd av den svenska förlusten i Poltava 1709 och kung Karl XIIs flykt till Bender (nuvarande Moldavien). Mellan åren 1709-1714 upprättade den svenska kolonin i Bender nära kontakter med turkarna och under samma period utrustade Karl XII inte mindre än tre expeditioner till Orienten. Syftet med dessa var att upptecknа, kartlägga och dokumentera det heliga landet och undersöka möjliga svenska handelsförbindelser med regionen (Callmer 1985).

Oberoende av de historiska exemplens betydelse är kontrasten med dagens samhälle påfallande. Tidigare var kunskap om och erfarenhet av muslimer mycket ovanligt. Idag är det så gott som omöjligt att öppna en dagstidning eller befinna sig i folkvimlet utan att bli påmind om att islam är en del av det moderna Sverige. Övergången från ett etniskt, språkligt, kulturellt och religiöst enhetligt Sverige till ett mångkulturellt och mångreligiöst samhälle har dock gott mycket fort. Till exempel i den sista tillåtna statistiken över religionstillhörighet från 1930 uppgav femton personer att de var muslimer (Svanberg & Westerlund 1999:13). Idag är antalet människor med muslimsk kulturell bakgrund uppskattade till någonstans mellan 300,000 och 400,000. Trots att siffrorna är mycket tentativa och problematiska är de en tydlig indikation på att islam och muslimer är här för att stanna.

Trender

Precis som i övriga Europa skulle det dröja till slutet av 1980-talet innan en forskning om islam och muslimer tog fart i Sverige. I en utredning från 1985 rörande etnisk och religiös mångfald bland invandrare från Turkiet identifierades studiet av islam som ett relevant studieobjekt (Larsson & Svanberg 2004:9). Sedan dess har ett stort antal publikationer fokuserat frågor som rör den muslimska närvaron i landet. I min bok *Islam och muslimer i Sverige: En kommenterad bibliografi* har jag till exempel identifie-

rat 430 publikationer plus ett stort antal studier av indirekt betydelse för fältet (Larsson 2004). På basis av detta material är det enligt Ingvar Svanberg och mig möjligt att urskilja några vanliga teman i forskningen.

- Studier om historiska perioder, främst migrationshistoria
- Studier om antalet muslimer i Sverige (inklusive metoddiskussioner)
- Studier av institutionaliseringsprocesser (muslimska föreningar)
- Studier av muslimer och islam i media, skolböcker och populärorientalism
- Studier av moskédebatter, religionsfrihet och muslimers möten med svenska institutioner (skola/sjukvård)

Det faktum att ovan angivna områden har varit mer frekventa i den samlade forskningen skall givetvis inte ses som ett belägg för att inte andra frågor har belysts. Det är dock slående hur stor del av forskningen som har varit fokuserad på snarlika ämnen och det finns en tydlig strömlinjeformning av fältet. Detta har bland annat inneburit att samma fakta har reproducerats och återanvänds i flera publikationer. Lejonparten av den ”nya” empiriska fältforskningen har också genomförts inom ramen för doktorandprojekt. Vid sidan av avhandlingar har fältet främst omfattat disparata artiklar, introducerande kapitel och översiktliga handböcker. Denna observation skall inte ses som någon kritik av den tidigare forskning utan som en indikation på att det är angeläget att söka nya infallsvinklar.

Eftersom avhandlingar om islam och muslimer har spelat en avgörande roll för studiet av islam och muslimer kan det vara viktigt att titta närmare på det senaste decenniets avhandlingar. Tabellen nedan innehåller en förteckning över avhandlingar som explicit handlar om islam och muslimer i Sverige.

Tabell 1: Svenska avhandlingar med fokus på islam och muslimer i Sverige under perioden 1998-2007

År, författare	Titel	Universitet/ämne
1998, Jonas Alwall	*Muslim rights and plights. The religious liberty situation of a minority in Sweden*	Lund/Religionssociologi
2000, Jonas Otterbeck	*Islam på svenska. Tidskriften Salaam och islams globalisering*	Lund/Islamologi
2002, Anna Månsson	*Becoming Muslim. Meanings of conversion to Islam*	Lund/Sociologi
2002, Sara Johnsdotter	*Created by God. How Somalis in Swedish exile reassess the practice of female circumcision*	Lund/Sociologi
2003, Aje Carlbom	*The imagined versus the real other. Multiculturalism and the representation of muslims in Sweden*	Lund/Socialantropologi
2003, Kerstin von Brömssen	*Tolkningar, förhandlingar och tystnader. Elevers tal om religion i det mångkulturella och postkoloniala rummet*	Göteborg/Pedagogik
2004, Kristina Gustafsson	*Muslimsk skola, svenska villkor. Konflikt, identitet & förhandling*	Lund/Etnologi
2006, Madelene Sultán Sjöqvist	*"Vi blev muslimer". Svenska kvinnor berättar. En religionssociologisk studie av konversionsberättelser*	Uppsala/Religionssociologi
2007, Åsa Aretun	*Barns "växa vilt" och vuxnas vilja att forma. Formell och informell socialisation i en muslimsk skola*	Lindköping/Temabarn
2007, Pia Karlsson Minganti	*Muslima. Islamisk väckelse och unga muslimska kvinnors förhandlingar om genus i det samtida Sverige*	Stockholm/Etnologi

Källa: Libris

Tabellen bekräftar de trender som Svanberg och jag identifierade i min kommenterade bibliografi (Larsson 2004). Av de tio avhandlingar som listas i tabellen handlar flera om konvertiter, religionsfrihet, islams etablering och organisering i Sverige och mötet med det svenska samhället. Utöver detta kan tabellen även ses som en illustration av den framskjutna position som Lunds universitet har haft i forskningen om islam och muslimer i Sverige. Ett faktum som till viss del kan förklaras med den betydelse som Jan Hjärpes professur i islamologi har haft för ämnets utveckling. Samtidigt är det viktigt att betona att flera av avhandlingarna i sociologi och

antropologi vid Lunds universitet tycks vara skrivna utan större kontakt med avdelningen för islamologi vid samma universitet. Ett faktum som bland annat har bidragit till onödiga missförstånd och brister (Westerlund 2004). Lund har fortfarande en framträdande position, men det är tydligt att studiet av islam och muslimer har fördelas på fler universitet och högskolor som en följd av svensk utbildningspolitik. Till exempel vid Göteborgs och Uppsala universitet samt vid Södertörns högskola bedrivs idag omfattande forskning om islam och muslimer i västvärlden.

Framtidsutsikter

I en diskussion om framtidsutsikterna för forskning om islam och muslimer i Sverige är det viktigt att beakta både nationella och internationella faktorer. Gränserna mellan dessa kan givetvis vara flytande och öppna för diskussion, men de kan fungera som utgångspunkter för en diskussion.

Om vi börjar med de internationella dimensionerna är det uppenbart att den akademiska världens intresse för islam har ökat som en följd av en rad globala händelser. Revolutionen i Iran 1978/1979; konflikterna kring Salman Rushdie; huvudduksdebatten i Frankrike; den 11 september 2001; bomberna i Madrid och London; Jyllands-Postens Muhammadteckningar och Lars Vilks utställningar är några externa faktorer som har påverkat studiet. Dessa händelser har alla aktualiserat forskningen, men de har också bidragit till en politisering av fältet. Att studera islam och muslimer i väst uppfattas idag som ett politiskt ställningstagande och forskare förväntas ofta ta ställning i debatten. Skillnaden mellan att förklara och förstå har blivit reducerat till en fråga om försvar eller avståndstagande. I detta spänningsfält aktualiseras frågan om policy-forskning eller fri forskning. Skall forskningen bidraga till samhällsutveckling eller skall den vara objektiv och fri från alla förväntningar och krav på omedelbart omsättbara resultat? Utan att fördjupa oss i diskussionen om forskningens uppgift eller om det är möjligt att vara objektiv är det tydligt att studiet av islam ofta berör dessa frågor.

Om icke-muslimska akademiker har påverkats av internationella händelser är de globala händelsernas konsekvenser och biverkningar ännu tydligare för muslimer. Efter den 11 september var det till exempel vanligt att muslimer utsattes för diskriminering och islamofobiska handlingar i hela västvärlden (Larsson 2005). Som en följd av dessa processer kände sig många muslimer utpekade och de framställdes antingen som sympatisörer eller potentiella terrorister. Både praktiserande muslimer och sekulära personer med muslimsk kulturell bakgrund upplevde att samhällsklimatet blev hårdare efter hösten 2001. Huruvida denna analys är korrekt eller inte är omdiskuterat, men det är tydligt att flera högerpopulistiska partier har

ökat i popularitet från början av 2000-talet. För dessa partier är krav på begränsad invandring och kritik av islam ofta centrala politiska budskap.

Oberoende av segregation, diskriminering och ökade spänningar är det rimligt att antaga att bilden av islam har blivit mer sammansatt och komplex. Som en följd av ett ökat medialt intresse för ”muslimska frågor” har det till exempel blivit allt svårare att framställa muslimer som en homogen grupp. Ett faktum som i och för sig inte behöver innebära att sympatin eller förståelsen för islam och muslimska seder ökar. Samtidigt tycks media fortfarande föredraga stereotypa och svart-vita bilder av islam och muslimer. Muslimer är per definition annorlunda jämfört med ”vanliga” människor. Om denna analys är rimligt – vilket flera medieundersökningar visar – är det tydligt att media bidrar till en uppdelning mellan vi-och-dom (Allievi 2003). Som en följd av dessa processer måste muslimer vanligtvis förhålla sig till globala frågor även om de inte har något med händelsen att göra. Terrordåd, könsstympningar, införandet av sharia-lagar är bara några av de ämnen som muslimer förväntas ta avstånd ifrån. Detta trots att de inte automatiskt har någon kunskap om frågan eller ens sympatiserar med dessa tankar och handlingar. Med detta sagt vill jag inte hävda att muslimer i Sverige inte kan sympatisera med till exempel internationella terrordåd. Dokumentärfilmaren Oscar Hedins film om de svenska martyrerna – *Det svider i hjärtat* – är i sammanhanget ett exempel på att svenska muslimer kan sympatisera med våldsamma tolkningar. Med detta sagt är det viktigt att betona att merparten av muslimer inte tycks känna någon sympati med våldshandlingar – ett faktum som Sveriges unga muslimer betonade efter terrordåden i Förenta Staterna 2001 (Larsson 2003:58).

Om vi istället återvänder till den svenska forskningen om islam och muslimer är det tydligt att den framtida forskningen är beroende av både forskningsanslag och vetenskapliga miljöer. Mot bakgrund av det faktum att merparten av grundforskning har utförts av doktorander är det givetvis oroande att det har blivit allt svårare att bli antagen till en forskarutbildning vid svenska universitet. Detta problem delar islamologer med andra ämnen inom både humaniora och samhällsvetenskap. Samtidigt som det har blivit svårare att anta nya doktorander har konkurrensen om externa forskningsmedel hårdnad. Dessa två faktorer innebär att det finns en uppenbar risk att grundforskningen urholkas och potentiella ämnen förblir outforskade. Ytterligare ett problem är den snabba utbyggnaden av högskolor och etableringen av nya universitet. För nydisputerade forskare innebär statens nysatsningar bättre möjligheter att få arbete och fast anställning. Samtidigt är det tydligt att det har blivit allt svårare att bygga upp starka forskningsmiljöer kring ett ämne som studiet av islam och muslimer. För att kunna studera världens cirka 1,5 miljarder muslimer i både historia och nutid är det uppenbart att flera forskare måste arbeta tillsammans. Detta är dock sällan fallet och de flesta universitetets och högskolemiljöer är begränsade till kanske en eller två tjänster i varje ämne. Dessa lärare

förväntas att både bedriva internationellt gångbar forskning samtidigt som de skall undervisa inom sitt ämne och närliggande områden. Mot denna bakgrund är det uppenbart att svenska forskare har mycket svårt att konkurrera med forskare från internationella miljöer som till exempel *The International Institute for the Study of Islam in the Modern World* (ISIM) i Nederländerna eller *Oxford Centre for Islamic Studies* i England.

Oberoende av de strukturella och ekonomiska problemen är det tydligt att forskningen om islam och muslimer i Sverige har flera viktiga områden kvar att utforska. Enligt min bedömning är det relevant att framtida forskare försöker att dokumentera, analysera och besvara följande frågor.

- Vilka teologiska diskurser dominerar och influerar muslimer i Sverige?
- Vilken litteratur sprids i moskéer och bland muslimer?
- I vilken omfattning frågar muslimer efter teologiska råd (*fatwor*) från internationella muslimska teologer?
- Följer muslimer de råd (*fatwor*) som de får från nationella och internationella ledare?
- Vilka ämnen predikar muslimska teologer om?
- Finns det några generationskonflikter mellan och bland muslimska grupper?
- Hur förhåller sig sekulära/kulturella muslimer till islamiska traditioner?
- Hur praktiserar ”vanliga” muslimer islam i vardagen?
- Vilken betydelse spelar informations och kommunikationsteknologi för den inom-islamiska diskussionen?
- Hur utformas den anti-muslimska retoriken bland högerpopulistiska partier?

Listan kan givetvis göras mycket längre, men det är tydligt att forskningen om islam och muslimer fortfarande befinner sig i sin linda.

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The Prospects for EU Democracy Promotion towards its Muslim Neighbours around the Mediterranean: A Theoretical Framework

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Introduction

To its south and south-east, the EU borders on a range of Muslim countries, which – for different reasons – are not marked by a democratic political order. Arguably, one exception from this is Turkey, a candidate country to the EU, which started accession negotiations in October 2005. Turkey definitely has its share of democratic problems, but the country has in recent years shown a great willingness to reform its political order in a democratic direction.

In different ways, the EU works – not least as a part of its security strategy – to promote democracy in this region and thus to make these southern and south-eastern Muslim neighbours democratise their political orders. That the Mediterranean region is of vital strategic importance to the EU stands clear – both the Council and the Commission have identified the southern and eastern Mediterranean region and the Middle East as a prioritised area in the external relations of the EU.[1] But what are the prospects for the democracy promotion policies of the EU to succeed in making for democracy in this part of the Muslim world?

[1] Europa.eu.int/comm/external_relations/med_mideast/intro/index.htm.

In 1995 a conference was held in Barcelona, constituting the starting-point for the so called Barcelona process. The Barcelona process, in which the EU and initially 12 partner countries in the Mediterranean region took part, was aimed at increasing the political, economic and social contacts between the participating states, with the objective of creating a relation marked by stability and peace.[2] Within the Barcelona process, a range of different issues are addressed. In the political field, the issue of democracy is prioritised. However, so far the democracy promotion policies of the EU have borne little fruit.

Even if the first years of the 2000s saw some democratic progress in the Mediterranean region, such as the Cedar revolution in Lebanon in 2005, the opening up of the electoral process in Egypt and Saudi Arabia the same year, reforms in Jordan and Morocco, and the 2006 parliamentary election in Palestine, the democratic momentum has since been lost. Thus, the Muslim countries south and south-east of the Mediterranean are still – if to different extents – marked by a significant degree of democratic deficit. As mentioned earlier, Turkey is an exception here with its – occasionally slowed down and far from fully accomplished – EU-sponsored process of democratisation.

Thus, democratisation of the Muslim world is much debated on the international arena today; also within the countries themselves debates run high. In the early 2000s, the US prioritised democracy promotion in the Middle East in its foreign policy, and the UNDP has in several reports pointed to the democratic deficit in particularly the Arab Muslim world. The academic debate on the prospects for democracy in the Muslim world is extensive.[3]

Lately, not least because of the debacle in Iraq and the developments after Hamas victory in 2006 parliamentary elections in Palestine, enthusiasm for democracy promotion in the Middle East has however been tempered – at least from the US side and in the region itself. The EU, however, continues its strong support for democracy promotion in the region, at least in rhetorics.

Far from all analysts, local as well as international, are however convinced that the EU truly wants democracy in the Muslim states around the Mediterranean. Security and stability, not a process of democratisation which may be

[2] Initially, the partner countries were: Algeria, Cyprus, Egypt, Israel, Jordan, Lebanon, Malta, Morocco, the Palestinian Authority, Syria, Tunisia and Turkey. Since 2004, Cyprus and Malta are no longer partner countries, as they have joined the EU. Libya has observer status since 1999. In 2007, Albania and Mauritania joined as partner countries.

[3] Cp. e.g. Diamond, Larry (ed) (2003): *Islam and Democracy in the Middle East*. Baltimore, MD : Johns Hopkins University Press, Ghalioun, Burhan (2004): "The Persistance of Arab Authoritarianism", in *Journal of Democracy Volume 15, Number 4 October 2004,* Lakoff, Sanford (2004): "The reality of Muslim Exceptionalism", in *Journal of Democracy Volume 15, Number 4 October 2004*, Stepan, Alfred C. & Robertson, Graeme B. (2004): "*Arab, Not Muslim, Exceptionalism*", in *Journal of Democracy Volume 15, Number 4 October 2004*.

violent and highly instable and which might result in Islamist rule, is the prime aim of the EU according to many analysts.

Still, the EU invests a large amount of money in democracy promotion in this area. The argument here is that it is important to study these policies. Instead of discarding the democracy promotion efforts by the EU *a priori*, they need to be analysed in detail. Only by looking closer into what the EU is actually doing, it is possible to assess the prospects for success of these democracy promotion efforts.

To analyse how an international actor like the EU acts to promote a democratic development in undemocratic countries is also important from a more general theoretical point of view, as a step in developing theories on democracy promotion. In order to make such an analysis, an appropriate theoretical framework is needed. However, as I return to later, such appropriate theoretical frameworks for analysing democracy promotion are largely lacking in literature. In this chapter, I therefore propose a theoretical framework for how the prospects for democracy promotion in general – as well as for EU democracy promotion towards its Muslim neighbours – can be analysed.

Democratisation

In the theoretical literature, different factors are discussed as contributing to the democratisation of a country. Among other approaches, three major schools have developed in the field – the modernisation theory, historical sociology and transition studies (Grugel, 2002). These different schools tend to emphasise different factors, such as the importance of social and economic modernisation and an educated middle class (modernisation theory), the conflict between different elites (transition theory) and/or favourable structural and institutional conditions (historical sociology). A pluralist and active civil society has also been regarded as important.

These factors have in common that they are internal to the country. It is generally agreed in the literature that such internal factors are the *sine qua non* for democracy; domestic driving forces are decisive for democracy to take root in any country (Brown, 2005).

However, it is also generally agreed that international pressures are of importance as well in making for democracy in an undemocratic state, even if they cannot by themselves make for democracy. International pressures can feed into different stages of a democratisation process in a given country. These international pressures often take the form of democracy promotion

policies by different international actors (states or organisations).[4] Such democracy promotion policies by international actors can help – but also disrupt – the growth of democracy in any given country.[5]

This chapter focuses on how to conceptualise democracy promotion theoretically, and a framework pinpointing vital aspects for successful democracy promotion is developed. This framework makes assessment of the prospects of success for democracy promotion efforts in general possible, however it can obviously also be used regarding the prospects of success for EU efforts to promote democracy among its Muslim neighbours around the Mediterranean.

Democracy promotion

Democracy promotion as a part of foreign policy and development cooperation has attracted increased interest by international actors since the beginning of the 1990s (Brown, 2005, Youngs, 2001, Lundgren, 1998, Brodin, 2000). Brown remarks that "(f)rom the early 1960s to the late 1980s, an era of intense superpower competition, strategic alliance was the most common condition for development assistance. (…) In practice, foreign aid was often inimical to democratisation by supporting military and civilian autocracies" (Brown, 2005: 180-181). However, "(t)he 1990s saw the rapid growth of democracy promotion as bilateral and multilateral donors reformulated their priorities for assistance" (Brown, 2005: 181). The terrorist attacks of 11 September 2001 further increased the importance of democracy promotion. Indeed, democracy promotion – dressed in different garbs – has been constructed as the foreign policy instrument for the US in its war on terror (Carothers, 2004: 1). Also for the EU, democracy promotion has taken on a great a importance since the end of the Cold War, even if also earlier efforts to reform third countries in order to make them acceptable as members of the Community (such as Greece, Portugal and Spain) can be conceptualised as democracy promotion as well (cp. e.g. Lundgren, 1998, Optenhoegel and von Meijenfeldt, 2004).

[4] Here, democracy promotion is – in line with a definition by Schmitter and Brower (1999) – defined as follows: "Democracy promotion & protection consists of all overt and voluntary activities adopted, supported, and (directly or indirectly) implemented by (public or private) foreign actors explicitly designed to contribute to the political liberalization of autocratic regimes, democratization of autocratic regimes, or consolidation of democracy in specific recipient countries". However, this definition deals with both democracy promotion and protection; the focus in this chapter is on democracy promotion alone.

[5] Cp, Brown, 2005. For a critical analysis of the harm done by the Bush administration in this field, see Carothers, 2006.

Politically, then, democracy promotion has become much of a catch-word for international actors in the post Cold War world, even if events recently have tempered at least the US' focus on democracy promotion. Theoretically, however, democracy promotion as a concept is less well and less consistently developed. Indeed, "(a)nalyses of democratisation widely under-examine and under-theorise international actors" (Brown, 2005: 180). This view is also supported by Thomas Carothers, who has long been active in the field: "Democracy promotion is only weakly present in scholarly research circles. It sits awkwardly in between the disciplines of international relations, comparative politics, development studies, and law – related to all four but not finding a home in any one" (Carothers, 2004: 2). Democracy promotion is thus primarily discussed as concrete policy initiatives, while "the amount of distilled, accumulated, and organized knowledge about this domain remains quite limited" (Carothers, 2004: 2). Recently, there has however been a surge in scholarly works addressing this lacuna, not least in relation to EU democracy promotion (cp. e.g. Schimmelfenning & Scholz, 2007, Börzel & Risse, 2007, Stahn & van Hüllen, 2007). Here, I partake in this development of democracy promotion as a concept, by addressing important aspects hitherto largely neglected theoretically. In doing so, I draw on different strands of discourse related to democracy promotion in different ways, starting with conceptualisations of democracy promotion itself.

Conceptualisations of democracy promotion

Even if it is largely under-theorised, certain conceptualisations of democracy promotion have however been made. Primarily, it is noted that democracy promotion can take different forms and typologies of democracy promotion abound. Lundgren lists different instruments that can be used in democracy promotion: diplomacy, conditionality, economic (technical, financial) aid, military intervention, moral support and political aid (Lundgren, 1998: 38-45). Ethier talks about control, conditionality and incentives (Ethier, 2003: 100).

These different instruments have different advantages and disadvantages. Among the scholars in the field, there are different opinions on how successful the different instruments are.

Especially conditionality is much discussed as to its efficiency. Generally, the opinion seems to be that "(p)olitical conditionality, which makes assistance contingent on the implementation of specific political reforms, has not been particularly successful. When this approach has been tried…it has led most often to superficial change, ritualistic elections, and the rise of what have been called 'illiberal', 'electoral' or 'virtual' democracies" (Ottaway and Chung,

1999: 112. Cp. also Shin, 1994:165 and Brown, 2005). However, in one instance there is common agreement on the success of conditionality as a democracy promotion device, and that is regarding the positive role played by conditionality in making for democratisation of the southern and east European states, which later joined the EU (cp. e.g. Ethier, 2003).

Importantly, the different instruments used in democracy promotion rest on different logics. Here two basic logics can be traced: the positive, socialisation-based logic (such as diplomacy and moral support) and the negative, incentive-based logic (such as conditionality) (McDonagh, 2006: 16).

Norm-diffusion

Both these logics, the positive, socialisation-based logic and the negative, incentive-based logic, are conceptualised in social constructivism theory, which in part deals with "the process through which principled ideas ('beliefs about right and wrong held by individuals') become norms ('collective expectations about proper behaviour for a given identity')" (Risse, Ropp & Sikkink, 1999:7, citing Jepperson, Wendt, and Katzenstein, 1996:54). This process is conceptualised as a "process of *socialization*" (Risse, Ropp & Sikkink, 1999:11, italics in original). According to this logic, "socialization to international norms is the crucial process through which a state becomes a member of the international society. The goal of socialization is for actors to internalise norms, so that external pressure is not longer needed to ensure compliance"; moreover, such norms are diffused: "the concept of socialization may be useful in understanding how the international society transmits norms to its members" (Risse, Ropp & Sikkink, 1999:11). Thus, the whole idea of democracy promotion can be can be subsumed under the headline of socialisation, in that "recipients" should take on (socialise with) the norm of democracy.

In the discourse on norm-diffusion, different kinds of socialisation are discussed. Risse and Sikkink distinguish between three different types and stages of socialisation: 1) processes of adaptation and strategic bargaining; 2) processes of moral consciousness-raising, 'shaming', argumentation, dialogue, and persuasion; and 3) processes of institutionalization and habitualization (Risse and Sikkink, 1999: 11). Different logics are at play in these different types and stages. Whereas, in the early phases of the socialisation process, strategic "instrumental adaptation" is at play when actors "adjust their behaviours to the international…(norm)…discourse without necessarily believing in the validity of the norms" (Risse and Sikkink, 1999:12), another logic is at play in the processes of "socialisation through moral discourse (emphasising) processes of communication, argumentation, and persuasion" (Risse and Sikkink, 1999:13).

Here, "(a)ctors accept the validity and significance of norms in their discursive practices" (Risse and Sikkink, 1999:13). As these processes intertwine, so the argument goes, norms are institutionalised and, finally, internalised.

In this process, the positive logic is clearly dominant. However, socialisation is not devoid of coercion, and a negative logic is sometimes also at play. This is witnessed by Risse and Sikkink, in referring to the area of human rights, especially regarding persuasion, which is "not devoid of conflict. (Indeed) (i)t often involves not just reasoning with opponents, but also pressures, arm-twisting, and sanctions" (Risse and Sikkink, 1999:14).

However, positive methods are much preferred to more coercive methods. Authenticity of norm acceptance is important in the constructivist literature, and it is regarded as more easily reached when positive methods are used: "Traditionally, the constructivist literature has been reluctant to attach material carrots or sticks to the efforts of persuasion, claming that authentic norm adoption is a matter of a normative change that cannot be forced by carrots or sticks" (Björkdahl, 2006:8).

In developing a general framework on vital aspects for successful democracy promotion, such insights from social constructivist works are useful.

Focus on donors – recipients ignored

In the debate on democracy promotion both on policy and academic level, one must note that the focus – to a very large extent – has been on donors. Several articles and books discuss why donors act, how they act, what they do and so on (cp. Burnell, 2000:3). Less focus has been bestowed on the recipient countries, and the preconditions for success of democracy promotion policies within a specific country.[6] One reason for this lack of interest in recipients is "the prevailing assumption that there are no preconditions for democracy and that there is virtually no place where democracy promotion cannot bear fruit" (Ottaway and Chung, 1999:112). Democracy is viewed as something universal, and, accordingly, it can be applied in every country of the world. Democracy promotion should thus not be limited only to countries where success is likely, but should be bestowed on all sorts of countries.

However, even if granting this argument, I argue that to take the conditions of the specific country into account when discussing democracy promotion does not mean to limit the range of countries suitable for democracy pro-

[6] I here use the terminology as commonly used in the literature, referring to "donors" and "recipients", while being aware of the asymmetry it implies.

motion. It only suggests that the democracy promotion should be country-sensitive, and not applied in the same manner across all states.[7]

Such a country-sensitive approach also suggests that democracy promotion is something that should be dealt with in close cooperation between the donor and the recipient state and society. At a general level, I argue that for democracy promotion to have a lasting effect, i.e. true (as opposed to pseudo) democratisation of the country, it needs to have at least some support in the recipient country (in the state, the political society, the civil society and/or among individual citizens, depending on strategy). In line with this argument, democracy promotion can be successful only if it is consensual or at least tolerated, not if it is non-consensual.

However, today the participation of recipient states in formulating the democracy promotion policies is largely lacking. Such a lack of recipient participation is indirectly referred to by Schmitter and Brouwer in stating that "(t)he donor…has to decide which…transition to democracy it prefers to take place" (Schmitter and Brouwer, 1999). Here, it is clear that it is the donor, not the recipient, that decides on the appropriate means for democratisation. Even if this may be natural due to the construction of the relationship, the lack of participation of recipients is lamented.[8] According to Crawford, "one problem identified with the democracy and governance assistance activities of agencies such as the European Commission is the limited involvement of recipient organisations, both government and non-government, in the design and implementation of projects and programmes. At worst, this can be perceived as the notion that 'donors know best'. Such ideas are underlined by the application of a standard model of democratisation and menu of democracy assistance activities, with little consideration of the particular country context (Crawford, 2001: 15).[9]

Not only recipients are left out of the policy-making as well as academic discourse on democracy promotion, but also the relationship between donors and recipients. Brown establishes that "insufficient attention is paid to the interaction between international and domestic actors" (Brown, 2005: 180). Instead, "discussions tend to focus on Western attempts to foster democracy abroad" (Brown, 2005: 180).

The discourse on democracy promotion is however not alone in putting more emphasis on the donors than on the recipients, or to make the argument more general: on Western powers rather than those in the South (or in identity

[7] On the need to "be sensitive to local realities", cp. also Carothers (2004).

[8] Cp. Brodin on the inherent contradiction in so called "partnership", here referring to aid activities: "Aid activities based on the determination of rules by one partner before the dialogue even takes place must be viewed as a rather unequal arrangement, which contradicts the very idea of 'partnership'" (Brodin, 2000: 42).

[9] Crawford here refers to Brouwer, 2000 and Carothers, 1997.

terms: on "Us" rather than on "Them"). Indeed, this seems to be a common trait in a range of discourses. Also in the social constructivist debate on the diffusion of norms, focus is again primarily on the "donors", this time "donors of norms" or norm-makers. Thus, there is "a traditional bias in the social constructivist literature of focusing on the norm-maker while largely ignoring the norm-taker" (Björkdahl, 2005: 258), even if there are exceptions.[10] The general discourse on the EU as well suffers from focusing on "Us" rather than on "Them", something that is emphasised in a special issue of European Foreign Affairs Review, dealing with "The European Union in the Eyes of Others: Towards Filling a Gap in the Literature" (Lucarelli, 2007).

If recipients and the relationship between donors and recipients are largely ignored in the policy as well as academic discourse on democracy promotion, and the same problem is found in other discourses focusing on "Us" rather than on "Them", another academic field close by has increasingly put emphasis on these aspects, namely development cooperation studies. Indeed, today there is a consensus among all actors involved in development cooperation, in the academic discourse as well as among donors and recipients, that it is of utmost importance to include the recipients to a great extent in any development project.

This was not always the case. Indeed, for a long time donors saw themselves as better suited to draw up and implement development programmes and projects (cp. Gibson et al, 2005:11). In the early 1990s, however, critical voices were raised against this heavy focus on donor decisions, claiming that it lead to a lack of "ownership" on the part of the recipients, and "(w)ithout such ownership, critics argued, recipients do not make the kind of commitments needed to ensure the realization of the intended long-term results of donor assistance"; these assumptions were proved by several evaluations of long-term sustainability of development projects, showing that those projects without ownership failed, while those projects that ensured ownership succeeded in achieving long-term sustainability (Gibson et al, 2005:11).

Today, there is thus common agreement in the discourse of development cooperation – based on many evaluations of development projects and thorough analysis of the foundational assumptions of the development cooperation – that for development policies to have a lasting effect, they need to be devel-

[10] Björkdahl refers to the special issue of International Organisations, vol. 59, no. 4, 2005 as such an exception.

oped in close dialogue between donors and recipients, and that domestic ownership of projects and processes is critical.[11]

These conclusions are sought to be put into practice in development cooperation policies. As a vital declaratory document, the Paris Declaration on Aid Effectiveness from 2005 stand out. In the Paris declaration, responsible politicians and officials from developed and developing countries, under the auspices of OECD, vow to act by the principles of ownership, harmonisation, alignment, results and mutual accountability; ensuring that recipient countries are put in the driver's seat of their own development (Paris declaration, 2005). However, evidence suggests that it is not easy to implement these ideas, as previous ways of looking at development aid are heavily ingrained.

Framework pinpointing vital aspects for successful democracy promotion

On the basis of the considerations outlined above, it is now time to define a theoretical framework for analysing the prospects of success for democracy promotion. In doing so, I argue that in line with the social constructivist discourse on norm diffusion and the discourse on development cooperation, and considering that recipients are generally ignored in democracy promotion policies, it is of crucial importance that the stance of recipients are taken into account, both in academic accounts and policy wise, also in the field of democracy promotion to a greater extent than has been the case. By doing so, I argue, the prospects of success for democracy promotion increase considerably.

Given the lessons learnt from social constructivism and development cooperation, I argue that three factors stand out as being of crucial importance for the success of democracy promotion both in general and, consequently, regarding EU democracy promotion towards its Muslim neighbours. Thus, in the theoretical framework proposed here, three important factors increasing the chances for successful democracy promotion are listed:

- orientation towards the project of democratisation as espoused by the "donor" on the part of the "recipient" (including orientation towards the values on which democratisation is based),
- domestic ownership of the process, and

[11] Indeed, these insights inform the strategies of many development agencies, including those of USAID (2000), Japan's JICA (2001), OECD (2002), Swedish SIDA (1997) and the EU; also the recipient countries themselves emphasise the importance of domestic ownership for development (Gibson et al, 2005:12).

- dialogue between the "donor" and the "recipient".

I argue that these factors always are of importance for the success of democracy promotion. However, these factors are all the more important when the "donor" and the "recipient" come from different political traditions, something that makes it even more important to make sure that differences are bridged.

These factors are thus here pinpointed as vital for successful democracy promotion in any given country. This is not to say that they are sufficient in making for democracy. A number of other factors are obviously important as well for successful democracy promotion. The argument here is that the prospects of success for democracy promotion increase to the extent that orientation, domestic ownership and dialogue as here defined are at hand.

In the following, I spell out what is meant by orientation, domestic ownership and dialogue, and why it is particularly important for EU democracy promotion among its Muslim neighbours.

Orientation

"Orientation" draws on the general theories of norm diffusion and socialisation, referred to earlier, which have become common in the literature on international relations, including in the discussion on the EU as a global actor. As referred to earlier, "(t)he goal of socialization is for actors to internalise norms, so that external pressure is not longer needed to ensure compliance" (Risse, Ropp & Sikkink, 1999:11). Internalisation of norms in the minds of recipients is thus the end goal, according to this logic, but it is not achieved instantly, but rather after a long process (if at all).

In this context, I do not argue that the democracy as a norm has to be wholly internalised in order for democracy promotion to be regarded as having prospects for success, in the sense that "actors comply with them (the norms) *irrespective* of individual beliefs about their validity" (Risse, Ropp & Sikkink, 1999: 16, italics in original); instead, such institutionalisation of norms is the ultimate goal of the democracy promotion. However, I argue that if recipients or partners are oriented towards the democracy promotion policies in question, here the EU project of democratisation, as well as towards the values on which it is based, in the sense that they believe in and feel akin to the project as it is laid out, it will increase the prospects of success for democracy promotion.

Thus, I am interested in the recipients as "norm-takers" and in their willingness to orient themselves towards the norms provided by norm-makers, in this case the EU's project of democratisation and the values on which it is

based. Björkdahl (2005, 2006) uses Checkel's term "norm-taker" to denote these recipients, and emphasises that even though "norm-taking" indicates a passive stance on the part of the recipient, "(t)he norm-taker is not perceived as passive in the process of socialization, but influential and responsible for electing the norms and constructing a normative fit between the adopted norm and the local normative context" (Björkdahl, 2006: 9). However, adoption of foreign norms is not the only alternative for the norm-taker. Instead, Björkdahl lists four different categories of response on the part of the norm-taker. Thus, "(e)xternal normative influence may be met with adoption of the new norms, localization of the new norms to the local pre-existing context, resistance and also rejection" (Björkdahl, 2005: 274).

In line with the general thrust of this argument, a norm is thus not diffused unless it is "taken" by a norm-taker. Without digging deeper into the process through with the norms are adopted, localized, resisted or rejected by the "norm-taker", my focus of interest here is on the extent to which there is an orientation towards the EU project of democratisation and the "common values" on which it is based. Instead of focusing on the process of how the socialisation takes place (which is often studied), I focus on what can be regarded as the first step in the process, namely initial orientation towards the project as such.

Thus, in summary, the argument in relation to "orientation" is that the prospects for successful democracy promotion increase if the receiving partners are oriented towards the specific project of democratisation at stake (including the values on which it is based).

Domestic ownership

Drawing largely from the discourse and practice of development cooperation, the importance of domestic ownership of the democracy promotion, if these policies are to be successful, is here emphasized. In line with the claim in the development cooperation discourse, "that recipients need to become 'owners' of aid in order for development assistance to be sustainable" (Gibson et al, 2005: 7), I claim that recipients need to be owners of democracy promotion policies, for these to be successful.

Also in relation to the discourse on democratization, and not least EU efforts to promote democracy, the importance of ownership has been emphasised. Indeed, Kubicek states – regarding Turkish reforms in line with EU requirements – that "if the reforms are more a European than a Turkish project and if they do not have diffuse support among the population or benefit from a sense of domestic ownership, one would expect both the accession process to

be more difficult and the reforms to be poorly institutionalized" (Kubicek, 2005:362).

However, what does "domestic ownership" mean? This question has haunted the development cooperation discourse ever since the start of using the term. The definition "remains unclear when reading official documents or talking with officials from either the donor or recipient sides" (and) "(i)t becomes even murkier when confronted with the reality of development ownership in the field"; indeed, neither the academic discourse nor the donor agencies have provided a useful definition of the complex concept of "ownership" (Gibson et al, 2005: 12-13).

For the purpose of this project, ownership is looked at from its practical side. To what extent are "recipients" actually involved in the development of the democracy promotion policies and their implementation? The basic idea here is that for democracy promotion to be domestically owned, in the sense that there is an elusive feeling of domestic ownership, it has to practically owned, i.e. the process needs to be largely in the hands of the recipients. Only such practical ownership, I argue, will lead to the more elusive sense of domestic ownership.

Thus, in order to assess the prospects for democracy promotion, it needs to be established to what extent the different actors involved own the process, both generally – in the sense that who runs the process (where is the driving force located, on the donor-side or the recipient-side), and more specifically – who sets up the actual guidelines for and the priorities in the process (the donor or the recipient)?

The contention is that the greater role the actors on the recipient side has in running the process (being the driving force of the process) and in setting up the guidelines for and priorities in the process, the greater their sense of ownership of the process will be, making for greater prospects of success for the democracy promotion policies at hand.

In this context, reference should also be made to the general conclusion in democratisation theory, stating that internal factors are most important for democratisation to take place in a country. This conclusion as well reinforces the contention made here regarding ownership. Only primarily domestic driving forces could make for successful and sustainable democratisation, along these lines of reasoning. For democracy promotion by external actors to be successful, then, it should thus facilitate such domestic ownership.

Dialogue

The concept of dialogue, and its importance in democracy promotion as used here, draws both on the discourse of development cooperation and on the traditional theories of democratization.

As stated earlier, the conclusion reached in the development cooperation discourse and practice is that recipients need a sense of ownership for projects and programmes to be successful. How this ownership in itself can be studied has just been drawn up. Ownership has here been defined in a practical way, referring to who actually owns the process. Now, I argue that while practical ownership as defined here is important, it is also important that the major social segments in society feel involved in the democracy promotion efforts for them to be successful. Such a sense of involvement is reached, I argue, through dialogue. Thus, this aspect is intimately related to, but distinct from (in some senses preceding), ownership as defined earlier.

In this context, I focus on two types of dialogue: Dialogue between the donor and the actual recipient of assistance (typically the state or local NGOs), and dialogue between the donor and different social segments in the recipient country (not necessarily receiving assistance). To what extent does the donor, here the EU, talk to, and – importantly – listen to, its counterpart in democracy promotion (be it on state level or NGOs)? And to what extent does the donor talk and listen to different social segments in the recipient country?

The argument is that for recipients (state and NGOs) to be able to feel a sense of ownership at all, they need to feel that their concerns are listened to and taken into consideration by the donor, in this case the EU. If there is no true dialogue, there is little chance for ownership, and thus – in line with the general contention at the base of this study – little prospects for success of democracy promotion.

The other aspect of dialogue is more connected to ownership in a broader sense. Here, the argument is based in the common notion in democratisation theory that democracy needs to be anchored in different segments of society in order for it to be sustainable. My argument, then, is that for democracy promotion to be successful in society at large, donors need to talk – and listen – to different segments in society. Importantly, it is not enough to talk to the state itself and NGOs close to the state; also the political opposition needs to be involved in dialogue. Indeed, it is the whole society that is to go through the process of democratisation, which the democracy promotion is intended to facilitate. All major voices need therefore to be listened to, if not necessarily followed.

In this context, it should be remembered that the state itself is not seldom the main obstacle to democratisation, not least because it is the elite connected to the present state that stands most to loose from a democratisation: ”The in-

dividuals who are currently most powerful in recipient countries nearly always have the most to loose from changes leading to democratic development. They may forcibly resist such efforts" (Gibson et al, 2005:14). If the donor ensures the ongoing involvement also of other segments of society than those connected to the present state – importantly the political opposition – through an inclusive dialogue, the prospects for a successful democracy promotion increase, according to this argument.

This aspect of democratisation is also highlighted by scholars in the field. Kubicek states that "to the extent that the EU is able to work *with* Turks and foster acceptable democratic norms and empower democratically oriented forces within Turkey, one would be far more sanguine about democratic consolidation in Turkey" (Kubicek, 2005:362, italics added). Not least the role of the civil society is commonly emphasised in the democratisation discourse: "In essence, the issue is the development of civil society, which is generally assumed to be an invaluable force for democratization in much of the literature. To the extent that outside agents can bolster a state's civil society, the prospects for democratization improve" (Kubicek, 2005:363). However, not only the civil society is important; indeed "(o)ne crucial factor, according to one set of writers, is that external agents need to foster 'transnational networks' with elites, parties, and non-governmental organizations within the targeted states" (Kubicek, 2005:363). This argument is often dealt with the the social constructivism discourse, and the assumption is that norms are more easily diffused to such "transnational networks", a priori favouring the norm in case, (hopefully) resulting in a trickle down effect (Risse & Sikkink, 1999).

However, I argue that in addition to such a priori "democratically oriented forces", involving also representatives from segments that are not the first champions of democracy in the process, through dialogue, also increases the chances for successful democracy promotion. After all, as discussed earlier, democracy will have to be anchored in all major different segments of the country itself to be a success, and supported not only by governing and elite structures. Thus, the process of democratisation needs to take place in dialogue between all major segments of society if democracy is to be sustainable as an end result. In democracy promotion, therefore, I argue that the major social segments need to be involved in dialogue. This aspect is especially important when, as is not seldom the case in not fully democratic countries, the government along with the dominating elites, parties and NGOs, are not fully representative of the population at large.

Thus, the theoretical contention related to "dialogue" in the proposed framework can be summarised as follows: Two kinds of dialogue increase the prospects for successful democracy promotion; namely a) dialogue between the

donor and the actual recipient of assistance (typically the state or local NGOs), and b) broadly based dialogue between the donor and different segments in the recipient country (not necessarily receiving assistance).

Now, having defined the meaning of the different factors, it is time to draw together the theoretical framework here proposed for analysing the prospects for success of (EU) democracy promotion.

Table 1. Framework of vital aspects for successful democracy promotion.

Concept	Theoretical contention	To study
Orientation	The partners' orientation towards the project of democratisation, and the values on which it is based increases the prospects of success for democracy promotion.	To what extent is there is an orientation towards the project of democratisation and the values on which it is based on the recipient side?
Domestic ownership	Practical domestic ownership increases the prospects of success for democracy promotion.	To what extent do the different actors involved own the process, in these senses: who runs the process (where is the driving force located), the donor-side or the recipient-side?, who sets up the actual guidelines for and the priorities in the process (the donor or the recipient)?
Dialogue	Dialogue between donors and recipients increases the prospects of success for democracy promotion.	To what extent does the donor talk and listen to, its counterpart in democracy promotion (be it on state level or NGOs)? different social segments in the recipient country?

The special importance of orientation, domestic ownership and dialogue in democracy promotion in the Muslim countries around the Mediterranean

According to my argument, orientation, domestic ownership and dialogue are always important in making for successful democracy promotion. However, this focus on orientation, domestic ownership and dialogue is all the more pressing as international actors in general often are accused, both by recipients and by scholars in the field, of applying "double standards" in their democracy promotion – or of being more interested in pursuing their own interests than in making for true democracy in recipient or partner countries. Especially since 9/11, "security interests have grown even more preponderant", even if also before this date "donors' post-Cold War foreign policy interests were often deemed more important than the local democratic process" (Brown, 2005: 187-188, cp. also Carothers, 2004 and 2006). In this analysis, the international actor is not truly interested in achieving equal footed cooperation with the recipient, even if such cooperation is emphasised in rhetoric; the basic objective of the donor is to protect its (mainly security) interests – and it is prepared to run recipients over in the attempts at securing these. In line with the foundational assumption of the theoretical framework proposed here, such an approach would make prospects for democracy promotion look gloomy.

This debate is applicable in general when it comes to democracy promotion, but it has become all the more crucial in relation to Western efforts to promote democracy in Muslim states because of the insistance on the part of the Western powers, notably the US and the EU, to drape their foreign policies in a democratic garb, while the policy contents have been interpreted as far from democratic by local – and international – analysts. Especially the US invasion in Iraq and EU's handling of Hamas after its victory in the Palestinian Authority in early 2006 have acutely undermined an already tarnished confidence for the West in much of the Middle East. In order to restore the confidence needed for the democracy promotion policies carried out by Western powers, enabling them to stand a chance for success in Muslim Middle East, not least dialogue as here presented stand out as vital.

The importance of an equal footed cooperation between the different parties for democracy promotion to be successful in the Middle East is also underlined in the conclusions of a conference on Democratisation and Security in the Middle East held in Copenhagen, dealing with the prospects for democratisation of the area. In these conclusions it is stated that "(m)uch will…depend on the very language and tone used by Western actors… (A)

terminology of threats or patronization must be avoided. The process of democratisation and change is, first and foremost, a responsibility of the region itself. Therefore reform and development programmes must be formulated *in close consultation and dialogue* with regional actors, allowing for a diversity of perspectives and opinions" (Malmvig, 2005: 14, italics added).

Thus, even if much speaks against the possibility of success for Western, including EU, democracy promotion in the Muslim countries around the Mediterranean, I argue that we cannot rule out these possibilities a priori. Instead, we need to look deeper into different aspects of democracy promotion and thoroughly assess them in a manner such as that laid out here, in order to be able to say anything about the prospects of success for democracy promotion in the Middle East.

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Konkurrerande visioner om internationell fred- och säkerhet (I): *Pax Americana eller Imperium Americanum*

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Inledning*

Den 11 september 1990 talade George H. W. Bush inför den amerikanska kongressen. Bakgrunden till talet var Iraks invasion av grannlandet Kuwait drygt en månad tidigare. President Bush, som tillträdde sitt ämbete i januari 1989 och kort därefter såg Berlinmuren falla och det kalla kriget avslutas, anslog en optimistisk ton i sitt tal; han sade bland annat:

> *The crisis in the Persian Gulf … offers a rare opportunity to move toward an historic period of cooperation. Out of these troubled times … – a new world order – can emerge: a new era – freer from the threat of terror, stronger in the pursuit of justice, and more secure in the quest for peace. An era in which the nations of the world, East and West, North and South, can prosper and live in harmony --- Today that new world is struggling to be born, a world quite different from the one we've known. A world where the rule of law supplants the rule of the jungle. A world in which nations recognize the shared responsibility for freedom and justice. A world where the strong respect the rights of the weak (Bush, den 11 september 1990, min kursivering).*

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* Denna text utgör en fristående fortsättning på texten "Americans were from Venus and Europeans from Mars: Trading Places in International Relations", publicerad i Rutger Lindahl och Per Cramér (red.): *Forskning om Europafrågor vid Göteborgs universitet 2006* (Göteborg: CERGU, 2007). I föreliggande text fördjupas diskussionen om ideologins betydelse för utformningen av ett lands utrikes- och säkerhetspolitik; i fokus står *neokonservatismen* och *Bushdoktrinen*. Utöver dessa två texter kommer även en tredje text, där den europeiska utrikes- och säkerhetspolitiken står i centrum, att färdigställas. Denna text, "Konkurrerande visioner om internationell fred- och säkerhet (II): *Pax Bruxellana*", kommer att publiceras i CERGU:s årsbok för 2008. I denna text kommer EU:s gemensamma utrikes- och säkerhetspolitik (GUSP) och den europeiska säkerhets- och försvarspolitiken (ESFP) fokuseras.

Presidenten hade faktiskt goda skäl att vara optimistisk. Bara några timmar efter invasionen krävde nämligen FN:s säkerhetsråd att Irak skulle dra tillbaka sina trupper från Kuwait (S/RES/660[1990]). Fördömandet följdes av ett handelsembargo och slutligen antagandet av en resolution som öppnade upp för ett militärt angrepp i syfte att befria Kuwait från de irakiska invasionsstyrkorna (S/RES/661[1990]; S/RES/678[1990]). Efter en relativt lång uppladdning inledde de allierade FN-trupperna under USA:s ledning en motoffensiv mot Irak i januari 1991, inledningsvis genom ett omfattande luftkrig men sedermera också med kraftfulla insatser av marktrupper. Efter drygt en månad var Kuwait befriat från de irakiska ockupationstrupperna.

Operationen hade varit lyckosam. Men inte nog med det, den var också helt unik. Det var nämligen första gången sedan FN bildades 1945 som doktrinen om kollektiv säkerhet hade realiserats i praktiken. Operation Ökenstorm, namnet på de allierades motoffensiv, var helt i linje med FN-stadgan. Den var ett skolexempel på hur det var tänkt att FN skulle fungera. Den var legal (Baaz 2006a). Dessutom, då stora delar av världen (och inte bara en majoritet av FN:s säkerhetsråd) önskade att USA skulle anta en ledarroll i operationen (men också mer generellt vad avser internationell fred och säkerhet), vilket landet också gjorde, kom såväl USA som Ökenstorm också att åtnjuta en hög grad av (moralisk) legitimitet (under 1990-talets främre halva).

Den 11 september 2001, på dagen elva år efter George H. W. Bushs tal till kongressen, blev USA föremål för flera förödande terroristattacker. Tvillingtornen i World Trade Center (WTC) pulveriserades och delar av försvarshögkvarteret Pentagon förstördes till följd av att tre kapade passagerarflygplan medvetet störtades mot byggnaderna. Totalt dödades 2 986 människor i de båda samordnade attackerna.

Stora delar av världen uttryckte sin avsky för dåden. Den franska tidningen Le Monde skrev den 13 september 2001 på sin första sida: ”Nous sommes tous Américains”. Trots tilltagande meningsskiljaktigheter från mitten av 1990-talet och framåt, var stora delar av världen, inklusive hela Europa, (fortfarande) beredda att acceptera ett amerikanskt ledarskap i ”kriget mot den internationella terrorismen” – ett begrepp myntat av George W. Bush (den tidigare presidentens son) som vid den aktuella tidpunkten hade varit USA:s president i nästan åtta månader.

När USA knappt fyra veckor efter terrorattackerna den 11 september 2001 anföll Afghanistan stöddes landet av en bred internationell koalition. Talibanregeringen i Afghanistan föll och al-Qaida, det terrornätverk som utpekats som ansvariga för terrorattackerna mot USA, förlorade en viktig bas för sina (framtida) aktiviteter. Deras ledare, Usama bin Ladin, tvinga-

des på flykt. Till yttermera visso, relationerna mellan USA och Europa samt USA och övriga världen föreföll starkare än på mycket länge (jfr Baaz 2007). Sammantaget innebar detta att Bush den yngre hade ett gyllene tillfälle att verkligen realisera sin fars vision om en ny världsordning, byggd på inte bara samexistens utan också brett multilateralt samarbete. Dessvärre utnyttjade han inte den unika möjligheten. Tvärtom. (Baaz 2006a, 2006b, 2006c, 2006d, 2007).

Endast 18 månader efter terrorattackerna den 11 september 2001 såg den världspolitiska situationen helt annorlunda ut. USA var då i full färd med att rasera fundamenten – multilateralism och internationell rätt – för hur fred och säkerhet hanterats internationellt sedan slutet av andra världskriget (Reus-Smit 1997, 1999) och därigenom byta möjligt samförstånd mot frustration och konfrontation. I mars 2003 kom Bushadministrationen att utöka kriget mot den internationella terrorismen bortom Afghanistan och anföll Irak. De kortsiktiga konsekvenserna av det senare – olagliga och icke-legitima – förebyggande kriget, initierat av USA, Storbritannien och Spanien, kan redan nu konstateras vara mycket allvarliga. Det mesta talar för att detsamma gäller även de långsiktiga effekterna (Baaz 2006a, 2007).

Hittills (maj 2008) har kriget mot terrorismen totalt skördat uppemot två miljoner liv. Ser vi specifikt på Irakkriget kan konstateras att landet befinner sig i kaos och riskerar att splittras (i tre eller flera delar). USA har förlorat mer än 4 000 soldater och runt 30 000 har skadats allvarlig sedan invasionen inleddes (Institute for Policy Studies, 2008; Iraq Coalition Casualty Count, 2008). Irakkriget har uppskattningsvis fram till dags dato kostat de amerikanska skattebetalarna uppemot 1 000 miljoner USD (se CRS Report for Congress, 2008; Institute for Policy Studies, 2008; National Priorities Project, 2008).[1] Förtroendet för Bushadministrationen rasar i snabb takt både nationellt och internationellt. Några månader efter terrorattackerna den 11 september tyckte drygt 80 procent av de amerikanska väljarna att presidenten gjorde ett bra arbete, fem år senare ansåg endast cirka 1/3 av valmanskåren att så var fallet (Polling Report, 2008).

Irakkriget hade visserligen delvis europeiskt stöd. Men flera av länderna inom EU var mer eller mindre motståndare till det. Sålunda stöddes inte Irakkriget av Österrike, Belgien, Frankrike, Tyskland och Grekland. Regeringarna i exv. Sverige, Finland och Österrike tog däremot inte tydligt ställning och deras ställningstagande kan tolkas som antingen tyst godkännande eller som tyst fördömande. Men oavsett de europeiska regeringarnas olika mer eller mindre tydliga positioner för respektive emot går det att konstate-

[1] Som jämförelse kan nämnas att det cirka tio år långa Vietnamkriget (1965-1975) kostade USA totalt 600 miljoner USD, omräknat i dagens penningvärde.

ra att folkopinionen i EU var och fortfarande är emot kriget. Undersökningar från 2006 visar att mellan 70 och 90 procent av befolkningen i Storbritannien, Danmark, Frankrike och Tyskland var emot det, så var även fallet i Tjeckien och Ungern. Samma mätningar visar att det finns ett tilltagande stöd för en oberoende europeisk gemensam utrikes- och säkerhetspolitik (Baaz 2006a). Sammanfattningsvis, Irakkriget har troligtvis skapat den allvarligaste transatlantiska krisen eller splittringen i modern tid (Gordon och Shapiro 2004:75ff; Kahler 2005:81; Lundestad 2005:11; Pond 2005:30).

Slutligen, när den ansedda tidskriften Time för ett tag sedan frågade vilket land som utgjorde det största hotet mot världsfreden svarade sju procent av de tillfrågade Iran, åtta procent Nordkorea medan en förkrossande majoritet, närmare bestämt 84 procent, ansåg att det största hotet mot världsfreden utgjordes av USA (Lodenius 2003:7). USA befinner sig således på kollisionskurs med stora delar av det internationella samhället.

Låt oss emellertid bortse från folkrättsvidrigheten, det höga antalet dödade och de höga kostnaderna (såväl ekonomiskt som politiskt) och istället analysera den utrikes- och säkerhetspolitiska strategi som Bushadministrationen valt utifrån dess egna kriterier, nämligen att skydda den egna befolkningens säkerhet och tillvarata USA:s intressen utomlands (The National Security Strategy of the United States of America [NSS], 2002). Mot målsättningen att skydda den egna befolkningens säkerhet kan ställas det faktum att ockupationen av Irak utgör en kraftig stimulans för arabisk och muslimsk anti-amerikanism och bidrar därigenom till islamistisk terrorism. USA:s krig mot Irak underbygger idén om en pågående civilisationernas kamp, såsom den formulerats av såväl Samuel P. Huntington som Usama bin Ladin, istället för att existerande stereotyper välbehövligt dekonstrueras. Irak är idag en plantskola för diverse terrororganisationer. Ergo, bin Ladin har fått ut mer än vad han rimligen kan ha önskat sig när han iscensatte terrorattackerna den 11 september. Den amerikanska befolkningens säkerhet har avgjort minskat (Baaz 2006a, 2006c).

Även målsättningen att tillvarata USA intressen utomlands går att diskutera. Kriget mot Irak, inlett utan FN-mandat, har djupt skadat USA:s image och därigenom också landets intressen i världen. USA framstår idag i mångas ögon som arrogant och imperialistiskt; inte bara i den muslimska världen utan också globalt. Flera av USA:s tidigare allierade i Europa, vilket indikerats ovan, är öppet kritiska. Den transatlantiska klyftan är djup, mycket djup. I boken Om Paradiset och makten: USA och Europa i den nya världsordningen (2003:7f.) skriver Rober Kagan:

> *Det är hög tid att vi slutar låtsas att européer och amerikaner har en gemensam syn på världen eller ens lever i samma värld. I den allt annat överskuggande frågan om styrka – om den militära styrkans effektivitet, moral och önskvärdhet – går de amerikanska och*

> *europeiska synsätten isär. Europa vänder sig bort från den råa styrkan, eller något annorlunda uttryckt: strävar bortom militär styrka mot en värld sammanhållen av lagar och regler, transnationella förhandlingar och internationellt samarbete. Europa inträder i ett posthistoriskt paradis med fred och relativt välstånd, förverkligandet av Immanuel Kants "eviga fred". Samtidigt sitter Förenta staterna fast i historiens träsk och utövar makt i en hobbesiansk värld där internationella lagar och regler är opålitliga och befrämjandet av en liberal internationell ordning alltjämt bygger på innehav och användning av militär styrka. Detta är skälet till att amerikaner är från Mars och européer från Venus vad gäller stora strategiska och internationella frågor: det är inte mycket de är överens om och de förstår varandra mindre och mindre. Och detta sakernas tillstånd är inte övergående, inte följden av ett val i USA eller av en katastrofal händelse. Skälen till den transatlantiska söndringen är djupa, har en lång förhistoria och kommer med all sannolikhet att bestå. När det gäller att göra nationella prioriteringar, definiera hotbilden, anta utmaningar och utveckla och verkställa utrikes- och försvarspolitiken har Förenta staterna och Europa gått skilda vägar --- Förenta staterna tillgriper våld snabbare … och har mindre tålamod för diplomati … Amerikaner anser i allmänhet att världen är uppdelad i gott och ont, i vänner och fiender … problem skall lösas och hot undanröjas. Européer … har ett mer nyanserat och förfinat sätt att tackla problem. De försöker påverka andra med subtila medel och knep. De har lättare att acceptera misslyckanden och är mer tålmodiga när lösningar inte infinner sig genast. De … föredrar förhandlingar, diplomati och övertalning framför tvång. De är mer benägna att åberopa internationell rätt, mellanfolkliga konventioner och världsopinionen för att lösa konflikter (min kursivering).*

Det viktiga kriget mot terrorismen, vilket påbörjades efter den 11 september 2001 och ansågs vara en gemensam internationell angelägenhet, har lidit allvarlig skada av antagonismen mellan USA och övriga världen. Sammankopplingen mellan Irakkriget och kriget mot terrorismen är artificiell och accepteras av få utanför USA. Därigenom har USA förlorat det ideologiska övertag och vågen av sympati man åtnjöt omedelbart efter den 11 september 2001. USA:s förtroendekapital är kraftigt sjunkande och president Bush får därigenom allt svårare att tillvarata amerikanska intressen utomlands (Baaz 2006a, 2006c, 2007).

Vad gäller de långsiktiga konsekvenserna av Bushadministrationens val är det för tidigt att säga något definitivt ännu. Det förefaller emellertid som om den internationella rättens ställning, särskilt FN-stadgans viktiga våldsförbud (Art. 2.4), kraftigt har kommit att undermineras. USA agerar idag hellre ensamt, med militärt våld som främsta verktyg, än multilateralt och med hjälp av diplomati. Enligt vissa bedömare ser vi skapandet av en helt ny världsordning, en Pax Americana, eller, än mer långtgående och dramatiskt, tillkomsten av ett Imperium Americanum (Baaz 2006a, 2006c, 2007; Bartholomev, 2006; Habermas 2006; Panitch och Gindin 2006; Swan 2006).

Sammanfattningsvis, Bushadministrationens utrikes- och säkerhetspolitiska strategi är inte bara olaglig och kostsam, den är också kontraproduktiv och farlig. Den överensstämmer dessutom dåligt med EU:s Pax Bruxellana – byggd på en mer sammansatt världsbild och präglad av tilltro till multilateralism, internationell rätt och diplomati; vilja att lösa problem snarare än att eliminera dem; och, ovilja att använda militärt våld (se exv. Ett säkert Europa i en bättre värld, 2003; Baaz 2009, kommande) – och vad stora delar av övriga världen finner önskvärt.[2] Vad värre är, resultatet av Bushadministrationens vägval kan inte betecknas som en överraskning. Tvärtom. Resultatet var, om än inte i detalj så åtminstone i sin helhet, relativt förutsägbart.

Mot denna bakgrund inställer sig ett antal fundamentala frågor, såsom: hur kunde terrorangreppen i New York och Washington den 11 september 2001 få USA att 18 månader senare anfalla Irak? Annorlunda uttryckt, hur kan Bushadministrationens utrikes- och säkerhetspolitisk förstås? I förlängningen, hur har den ideologiska grundsyn som underligger Bushdoktrinen utvecklats över tid? Slutligen, vad innebär den (ideologiskt styrda) utrikes- och säkerhetspolitik som förts av Bushadministrationen sedan terrorattackerna den 11 september 2001 för den framtida världsordningen? Det är dessa sammankopplade frågor som främst fokuseras i denna text.

Det officiella skälet till att USA anföll Irak var att Saddam Hussein förfogade över massförstörelsevapen och att han planerade att använda dem mot USA. Parallellt med detta har också lyfts fram att Irak stödde terrorism i allmänhet samt att Saddam Hussein kunde kopplas till terrorattackerna den 11 september 2001 och att al-Qaida använt och använde irakiskt territorium för träning och planläggning i synnerhet.

Det finns emellertid inget som tyder på att Irak på något sätt skulle vara inblandat i terrorangreppen den 11 september 2001. Det rådde sedan många år tillbaka en öppen schism mellan Usama bin Ladin och Saddam Hussein vid tidpunkten för terrordåden; bin Ladin hade vid flera tillfällen fördömt den irakiske diktatorn som varande en avfälling från islam. Att Hussein mot denna bakgrund skulle upplåta irakiskt territorium åt bin Ladin och al-Qaida verkar helt enkelt inte rimligt. Att Irak utgjorde ett allvarligt hot mot USA kan sägas ha vederlagts i sig själv av kriget i mars och april 2001. Det irakiska motståndet mot de relativt små amerikanska och brittiska styrkorna var fruktlöst och kortvarigt. Att Irak inte heller hade några massförstörelsevapen i mars 2003 måste också anses övertygande bevisat, dels på grund av några

[2] Dokumentet *Ett Säkert Europa i en bättre värld* kan beskrivas som EU:s motsvarighet till the NSS. Även om väsentliga skillnader föreligger mellan USA och EU är det inte korrekt att tala om helt divergerande synsätt. Faktum är att EU närmat sig USA de senaste åren, något som återspeglas bland annat i det europeiska synsättet ”effektiv multilateralism” (se Baaz 2009, kommande).

sådana aldrig sattes in mot de anfallande styrkorna, dels på grund av några sådana ännu inte har påträffats av den amerikanska ockupationsmakten.

Den ovan citerade Robert Kagan anger som förklaring, inte bara till Irakkriget utan till USA:s nya utrikes- och säkerhetspolitiska strategi i allmänhet, att idag, när USA är mäktigt uppträder det som mäktiga stater brukar göra, det vill säga utifrån styrka och krigarära. Dock, fortsätter han, är bara styrkegapet en (viktig) del av förklaringen till den breda klyfta som öppnat sig mellan USA och Europa (Kagan 2003:16f), och mellan USA och stora delar av resten av världen. Utöver styrkegapet talar Kagan också om att en djup ideologisk klyfta öppnat sig mellan USA, Europa och övriga världen.

Kagans första påstående är helt felaktigt. Efter andra världskrigets slut, då USA var världens enda kärnvapenmakt, valde landet inte den strategi som Kagan påstår att starka stater alltid gör. USA satsade istället på att (fortsätta) upprätthålla framtida internationell fred och säkerhet genom multilateralt samarbete och internationell rätt. Denna strategi manifesterades inte minst genom USA:s aktiva bidrag till skapandet av FN (se exv. Schleisinger, 2003; Young och Kent, 2004). Av detta följer att starka stater inte är determinerade att agera på ett visst sätt. Det handlar snarare om att styrka är vad stater gör det till (Baaz 1999a, 1999b, 2002, 2003, 2007, 2008a; Wendt 1992, 1999). Att USA valde att slå in på unilateralismens och militarismens väg efter den 11 september måste således förstås på annat sätt.

Som komplement till den materiella förklaringen anger Kagan också ideologiska skillnader mellan USA och Europa. Vad gäller denna förklaringsgrund finns det betydligt mer att hämta. Dock måste den ideologiska förklaringsgrunden förstås på ett annat sätt än vad den görs av Kagan. Den ideologiska skillnad han målar upp är delvis en chimär. För det första, den grundar sig inte, som Kagan skriver, på unika historiska erfarenheter under det senaste århundradet (se Baaz 2007). För det andra, sakernas tillstånd kan mycket väl vara övergående eftersom de definitivt är ett resultat av ett val i USA (presidentvalet hösten 2000) och en katastrofal händelse (terrorattackerna den 11 september 2001) (se exv. Jhally och Earp 2004). Skälen till den transatlantiska söndringen är visserligen djup men den har ingen särskilt lång förhistoria och måste inte heller med nödvändighet bestå. Istället kommer nedan att argumenteras för att det snarare handlar om att en liten, för USA som helhet, icke-representativ grupp av starkt ideologiskt influerade aktörer har ”kidnappat” ett nationellt trauma för att genomdriva en sedan länge formulerad agenda. Det är dessa aktörers ideologi, känd bland annat under namnet neokonservatism, som denna text fokuserar.

Teoretiskt ramverk och några metodologiska anmärkningar

En (teoretisk) utgångspunkt för denna text är, som antytts, att styrka är vad stater gör det till. Påståendet utgör en travesti på artikeltiteln ”Anarchy is what States make of it: The Social Construction of Power Politics”. Artikeln, skriven av Alexander Wendt 1992, förfäktar ett social konstruktivistiskt förhållningssätt till studiet av internationella relationer (och internationell rätt) (se vidare Baaz 1999a, 1999b, 2002, 2006a, 2008a).

Socialkonstruktivism (SK) är en metateoretisk ansats till studiet av internationella relationer, inte en operativ teori (se Baaz 1999a, 1999b, 2002, 2006a, 2008a). Ansatsens fokus är relationen mellan aktörer och strukturer, hur den internationella strukturen (eller ordningen) formar olika aktörers identiteter, intressen och utrikespolitisk samt hur stater och andra aktörer reproducerar och förändrar densamma. Av särkilt intresse för sociala konstruktivister är det mänskliga medvetandet och det dynamiska sambandet mellan idéer och materiella krafter (Barnett 2008:162ff).

Den israeliske forskaren Emanuel Adler har på ett kärnfullt sätt fångat socialkonstruktivismens essens. Han skriver att SK kan förstås som en ansats vilken betonar att,

> *the manner in which the material world shapes and is shaped by human action and interaction depends on dynamic normative and epistemic interpretations of the material world (Adler 1997:322).*

En tidigare ganska förbisedd operativ teori till studiet av internationella relationer är den Engelska skolan (ES). ES är en historisk, institutionell och juridisk ansats som fokuserar individer och deras politiska värderingar. I dess kärna återfinns studiet av de uppfattningar och ideologier som formar världspolitiken. Ansatsen bygger på grundläggande antaganden såsom: (i) internationella relationer är den del av studiet av mellanmänskliga relationer som fokuserar vissa grundläggande värden, exempelvis oberoende, säkerhet, ordning och rättvisa (inklusive suveränitet och mänskliga rättigheter); (ii) då fokus ligger på enskilda individer krävs det att forskare i internationella relationer analyserar kognition och handlande hos personer som bidrar till världspolitikens utformning, till exempel presidenter, stats- och premiärministrar, utrikesministrar, ambassadörer och personer anställda av eller på annat sätt knutna till olika staters utrikesförvaltningar och/eller internationella organisationer, andra viktiga beslutsfattare och opinionsbildare (inklusive sociala rörelser), samt företrädare för militären (se exv. Bull, 1966, 1969,

1972, 1976, 1984, 1995; Bull och Watson 1984; Jackson och Sørensen 2007; Linklater och Suganami 2006; Watson 1984, 1987, 1992, 1997).

ES är, enligt en av dess främsta företrädare, Hedley Bull (1969:20), ”characterized above all by the explicit reliance upon the exercise of judgement”. Om strävan är att förstå det internationella samhället handlar det om att göra sig bekant med det internationella samhällets historiska utveckling såsom den uppfattats av dem som varit med och format den. ES är, metodologiskt sett, således historisk och situationell (Baaz 1999a, 1999b, 2002, 2008a). SK (metateori) och ES (operativ teori) kompletterar varandra och utgör tillsammans det (meta)teoretiska ramverket för denna text.

Politik är, skriver Reidar Larsson (1990:7), strid mellan olika grupper om hur samhället bör vara ordnat både vad avser metoden för beslutsfattande som innehållet av besluten; olika grupper i samhället kämpar inbördes om kontroll över statsapparaten. Detta gäller odiskutabelt för politiken inom nationalstaterna. Vad gäller utrikes- och säkerhetspolitik finns en emellertid en gammal myt, nämligen att ”politics stops at the water’s edge”. Med detta förstås att den politiska striden endast förs om inrikespolitiska spörsmål, medan när det kommer till utrikespolitik så råder konsensus. I den mån detta sakförhållande överhuvudtaget har varit riktigt är det idag alldeles avgjort obsolet (se exv. Bjereld och Demker 1995; Jentleson 2007:25). Formeringen av utrikespolitik är (idag) politik, karakteriserad av, precis som i stort sett vilket annat politikområde som helst, en strid om vilka olika ideologiska värderingar som skall äga företräde. I den mån det går att tala om skillnader mellan in- och utrikespolitiskt handlar det snarare om osäkerhet och risktagande (Jönsson, Elgström och Jerneck 1992:58ff).

Det för den fortsatta diskussionen viktiga begreppet ideologi är svårfångat. I vad som följer används en bred och på sunt förnuft baserad definition av begreppet. Med ideologi avses sålunda i denna text, en sammanhållen uppsättning övertygelser eller antaganden som reducerar komplexiteten hos en del av verkligheten till något begripligt och bidrar till att hantera den del av verkligheten – exempelvis området utrikes- och säkerhetspolitik (Hunt 1987:xi). En, mot bakgrund av det ovan anförda, utgångspunkt för denna text är således att ideologi spelar en helt avgörande roll för att förstå ett lands utrikes- och säkerhetspolitik.

Neokonservatismen

Att fånga ett visst fenomen med ett specifikt begrepp, en terminologi är svårt, ibland till och med mycket svårt. Fenomenet som skall fångas är undanglidande och de man vill se som företrädare för det undviker att presen-

tera sig som just detta. Personerna som utvecklat den ideologi som ligger till grund för Bushadministrationens utrikes- och säkerhetspolitik utgör inget undantag. Tvärtom. I litteraturen förekommer olika etiketter på dem. De kallas och benämns ömsom: neokonservativa, neoimperialister, pax amerikanister, unipolarister, neoreaganiter, liberala imperialister och hårda (eller muskelstinna) wilsoniter (på steroider) (se exv. Dorrien 2004:5f). I vad som följer kommer, för enkelhetens skull, begreppen neokonservativ och neokonservatism att användas konsekvent.[3] Ytterligare en komplicerande faktor vad avser neokonservatismen är att den saknar ett ”manifest”. Det finns inte en skrift i vilken ideologins centrala uppfattningar presenteras. Till yttermera visso, det har förekommit och förekommer fortfarande stora meningsskiljaktigheter mellan olika neokonservativa företrädare, vilket gör att det i vissa frågor kan vara svårt att fånga vad som kan anses utgöra den neokonservativa uppfattningen i en viss fråga. Enkelt uttryckt, den neokonservativa ideologin är relativt heterogen. Av detta följer att alla försök att beskriva ideologin, detta inkluderat, lider av brister: personer utelämnas och vissa verk och händelser förstoras upp, et cetera. Vad som följer nedan måste förstås mot denna bakgrund och får på intet sätt ses som en fullständig neokonservativ idéhistoria, utan snarare som ett försök att fånga upp vissa delar av ett sätt se på världen vilket kan bidra till vår förståelse om varför USA anföll Irak i mars 2003 och anammade en utrikes- och säkerhetspolitisk strategi som går på tvärs mot stora delar av resten av världen.

Ursprung och tidig utveckling

Neokonservatismens idéhistoria är komplex och mångbottnad. Den går tillbaka till tiden före andra världskriget och har under årens lopp vuxit till en sammansatt uppsättning idéer vad avser såväl inrikes- som utrikespolitik, särskilt säkerhetspolitik.

Rörelsens rötter återfinns hos en grupp, främst bestående av judiska studenter, vilka var inskrivna på City College i New York (CCNY) från mitten av 1930-talet till början av 1940-talet. I gruppen återfinns personer som exv. Daniel Bell, Nathan Glazer, Irwing Howe, Irving Kristol, Melvin Lasky, Seymour Martin Lipset, Seymour Melman, Philip Selznick och, lite senare, även Daniel Patrik Moynihan (Friedman 2005:28ff; Fukuyama 2006:15). Gruppen är heterogen. Dock kan en minsta gemensamma nämnare identifieras, samtliga omnämnda var immigranter eller barn till immigranter och kom

[3] Begreppen neokonservativ/neokonservatism lanseras inte förrän runt år 1970, men i syfte att underlätta läsningen används begreppet även om rörelsens ideologiska föregångare.

från arbetarklassen. De gick på CCNY och inte på mer prestigefyllda lärosäten såsom Columbia och Harvard. Anledningen var att personer med denna bakgrund inte ägde tillträde till de mer prestigefyllda lärosätena i USA under 1930- och 1940-talen (se Dorman 2001; Friedman 2005:29).

Tidsandan i slutet av 1930-talet var, skriver Francis Fukuyama (2006:15), präglad av ett stort krismedvetande vad gäller de internationella relationerna. Ideologier stod mot varandra. Gruppen på CCNY var tidstypiskt helt genompolitiserad. Inriktningen var vänsterorienterad, närmare bestämt trotskistisk. Avståndstagandet från stalinismen var totalt, likaså från de liberaler som var sympatiskt inställda till sovjetkommunismen. Gruppen kan således beskrivas som antikommunistiskt vänsterorienterad (Halper och Clarke 2005:45).

Den antikommunism som den ”desillusionerade vänstern” representerar skiljer sig från den traditionella (eller gamla) amerikanska högerns antikommunism, som motsätter sig kommunismen på grund av dess ateism, koppling till USSR (en främmande fientlig makt) och förfäktande av planekonomi. Den antikommunistiska vänstern sympatiserar icke desto mindre med kommunismens sociala och ekonomiska mål. Dock kom företrädare för rörelsen att under 1930- och 1940-talen inse att Stalins tolkning och genomförande av socialism i praktiken hade utvecklats till något fasansfullt vilket helt underminerade kommunismens idealistiska mål. Konsekvensen av dessa insikter var att vid andra världskrigets utbrott så hade i princip alla gruppens medlemmar ideologiskt förflyttat sig åt höger. Dessutom gick USA med i andra världskriget och bidrog till att bekämpa såväl Nazityskland som det fascistiska Japan, vilket ytterligare bidrog till den ideologiska resan högerut (Friedman 2005:46ff; Fukuyama 2006:16f; se också Podhoretz 1979, 1999, 2000).

Sammanfattningsvis, neokonservatismens första formativa ideologiska strid utkämpades mot stalinismen på 1930- och 1940-talen. Efter denna strid började rörelsen allt mer att förfina sina idéer och sträva efter reellt politiskt inflytande. Att utveckla och förfina sina idéer ansågs vara mycket angeläget, ty världen betraktades som ett ideologiskt slagfält. Irving Kristol (1995:233) fångar denna uppfattning kärnfullt, han skriver ”what rules the world is ideas, because ideas define the way reality is perceived”.

Vidare har Irwing Howe (1984:234) skrivit, att när intellektuella går från ord till handling startar de en tidning. I linje med denna tankegång kom tidskriften Commentary (grundad 1945) under perioden efter andra världskriget att bli det forum där det mesta hände avseende utvecklingen av den neokonservativa ideologin (Daalder och Lindsay 2003:15; Friedman 2005:37ff; Steltzer 2004:4). Tidskriftens betydelse kan knappast överskattas.

Leo Strauss, hans lärjungar och den nya Vänstern

Det pågår en till synes ändlös debatt om den tyskfödde, i Chicago till sin död verksamme, filosofen Leo Strauss (1899-1973) utövat något (direkt) inflytande på (den andra generationen) neokonservativa ideologer samt, om så skulle vara fallet, hur långt detta inflytande sträcker sig (Halper och Clarke 2004:64). Medan vissa teoretiker pekar ut honom som den andra generationen neokonservativas intellektuella gudfar menar andra att hans inflytande är överdrivet, att hans böcker är obskyra och att det överhuvudtaget inte finns några som helst kopplingar mellan Strauss och maktens korridorer i Washington (se Halper och Clarke 2004:64ff; Dorrien 2004:44, 132; Friedman 2005:40f; Fukuyama 2006:21; Kristol 1995:6; Smith 2006). Den ståndpunkt som förfäktas intra är att Strauss (åtminstone indirekt och i det tysta) har utövat ett betydande inflytande på den andra generationens neokonservativa ideologer och därigenom också (i varje fall indirekt) på den nu sittande amerikanska administrationen.

Strauss texter är onekligen otillgängliga och många av dem som förfäktar hans idéer har tagit till sig dem i bearbetad form. Den som gjort mest för att popularisera Strauss är troligen Allan Bloom, författare till bestsellern The Closing of the American Mind som publicerades 1987 (Drury 1999:111). Flera av neokonservatismens främsta företrädare har tydligt påverkats av Bloom och därigenom, i alla fall indirekt, av Strauss.

Leo Strauss, som var av judisk börd, flydde från Tyskland kort innan andra världskrigets utbrott. Med sig från Tyskland, när han 1938 anlände till vad som skulle bli hans nya hemland USA, hade Strauss en övertygelse om att demokratin inte kan överleva om den är svag och inte reser sig upp mot tyranniet, som till sin natur är expansionistiskt. Även om Strauss var en politisk filosof som främst fokuserade klassiker inom sitt område – till exempel Aristofanes, Machiavelli, Maimonides, Platon och Spinoza – var han inte ointresserad av sin samtid, dock föredrog han att förstå densamma genom just den klassiska politiska teorin (Norton 2004:5). Strauss omhuldade tesen att de filosofiska klassikerna, bokstavligt och korrekt tolkade, innehåller lösningen på vår tids politiska och filosofiska problem (Harding 2003).

En central frågeställning hos Strauss var att söka förstå varför 1900-talet fött två totalitära och tyranniska ideologier, kommunismen och nationalsocialismen. Svaret han gav var att moderniteten förrått de europeiska kärnvärdena förnuft och civilisation. Renässansen, förstådd som det moderna tänkandets introduktion, ansåg Strauss utgöra ett avståndstagande från den antika traditionen vilken cementerats under medeltiden. Renässansens förlängning, Upplysningen, undergrävde definitivt moralen genom sin relativism,

förnekelsen av existensen av något som varande det högsta goda. Uppkomsten av kommunismen och nationalsocialismen blir enligt denna förståelse inget annat än det moderna tänkandets yttersta konsekvens (Drury 1999:66; Harding 2003; Lodenius 2003:86f).

Den politiska filosofin, menade Strauss, får inte avstå från värdeomdömen och, vidare, så har goda regimer en plikt att försvara sig mot onda. Vad gällde sitt nya hemlands politiska system, ansåg han att den amerikanska demokratin var det minst dåliga systemet av alla faktiskt existerande politiska system. Strauss såg de amerikanska grundlagsfäderna som några av de sista representanterna för en universalistisk moral och USA framstod därigenom som en motsats till den fördärvbringande moralupplösning som kastat in Europa i två världskrig (Drury 1999:100ff). Av denna världsbild följer en uppfattning av dagens USA som ett land inbegripet i en avgörande kulturkamp mellan, å ena sidan, de amerikanska värderingarna, som samtidigt också är den klassiska antikens och det medeltida Europas värderingar, och, å andra sidan, ett fördärvbringande modernt europeiskt inflytande såsom det givits uttryck i bland annat weberiansk sociologi, socialliberalism, existentialism och, inte minst, postmodernism (Harding 2003; Zuckert och Zuckert 2006:58ff).

I bland annat klassikern Staten utvecklade Platon tanken om den nobla lögnen. Tanken bygger vidare på hans tanke om filosofernas välde i det ideala politiska systemet. Då filosoferna bättre än andra förstår samhällets bästa måste det med nödvändighet uppkomma situationer där de tvingas sträva efter att uppnå mål som de vanliga medborgarna i staten helt enkelt inte kan förstå. För att kunna uppnå sina målsättningar i dessa situationer måste de härskande filosoferna konstruera nobla lögner eller, annorlunda uttryckt, myter. Tanken om den nobla lögnen återfinns som ett centralt element i Strauss tänkande. Strauss är emellertid mer extensiv i sin tolkning av begreppet än vad Platon var. Hos Strauss omfattas nämligen inte bara de härskande filosoferna utan alla filosofer av regeln, eftersom, menar han, filosofer genomgående ägnar sig åt tankar som kan bli ytterst farliga för samhällets stabilitet om de kommer till de vanliga medborgarnas kännedom. Massorna är helt enkelt inte förmögna att förstå tankarnas riktiga innebörd. En god filosof bör således inte, enligt Strauss, redovisa sina tankar öppet och klart, åtminstone inte för massorna, utan istället exklusivt förbehålla dem för en sluten krets av utvalda lärjungar och för dem som är tillräckligt intelligenta att tolka innebörden i kryptiskt formulerade texter (Drury 1999:passim; Harding 2003).

Även om Strauss djupt beundrade Staten ansåg han att Lagarna var Platons främsta verk. En väsentlig skillnad mellan verken är att i det senare accepterar Platon de redan privilegierade som härskare i det goda samhället. Filosofernas roll blir härigenom mer oklar. Mest troligt är emellertid att anta

att filosoferna skall ägna sig åt att utbilda de härskande. Strauss understryker mycket riktigt också att Sokrates huvudsysselsättning i de platoniska dialogerna tycks vara just att föra en dialog med medlemmarna ur de härskande klasserna, samt med deras retoriska rådgivare bland sofisterna. Stor vikt läggs också på de lagar som gett verket dess namn i bästa fall skall vara oföränderliga, vilket också förfaller gälla de myter som förväntas upprätthålla medborgarnas respekt för den rådande ordningen. Det främsta exemplet på en sådan myt som enligt Strauss borde upprätthållas i moderna samhällen är den traditionella religionen med tillhörande moral (Harding 2003).

Religion är i Strauss värld att betrakta som en politisk nyttighet, den mest användbara av myter. Religionen definierar vad som är rätt och vad som är fel och utgör därmed också det viktigaste kittet i ett samhälle. Utan religion faller samhället sönder. Strauss var visserligen jude, men förespråkade inte judendomen som den religion vilken håller samman ett samhälle på bästa sätt. Faktum är att han inte förespråkar någon särskild religion överhuvudtaget, utan snarare det generella behovet av en auktoritativ religion för samhällelig sammanhållning och fredlig samexistens. Aningen tillspetstat formulerat kan man säga att Strauss är enig med Karl Marx avseende att religionen är ett opium för folket, dock anser Strauss, till skillnad från Marx, att folket bör få sitt opium (Drury 1999:11f).

Leo Strauss hade genom åren många studenter, varav flera så småningom gjorde en egen akademisk karriär. Andra före detta av hans studenter gjorde istället en politisk karriär, så har också flera av dem som studerat för Strauss tidigare studenter. Utöver studenter hade Strauss, och så småningom studenter till Strauss, också just lärjungar – så kallade straussianer. Att vara lärjunge är inte samma sak som att vara student, en lärjunge är en elev som ser sin lärare som en mästare och tillägnar sig dennes lära och andra insikter. Förhållningssättet är i jämförelse med en student mer reservationslöst och missionerande.

En av de mest framträdande straussianerna är Irving Kristol, som bland mycket annat har skrivit boken Neoconservatism: The Autobiography of an Idea (1995). Irving Kristol och Gerturde Himmelfarb är föräldrar till den inflytelserike debattören William Kristol, bland annat grundare, tillsammans med den ovan citerade Robert Kagan, av den neokonservativa tankesmedjan PNAC (Project for a New American Century). Den idag så inflytelserike Richard Perle, också känd som Mörkrets Furste, är i sin tur antagligen Irving Kristols mest framstående lärjunge. Han deltar också i PNAC:s arbete.

En annan, i sammanhanget, viktig person är Albert Wohlstetter. Han tog sin examen vid CCNY och blev så småningom professor i matematik vid Chicagouniversitetet, där han kom att specialisera sig på säkerhetspolitik. Wohlstetter, som tidigare, i likhet med flera ur den första generationen neo-

konservativa ideologer, omhuldade trosktismen var kollega till Strauss. Till skillnad från Strauss var han dock mer utåtriktad i sin akademiska gärning och spelade en avgörande roll som rådgivare åt det amerikanska försvarshögkvarteret Pentagon (Lodenius 2003:87). Utmärkande för Wohlstetter var att han ifrågasatte den under den största delen av det kalla kriget rådande amerikanska kärnvapendoktrinen, baserad på ömsesidigt garanterad förstörelse (Mutual Assured Destruction, MAD). Redan på 1950-talet hade både USA och USSR skaffat sig förmågan att utplåna varandra. Båda länderna hade även utvecklat så kallad ”andraslagsförmåga”, det vill säga de kunde genomföra en förödande attack också efter att motparten gjort ett fullständigt anfall. I teorin innebar detta att inget av länderna vågade anfalla det andra eftersom det skulle innebära självmord. De båda supermakterna hade, med andra ord, utvecklat en terrorbalans. Wohlstetter och hans lärjungar ansåg att MAD var både omoralisk, genom de potentiella skadorna på civilbefolkningen, och ineffektiv, då ingen politisk ledare vid sunda vätskor skulle fatta ett beslut om ett ”ömsesidigt självmord”. Istället pläderade Wohlstetter för att USA genom upprustning skulle skaffa sig ett (massivt) övertag i förhållande till motparten. Receptet låg enligt Wohlstetter i en ”graderad avskräckande effekt” med begränsade krig och intelligenta vapen vilka kunde angripa fientliga mål med en hög grad av precision, samt taktiska kärnvapen. Wohlsttter var också emot spridning av fredlig kärnteknologi, då denna i praktiken inte kunde skiljas från militär användning. Han var följaktligen mycket kritisk mot 1968-års internationella avtal för icke-spridning av kärnvapen (Non-Profileration Treaty, NPT). Bland Wohlstetters lärjungar återfinns flera välbekanta namn, exempelvis Zalmay Khalilzad (Bushadministrationens nuvarande FN-ambassadör, tidigare ambassadör i såväl Irak, 2005 – 2007, som i Afghanistan, 2003 – 2005) och Paul Wolfowitz samt den ovan nämnde Richard Perle (Lodenius 2003:89f). Wolfowitz är också före detta student till Leo Strauss.

1960-talet var ett händelserikt decennium i USA, med såväl medborgarrättskamp som Vietnamkrig. På det inrikespolitiska planet präglades USA av genomgripande storskaliga politiska reformer. Ideologiskt hade kommunisterna (den Gamla vänstern), vilka den första generationens neokonservativa tänkare utkämpade sin första formativa ideologiska strid mot på 1930-talet, börjat utmanas av en Ny Vänster. Denna rörelse som var radikal till sin natur hade sitt ursprung bland universitetsstudenter, vilka var mer progressiva än sina (ofta i sig vänsterorienterade) lärare. Studenterna var kritiska mot traditionella auktoritetsstrukturer och identifierade sig som anti-etablissemangets fanbärare. Vidare var rörelsen, liksom neokonservatismen, kritisk mot USSR. Landet kunde på grund av den förstelning som skett, inte längre, ansåg man, utgöra den proletära revolutionens centrum. Istället söktes inspira-

tion från nyare och mer revolutionära kommunistiska idéer och individer, såsom Mao Zedong, Ho Chi Minh, Fidel Castro och Pol Pot. Allt eftersom Vietnamkriget eskalerade kom den Nya Vänstern att bli allt mer USA-kritisk. USA betraktades kort och gott som en imperialistisk stat (Fukuyama 2006:17ff).

År 1965 grundades The Public Interest, ytterligare en betydelsefull neokonservativ tidskrift, av Irving Kristol och Daniel Bell. Tidskriften var tänkt att fungera som ett forum där idéer från den framväxande Nya vänstern kritiskt kunde granskas. Ett initialt relativt välvilligt förhållningssätt kom relativt snart att bytas ut mot en allt mer tilltagande kritisk och avståndstagande position. Tidskriften The Public Interest ägnade sig exklusivt åt inrikespolitik, men flera av de idéer som fördes fram i tidskriften fick, på längre sikt, också utrikespolitiska implikationer. Det var emellertid inte förrän 1985, The Public Interest fick en internationell motsvarighet i The National Interest, också denna tidskrift grundad av Irving Kristol (Fukuyama 2006:17ff).

Michael Harrington, socialistisk skribent och aktivist, var sannolikt den som först använde begreppet neokonservativ runt år 1970 då han försökte fånga tidigare vänsteranhängare vilka, på grund av olika ideologiska överväganden, valt att förflytta sig ordentligt åt höger. De neokonservativa skiljde sig från den övriga vänstern i sitt avståndstagande gentemot en aktiv socialpolitik, social ingenjörskonst, och vad gäller utrikespolitik, främst genom en uttalad antikommunism, en högljudd kritik mot USSR och ett aktivt stöd för Vietnamkriget. Neokonservativa företrädare var starkt emot den, som man såg det, övriga vänsterns antiamerikanism. Genom att kalla dem neokonservativa önskade Harrington markera att företrädare för rörelsen borde beaktas inte som Vänsterns högerfalang utan snarare Högerns vänsterfalang (Dorrien 2003:8ff.)

Kort uttryckt, neokonservatismens andra formativa ideologiska strid kom att utkämpas mot företrädare för den Nya vänstern på 1960- och 1970-talen. Till följd av denna ideologiska strid kom neokonservatismen att konstitueras och i någon mån homogeniseras. Ett annat resultat av denna ideologiska strid var att rörelsen i ännu flera politiska frågor än tidigare förflyttade sig ut på det ideologiska landskapets högerkant.

Givet den neokonservativa rörelsens ursprung i den amerikanska vänstern, är det föga överraskande att företrädare för rörelsen motsatte sig Kissingers pragmatiska maktrealistiska utrikespolitik under 1970-talet. Det är inte heller överraskande att rörelsens företrädare välkomnade Ronald Reagans moraliska utrikespolitik och hans fördömande av USSR som ondskans imperium 1983.

Det var också slutligen Ronald Reagan som kom att bli de neokonservativa ideologernas och aktivisternas ”regnmakare” eller frälsare; flera av dem

– såsom Robert Kagan, William Kristol, Richard Perle och Paul Wolfowitz – erhöll (höga) positioner i de båda Reaganadministrationerna under 1980-talet. Reagan strävade efter att vinna det kalla kriget, inte efter att upprätthålla maktbalans. Ett led i denna strategi var initierandet av det så kallade Star Wars-projektet, vars formella namn var Strategic Defense Initiative (SDI). Detta låg helt i linje med ovan nämnde Wohlstetters rekommendationer. Målet för SDI var nämligen att kunna slå ut fientliga ballistiska kärnvapen med hjälp av vapen placerade i satelliter. Huvudkomponenten i SDI var olika typer av laser- eller energetiska partikelstrålar. SDI kom emellertid aldrig att genomföras enligt sina ursprungliga intentioner, främst på grund av stora teknologiska svårigheter och på grund av den omfattande kritiken på tekniska och politiska grunder. Projektet avbröts formellt 1993.

Stödet till Reagan var emellertid inte en neokonservativ angelägenhet allena, det förhöll sig snarare på det viset att Reagan hade ett brett stöd från i stort sett hela det konservativa Amerika. Detta kombinerat med rörelsens uppgörelse med den Nya Vänstern avseende ett antal inrikespolitiska frågor, främst vad gäller möjligheterna till att bedriva social ingenjörskonst med framgång, gjorde att den neokonservativa rörelsen (för första gången sedan riktningens grundande) gick i takt med övriga konservativa i Amerika.

Under 1980-talet är det svårt att urskilja en specifik neokonservativ utrikes- och säkerhetspolitisk agenda. Ett faktum som ytterligare stärks, trots en tilltagande homogenisering, av att de individer vilka brukat räknas till neokonservatismen var lika oense sinsemellan som övriga konservativa var. Trots att den neokonservativa gruppen under 1980-talet kom att smälta samman med det republikanska partiet behölls begreppet neokonservativ. I sammanhanget kan också nämnas att konservativa i Europa aldrig har betraktat neokonservatismen – karakteriserad av militant anti-kommunism, kapitalistisk ekonomi, minimal välfärdsstat, tilltro till traditionella eliter och ett återvändande till traditionella kulturella världen – som konservatism överhuvudtaget (Dorrien 2003:14).

I samand med det kalla krigets slut utbröt så en intensiv diskussion i USA om vilken riktning landets utrikespolitik skulle välja framöver. Det är inte möjligt att i slutet av 1980-talet och början av 1990-talet utmejsla ett neokonservativt förhållningssätt visavi USA:s globala roll, då landets främste globala utmanare upphört att existera. Vidare gick åsikterna isär om, och i så fall vilken utsträckning, USA skull arbeta för att befrämja demokrati globalt. Inte heller vad gäller synen på mänskliga rättigheter och humanitär intervention var man överens (för en diskussion om mänskliga rätigheter, statsuveränitet och humanitär intervention, se Baaz 2008b, kommande, 2008c, kommande). I The National Interest argumenterade Irving Kristol från mitten av 1980-talet och framåt för att USA borde distansera sig från Europa, vilket delvis anammades av Reagan som i allt kraftigare ordalag krävde att Eu-

ropa skulle bära en större del av den fria världens börda (Baaz 2007, 2009, kommande). Inte nog med detta, skribenter i tidskriften argumenterade analogt med tidskriftens namn för en, på ett generellt plan, mer restriktiv utrikespolitik. Sammanfattningsvis, vid tidpunkten för kalla krigets slut karakteriserades det konservativa USA, dess neokonservativa gren i synnerhet, av förvirring och oenighet (Ehrman 1995:173). Frågan som ställdes var, vad skulle utgöra kärnan i den amerikanska utrikes- och säkerhetspolitiken? Den konsensus som tidigare rått kring denna fråga inom det neokonservativa lägret var numera ett minne blott. Vissa neokonservativa företrädare förespråkade en utrikespolitik formulerad utifrån ett smalt definierat nationellt intresse medan andra förespråkade ett globalt korståg i syfte att sprida demokrati (Halper och Clarke 2004:75f). Oenigheten var total. Vissa bedömare menade, tack vare oenigheten, till och med att neokonservatismen spelat ut sin roll fullständigt. Sålunda beskrev John Judis (1995) den neokonservativa rörelsens intellektuella historia, från starten på CCNY under 1930-talet till Kalla krigets slut 1989, som en resa från ”Trotskyism till anakronism”. Till och med Norman Podhoretz (1996) hävdade att neokonservatismen upphört att existera som ett distinkt fenomen. Dessa utsagor/förutsägelser kom emellertid att visa sig vara prematura, ty som vi skall se nedan skulle neokonservatismen, efter att ha omformulerat sig, återkomma och bli mer betydelsefull än någonsin tidigare.

Efter kalla krigets slut

Merparten av de neokonservativa ideologerna, skribenterna och aktivisterna stödde G. H. W. Bushs presidentkampanj. Men, när Bush den äldre vunnit valet och så småningom etablerat sig i Vita Huset och börjat ge uttryck för sin utrikes- och säkerhetspolitik, kännetecknad av status quo-orienterad maktrealism (i likhet med Kissinger) och, analogt, avsaknad av starka ideologiska övertygelser upphörde stödet. Bush den äldre var pragmatisk snarare än moralisk i sitt utrikespolitiska agerande; stabilitet var viktigare än att ”göra rätt sak”. De neokonservativa lovprisade visserligen Bush den äldres beslut att (med stöd av FN) militärt tränga tillbaka Irak från Kuwait. Dock upplevde de snart sig vara marginaliserade i Bushadministrationen, såväl rent fysiskt som ideologiskt. De ogillade skarpt det sätt på vilket de blev behandlade av presidenten och hans närmaste medarbetare. Faktum är att flera företrädare för neokonservatismen var så upprörda över och besvikna på president G. H. W. Bush att de valde att stötta Bill Clinton i presidentvalet 1992. Följaktligen skrev exempelvis Joshua Muravchik (1992:22), ”[m]uch to my surprise, I’m supporting Bill Clinton for president”. Dock hade de flesta från den neokonservativa gruppen förflyttat sig för långt högerut ideologiskt för att kunna rymmas i det demokratiska partiet. Den naturliga parti-

politiska hemvisten för de neokonservativa var numera det republikanska partiet (Dorrien 2003:10ff).

Bill Clinton vann, med visst stöd från neokonservativa företrädare, presidentvalet 1992. Det tog emellertid inte särskilt lång tid innan Clinton gjort dessa sina anhängare besvikna. Inom ett år efter att han tillträtt sitt ämbete hade han tappat allt neokonservativt stöd (Ehren 1995:193). Det som mest förargade de neokonservativa var hans höga tilltro till och relativt flitiga tillämpning av idén om multilateralt fredsbevarande. Clinton betonade gång efter annan att USA bäst uppnådde sina utrikes- och säkerhetspolitiska målsättningar genom FN (se exv. Presidential Review Directive-13). En annan bidragande orsak till den neokonservativa rörelsens besvikelse var att dess företrädare inte erhöll några framträdande positioner inom Clintonadministrationen (Dorien 2003:86ff; Ehren 1995:202).

Under Bill Clinton befann sig den neokonservativa gruppen längre från maktens innersta kärna än på länge. Gruppen tvingades (ånyo) söka påverka politiken genom andra kanaler än vad som varit fallet under de gyllene åren, Reaganåren. Utöver tidigare strategier, flitigt opinionsbildande i media och strävan efter inflytande på den högre utbildningen i USA, inrättade de neokonservativa under 1990-talet ett stort antal tankesmedjor och forskningsinstitut (såsom the American Enterprise Institute, AEI, The Center for Security Policy, CSP, The Hudson Institute, The Foundation for Defense of Democracies, FDD, The Jewish Institute for National Security Affairs, JINSA, the Middle East Forum, MEF, och Washington Institute for Near East policy, WINEP) (Mearsheimer och Walt 2007:130). Den tidigare, flera gånger, omnämnde Richard Perle var med i flera sammanhang och fungerade som en länk mellan flera av de neokonservativa tankesmedjorna, forskningsinstituten och andra organisationer i vad som kommit att bli känt som det neokonservativa nätverket.

En av de allra mest inflytelserika neokonservativa tankesmedjorna var, och är fortfarande PNAC, grundad 1997 av bland Dick Cheney, Robert Kagan, William Kristol, Richard Perle, Donald Rumsfeld och Paul Wolfowitz. Syftet med PNAC, geografiskt beläget i Washington är att befrämja amerikanskt globalt ledarskap. Bland flera andra saker uttryckte PNAC krav på en ny aggressiv och konfrontatorisk utrikespolitik gentemot Irak och andra potentiellt aggressiva stater. De var kritiska mot den tidigare containmentpolitiken och förespråkade istället föregripande och förebyggande åtgärder (Baaz 2006a, 2007). Organisationens ”statement of principles” finns angivna på tankesmedjans hemsida. Det lyder som följer:

> *[W]e need to increase defense spending significantly if we are to carry out our global responsibilities today and modernize our armed forces for the future; we need to*

> *strengthen our ties to democratic allies and to challenge regimes hostile to our interests and values; we need to promote the cause of political and economic freedom abroad; and, we need to accept responsibility for America's unique role in preserving and extending an international order friendly to our security, our prosperity, and our principles (www.newamericancentury.org).*

Med skapandet av PNAC stod det också helt klart att den neokonservativa rörelsen hade genomfört ett generationsskifte. Utmärkande för den nya generationen var att de hade ersatt det gamla sovjetiska hotet (som hanterats reaktivt) med en mer vagt formulerad idé om amerikanskt globalt ledarskap som inkluderade att USA skulle utmana regimer fientligt inställda till amerikanska intressen och värden. Det nya förhållningssättet var således proaktivt; föregripande, eller rent av, förebyggande. Enligt den andra generationen neokonservativa återfanns de mot USA fientligt inställda regimerna främst i Mellanöstern, bland länder som särskilt pekades ut var Irak, Iran, Syrien, Saudiarabien och Libyen. Det är också delvis mot denna bakgrund som de neokonservativas stöd till Israel kan förstås. Israel anses vara en demokratins utpost i en region styrd av despoter. Neokonservativa företrädare tror att auktoritära regimer och teokratier har bidragit till en framväxande antiamerikanism i Mellanöstern. Ett starkt Israel kan, anser man, i detta sammanhang tjäna som både en motvikt och ett gott exempel.

Redan 1992 hade Paul Wolfowitz och Lewis ”Scooter” Libby gett uttryck för tankegångar liknande de som presenterades av PNAC i ett utkast till ett dokument, känt under namnet the Defense Planning Guidance (DPG) 1994 – 1999. Utkastet, vilket inte var avsett för offentligheten men vars innehåll läckte till den amerikanska pressen, blev mycket kontroversiellt och ledde till en intensiv debatt om amerikansk utrikespolitik. I DPG argumenterar Wolfowitz och Libby för ett amerikansk unilateralt (militärt) förebyggande utrikes- och säkerhetspolitiskt agerande. Faktum är att utkastet förorsakade ett sådant rabalder att det snabbt drogs tillbaka och skrevs om innan det publicerades den 16 april samma år (Halper och Clarke 2005:145).

JINSA är troligen den mest tydliga länken mellan de grupper som stöder Israel i Washington och det neokonservativa nätverket. JINSA samarbetar också direkt och indirekt med olika israeliska politiker. En av de mest anmärkningsvärda produkter som detta samarbete resulterat i är forskningsrapporten ”A Clean Break”, publicerad av den israeliska tankesmedjan the Institute for Advanced Strategic and Political Studies år 1996. Forskningsrapporten var avsedd att ge politiska riktlinjer åt den då nyvalde israeliske premiärministern Benjamin Netanyahu. I dokumentet, som bland annat författats av Richard Perle, framfördes idéer såsom att Netanyahu borde bortse från Osloavtalet (1993) och istället inta en mycket mer hårdför attityd mot palestinierna, inklusive att släppa principen om land i utbyte mot fred och att mål

i Palestina borde anfallas i föregripande/förebyggande syfte (Halper och Clarke 2005:106ff).

I februari 1998 skickade en grupp säkerhetspolitiska experter som stod utanför Clintonadministrationen ett öppet brev till Vita Huset i vilket man föreslog ”a comprehensive political and military strategy for bringing down Saddam and his regime” (Sniegoski 2003). Bland dem som skrivit på brevet återfanns förutom Perle, Rumsfeld och Wolfowitz också John R. Bolton och Khalilzad. Då, vilket antytts ovan, det neokonservativa nätverket i formell mening stod utanför det politiska etablissemanget i Washington var det istället genom detta nätverk som man arbetade och sökte påverka Clintons utrikespolitiska agenda. Det är svårt att avgöra i vilken omfattning detta arbete var framgångsrikt eller inte. Vad som emellertid står klart är att det föreligger stora skillnader mellan Clintons första och andra period i Vita Huset. Under den senare perioden var Clinton betydligt mer benägen att agera unilateralt/plurilateralt än vad som var fallet under den första perioden. Klart är också att den av John Judis ovan anförda beskrivningen av neokonservatismen som en anakronism var prematur. Tvärtemot vad Judis förutspådde kom neokonservatismen att reformera sig och erövra viktig politisk terräng under 1990-talet. Vad som också slutligen står klart är att det neokonservativa nätverkets utrikes- och säkerhetspolitiska fokus under 1990-talet förflyttades mot Mellanöstern i allmänhet och Israel och i synnerhet. Rörelsens agenda snävades av, från en tidigare global till en mer regional inriktning. Denna, för gruppen som helhet, positiva utveckling innebar dock inget direkt, utan endast indirekt politiskt inflytande. Det direkta politiska inflytandet på amerikansk utrikes- och säkerhetspolitik låg fortfarande några år i framtiden. Men innan neokonservatismens gyllene tillfälle, den 11 september 2001, diskuteras låt mig kortfattat sammanfatta ideologins utrikes- och säkerhetspolitiska kärnpunkter vid ingången till tjugohundratalet.

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Som framgår av texten ovan är neokonservatismen en ideologi som formerats under en (relativt) lång tidsperiod och som ömsat skinn flera gånger, annorlunda uttryckt, neokonservatismen är en heterogen företeelse. Ett sätt att förstå neokonservatismen är att beakta den som en form av bakvänd Trotskyism. Medan Leon Trotsky trodde på en permanent revolution och önskade exportera den sovjetiska socialismen till resten av världen önskar neokonservatismen exportera (amerikansk) demokrati till så många länder som möjligt. Den första generationen neokonservativa likställde utrikes- och säkerhetspolitik med ett korståg, där syftet var att först sprida global socialism, sedan socialdemokrati och slutligen demokratisk kapitalism. För dessa pionjärer

fanns ingen klar gräns mellan teori och praktik. Teori sågs som en politisk kamp och, förlängningen, sågs politik som något som skulle dikteras av teori, eller mer korrekt, ideologi. Denna bild är emellertid en (grov) förenkling och den fångar inte neokonservatismens komplexitet. Den kan emellertid tjäna som utgångspunkt men behöver, om ambitionen är en djupare förståelse, kompletteras och nyanseras.

En mer rättvisande, men fortfarande förenklad, bild av neokonservatismens utrikes- och säkerhetspolitiska position kan ges med hjälp av följande tre principer: (i) staters utrikespolitik påverkas av vilka regimer som sitter vid makten, demokratier för en annan (och bättre) utrikespolitik än vad auktoritära regimer gör, och därför måste USA:s utrikes- och säkerhetspolitik bygga på fundamentala liberala demokratiska värden; (ii) då USA har den militära makten att engagera sig internationellt och påverka andra länder i moraliskt önskvärd riktning bör så också ske, om nödvändigt med våld; (iii) en utpräglad skepticism gentemot såväl legitimiteten och effektiviteten hos internationell rätt, internationella organisationer och internationella regimer.

Dessa principer återspeglas och utvecklas i det av PNAC i september 2000 presenterade programmet ”Rebuilding America’s Defenses: Strategy, Forces and Resources For a New Century”. Utgångspunkten för rapporten är att USA vid millennieskiftet saknar globala rivaler. Därför, menar författarna till rapporten, att USA:s övergripande strategiska mål bör vara att bevara detta sakernas tillstånd och utsträcka denna fördelaktiga position så långt in i framtiden som möjligt – med andra ord: det unipolära ögonblicket skall permanentas. Andra synpunkter som förs fram i rapporten är att: fredsbevarande operationer bör ledas av USA snarare än FN; USA bör upprätta ett US Space Force i syfte att kontrollera rymden och vidta åtgärder för att vid behov också kontrollera cyberrymden; USA bör verka för en demokratisering av Kina; regimerna i Nordkorea, Libyen, Syrien, Irak och Iran skall stämplas som farliga och bytas ut; och, USA bör kraftigt öka sina försvarsanslag (se www.newamericancentury.org).

Trots att det neokonservativa nätverket flyttade fram sina positioner under 1990-talet var rörelsen långt ifrån maktens centrum vid ingången till det nya millenniet och det fanns ännu inget som indikerade det enorma genomslag det skulle komma att få efter den 11 september 2001.

Det gyllene tillfället: Terrorattackerna den 11 september

George W. Bush vann presidentvalet 2000 trots att han fick cirka en halv miljon färre röster än sin medtävlare Al Gore. Inte nog med det, valet följdes sedermera av en fem veckor lång dispyt angående rösträkningen i Florida. Tvisten avgjordes slutligen i Högsta Domstolen, inte efter juridiskt utan sna-

rare politiskt övervägande, till kandidat Bushs fördel. När Bush så småningom i januari 2001 svor presidenteden och därmed blev USA:s 43:e president var han endast den fjärde presidenten i ordningen sedan nationens grundande som valts med mindre folkröster än den kandidat som besegrats. Hans vinst hade säkerställts genom det amerikanska systemet med elektorer (och genom politiskt tillsatta domare i landets Högsta Domstol). Den nyvalde presidents (folkliga) stöd var – på grund av valkampanjen och att förspelet till installationen varit det mest förvirrade och kontroversiella i USA: historia – svagt.

Under presidentvalkampanjen föreföll kandidat Bush inte endast relativt ointresserad av utrikes- och säkerhetspolitik utan också påfallande okunnig. När Bush pressades av journalister och andra hänvisade han ofta till den ledarfilosofi han utvecklat då han var guvernör i Texas. Bush ansåg redan då att det politiska ledarskapets viktigaste utmaning var ”to build a strong team of effective people to implement my agenda” och ”to recruit the very best” (Bush 1999:97). Bush undvek således oftast från att prata om utrikes- och säkerhetspolitiska sakfrågor. Han återkom istället till följande påstående flera gånger under sin kampanj: ”I’ve got one of the finest foreign policy teams ever assembled” (Bruni 2000:20). De personer som Bush åsyftade när han sa så var: Richard Armitage, Dick Cheaney, Colin Powell, Condoleezza Rice och Paul Wolfowitz. Gruppen – som till synes stod för kontinuitet och stabilitet – kallade sig själv för the Vulcans (med referens till Vulcanus, elden och smidets gud i romersk mytologi). Med dessa rådgivare var kopplingen till den äldre Bushs ämbetsperiod tydlig (Mann 2004:xi). Den enda utpräglat neokonservativt färgade individen bland the Vulcans, var Wolfowitz.

Mot den ovan beskrivna bakgrunden förväntade sig de flesta utrikespolitiska bedömarna att Bushs utrikes- och säkerhetspolitik skulle vara försiktig, konsensusinriktad och inriktad mot att restaurera USA:s ganska problematiska relationer med omvärlden, vilka varit ett faktum under senare delen av 1990-talet, i den händelse han vann presidentvalet. Dessa förhoppningar besannades (åtminstone på ytan) delvis under Bushadministrationens första åtta månader vid makten. Bush sjösatte under denna period få eller inga utrikes- eller säkerhetspolitiska initiativ. Administrationens (i vilken samtliga från the Vulcans erhöll framträdande positioner) mest signifikanta drag var snarare att man drog tillbaka USA:s deltagande från eller vägrade att ansluta sig till olika typer av internationella initiativ, såsom Kyotoprotokollet och the International Criminal Court (ICC) (Baaz 2006d). Wall Street Journal-kolumnisten Albert R. Hunt (2001:A19) beskrev i april 2001 Bushadministrationens utrikes- och säkerhetspolitik i följande ordalag: ”In the Bush administration, engagement is a dirty word”.

Sett retrospektivt talar emellertid de ovan nämnda dispositionerna, tillsammans med exempelvis det faktum att Bushadministrationen slutade en-

gagera sig i Nordirland- och Israel-Palestinakonflikten, delvis ett annat språk. De indikerar vad som komma skulle; vad det var som skulle komma att utmärka president Bush båda ämbetsperioder vad gäller utrikes- och säkerhetspolitik, nämligen ”mer arrogans och mer unilateralism” (Moisi citerad i Traub 2001:32). Bushadministrationens unilaterala förhållningssätt kombinerades också med en tuffare, mer konfrontationsinriktad, retorik gentemot omvärlden, främst mot länder såsom Kina och Nordkorea (se Baaz 2006a, 2007). Men att befria USA från multilateralismens begränsningar var inte tillräckligt för att tillfredsställa de neokonservativa. Faktum är att det neokonservativa nätverket var mycket besvikna på Bush under hans första åtta månaderna som president.

Det är emellertid först efter den 11 september 2001 som det går att tala om ett paradigmskifte eller en revolution, präglad av skepticism mot multilateralism och internationell rätt och fokus på vad som ansågs vara USA:s nationella intressen, i amerikansk utrikes- och säkerhetspolitik. Den 10 september 2001 såg det inte ut som om president Bush skulle gå till historien som en särskilt bemärkt president. Terrorattackerna den 11 september förändrade emellertid detta fundamentalt. Bush hade, som vi vet, under sina första åtta månader uppvisat isolationistiska drag, och, i den mån han engagerat sig internationellt agerat unilateralt och framstått som skeptisk mot internationellt samarbete, internationell rätt och internationella organisationer (Baaz 2006d). Flera kommentatorer hoppades att terrorattackerna skulle ändra allt detta. USA framstod efter den 11 september 2001 inte längre som osårbart, utan som ett land vilket som helst. USA, menade många nationella och internationella kommentatorer, var inte sig självt nog. Stora förhoppningar ställdes därför till att Bushadministrationen skulle ändra utrikes- och säkerhetspolitisk inriktning, från unilateralism till diplomati, multilateralism och internationell rätt.

Inledningsvis, med den visade respekten för FN-stadgan och byggandet av den breda koalitionen inför den väpnade militära interventionen, i föregripande syfte, mot Afghanistan i oktober 2001, trodde många, politiska kommentatorer liksom flera av världens politiska ledare, att USA (återigen) blivit en ansvarstagande global ledare (i synnerhet i kampen mot den internationella terrorismen). USA åtnjöt också, som vi vet, ett mycket stort internationellt stöd kort efter terrorattackerna. Dessa förhoppningar kom emellertid snart på skam och det internationella stödet började tämligen snart att svikta. Bushadministrationen drog dessvärre inte de slutsatser av terrorattackerna som världen hade hoppats på, tvärtom (Baaz 2007).

När det otänkbara, de förödande terrorattackerna mot USA hösten 2001, skedde stod, menar Daalder och Lindsay (2003:79), presidenten inför två val, antingen var han tvungen att revidera sin världsbild så att den överens-

stämde med fakta, eller så var han tvungen att göra det omvända, att tolka nya fakta så att de överensstämde med hans redan existerande världsbild. Som de allra flesta människor gör, valde presidenten det senare alternativet. Bush fick genom den 11 september bekräftat, det han misstänkt sedan tidigare, nämligen att världen var en farlig plats och att internationella överenskommelser och organisationer inte kunde skydda ett amerikanska folket, så kunde endast ske om tillit satte till den amerikanska militärens makt och överlägsenhet. Efter det nationella trauma som följde den 11 september började Bush mer och mer lyssna på rådgivare och andra som stödde hans grundläggande världsbild. Till följd av detta blev att föra krig mot den internationella terrorismen hädanefter Bush och hans administrations allt annat överordnade uppgift.

Terrorattackerna förvandlade presidenten och merparten av hans närmaste medarbetare till politiker med en mission, nämligen att genomföra president Wodroow Wilsons idealistiska vision, ”to make the world safe for democracy”, formulerad i slutskedet av första världskriget. Dock inte, som Wilson hade föreställt sig det, genom multilateralt samarbete och kanaliserat genom internationella organisationer, utan genom att använda USA:s överlägsna militära styrka (Baaz 2006a, 2006d, 2007, 2008b; Wilson 1917:120). Bush formulerade således (delvis) samma mål som Wilson gjort före honom, men Bush valde medel för att realisera denna målsättning som var helt väsensskilda från de som president Wilson hade förlitat sig till.

Före den 11 september kvalificerade sig varken presidenten eller merparten av hans allra närmaste medarbetare, Cheney, Rumsfeld, Powell och Rice, som (övertygade) neokonservativa. De tillhörde snarare den bredare strömfåran inom den amerikanska konservatismen. De var övertygade nationalister och ansåg att amerikansk utrikes- och säkerhetspolitik borde styras av vad som utgjorde USA:s nationella intressen snarare än någon idealistisk strategi för att omforma världen. Det mest framträdande draget hos Bushadministrationen vad gäller vilken utrikes- och säkerhetspolitik som skulle föras var osäkerhet.

Som antytts ovan utbröt det i samand med kalla krigets slut i USA en intensiv diskussion om vilken riktning landets utrikes- och säkerhetspolitik skulle ta framöver. Denna diskussion var ingalunda avslutad i september 2001. Enligt en uppgift om florerat i media brukade president Bush inför viktiga utrikes- och säkerhetspolitiska beslut låta alla sina närmaste medarbetare komma till tals. Han lyssnade och fattade därefter, med utgångspunkt från vad som sagts, beslut om vilken politiska linje som skulle väljas i en speciell sakfråga.

Det neokonservativa nätverket, som ägnat hela 1990-talet, till att formulera en tydlig politik utgjorde, som vi vet, ett undantag till den osäkerhet som

präglade inte bara det övriga konservativa USA, utan landets hela utrikes- och säkerhetspolitiska etablissemang. Den enda grupp som i USA hade ett tydligt svar att ge på hur terrorattackerna den 11 september skulle bemötas var just de neokonservativa. Presidenten och hans närmaste medarbetare (Collin Powell undantagen) var efter den 11 september beredda att lyssna och göra den neokonservativa analysen och handlingsplanen till sin egen. Utan terrorattackerna den 11 september hade den amerikanska utrikes- och säkerhetspolitisk utveckling som följde inte varit möjlig. Terrorattackerna den 11 september utgjorde den neokonservativa rörelsens gyllene tillfälle (Jhally och Earp 2004; Singh 2006:14). De neokonservativa utnyttjade tillfället väl, de kidnappade den 11 september och använde det nationella traumat som följde terrorattackerna som hävstång för att implementera sin sedan länge formulerade utrikes- och säkerhetspolitiska agenda.

Efter den 11 september börjar neokonservatismens viktigaste idéer såsom de formulerats under 1990-talet allt oftare och allt tydligare märkas i Bushadministrationens utrikes- och säkerhetspolitik. Neokonservativa influenser märks tydligt i de tal angående tillståndet i nationen (State of the Union Adresses) som presidenten håller 2002 och 2003. De märktes också i presidentens traditionsenliga tal avgångsklassen på militärakademin West Point i juni 2002. Att Bushadministrationen anammat en neokonservativ utrikes- och säkerhetspolitik märks dock allra tydligast i den nationella säkerhetsstrategi (NSS) som administrationen presenterade i september 2002. I detta dokument förbehåller sig USA, bland annat, rätten till förebyggande krig (se Baaz 2006a, 2007). USA:s militära angrepp på Irak är Bushdoktrinens första tillämpning i praktiken. USA:s agerande under upptakten till kriget och fram tills dess att det förebyggande militära anfallet inleddes den 20 mars 2003, helt i strid med FN-stadgan och i strid mot majoriteten av det internationella samhällets uttalade vilja, bär tydliga neokonservativa kännetecken, såsom: förebyggande krig, hårdför politik mot stater som misstänks vilja skaffa sig kärnvapen, krig mot den internationella terrorismen samt, i konsekvens och i förlängningen, regimförändring i så kallade skurkstater och ”demokratiexport”. Administrationens vägval dokumenteras igen den 16 mars 2006, då Bushadministrationen presenterar en uppföljare (the NSS, 2006) till the NSS från 2002. Ekona från det av Paul Wolfowitz och Lewis ”Scooter” Libby år 1992 författade dokumentet Defense Planning Guidance (DPG) 1994 – 1999 är mycket tydliga i båda dessa dokument; så också vissa av idéerna vilka framfördes i den ovan nämnda rapporten ”A Clean Break”, 1996.

Utan terrorattackerna den 11 september 2001 hade inte den utrikes- och säkerhetspolitik som förespråkades av neokonservativa ideologer och aktörer kunnat bli Bushadministrationens officiella politik. Neokonservativa företrädare erbjöd färdiga svar på en traumatisk situation och utnyttjade och explo-

aterade effektivt den rädsla som följde efter terrorattackerna i det amerikanska samhället. En ny fiende framställdes och neokonservativa företrädare bidrog därmed att förenkla en, för många amerikaner otydlig och svårtolkad, världsbild i välkända termer av gott och ont, vi och de – antingen var man med USA eller så var man emot. Nyanser accepterades inte.

President Bush omvaldes under hösten 2004 och svor presidenteden en andra gång i januari 2005. Denna gång var hans position betydligt annorlunda än vid de förra valet. Han vann valet 2004 med bredare marginal än vad någon annan amerikansk president tidigare hade gjort. Han var dessutom den första presidenten på 70 år som vunnit ett omval och samtidigt ökat sitt eget partis majoritet i såväl Representanthuset som Senaten. Bushadministrationen hade populistiskt skickligt spelat på den amerikanska valmanskårens rädsla för islamistiska terrorister. Det amerikanska folket trodde fortfarande på sin president då han förfäktade idén om att förebyggande krig var en viktig komponent i kampen mot den internationella terrorismen och att det amerikanska folkets säkerhet blev bättre genom att USA ockuperade Irak. Budskapet om att FN och den internationella rätten inte längre tjänade USA:s intressen hade också slagit rot.

Två år senare, närmare bestämt den 7 november 2006, såg emellertid situationen helt annorlunda ut (igen). I valet till Kongressen förlorade republikanerna majoriteten i båda kamrarna. Flera orsaker till detta, för Bush, nedslående valresultatet har framförts: den mediokra federala insatsen i samband med orkanen Katrina, ett kraftigt stigande (enligt vissa bedömare galopperande) budgetunderskott och administrationens (alltför) intima koppling till den kristna högern. Sannolikt bidrar samtliga dessa faktorer till att förklara Bushadministrationens fallande popularitet. Men den främsta förklaringsfaktorn till presidentens falnande popularitet var den valda utrikes- och säkerhetspolitiska strategien; det faktum att presidenten gjort den neokonservativa agendan till sig egen. Kriget i Irak underminerade det Republikanska partiets främsta argument till varför de borde styra landet, nämligen att man var den främsta garantin för USA:s säkerhet. Det amerikanska folket insåg så småningom att verkligheten inte överensstämde med den politiska retoriken. Bushadministrationens nobla lögner hade till slut genomskådats.

I en opinionsundersökning presenterad av tidskriften Newsweek den 25 januari 2007 ansåg 58 procent av de tillfrågade att Bushadministrationen medvetet ljugit om Saddam Husseins påstådda innehav av massförstörelsevapen (www.newsweek.com). En senare opinionsundersökning, presenterad av the American Research Group den 13 november 2007, visar att 64 procent av det amerikanska folket anser att president Bush missbrukat sin makt som president. Vicepresident Dick Cheney får ännu sämre siffror än George W. Bush. I samma undersökning anser inte mindre än 70 procent att vicepresi-

denten missbrukat den makt som hans ämbete medför (americanresearch-group.com).

Tar man aktuella (våren 2008) opinionsmätningar i beaktande förefaller det som om Demokraterna kommer att bibehålla ett starkt grepp om Kongressens båda kamrar. Demokraterna stöds av 50 procent av väljarna medan Republikanerna endast stöds av 36 procent av väljarna (The Economist, 2008-03-29:7). Det till hösten stundande presidentvalet är svårare att förutsäga, då flera osäkra faktorer såsom demokraternas nomineringskampanj, kandidaterna personlighet och tur, spelar stor roll. Således kommer presidenten som tillträder i januari 2009 antingen ha starkt stöd, om det blir Barack eller Hillary Clinton, eller, tvärtom, ha svagt stöd, om det blir John McCain, i Kongressen. Alldeles oavsett hur det går i presidentvalet den 4 november 2008, kommer den tillträdande presidenten att önskat eller oönskat få leva med den neokonservativt influerade Bushdoktrinen och dess praktiska konsekvenser under en överskådlig tid framöver.

Avslutning

Ingen amerikansk president sedan Franklin D. Roosevelt efter Japans anfall på flottbasen Pearl Harbor den 7 december 1941 har haft större möjlighet att påverka den framtida världsordningens utformning än George W. Bush. De utrikes- och säkerhetspolitiska valmöjligheterna som låg för handen inkluderade allt från multilateralism, baserad på diplomati och internationell rätt, till unilateralism, baserad på hot och militärt våld.

Efter den 11 september 2001 fanns det faktiskt bättre möjligheter än år 1990 i samband med Gulfkriget att utveckla en FN-baserad multilateral världsordning; en världsordning baserad på en gemensam geopolitisk analys, diplomati och internationell rätt, med ett brett deltagande av såväl stater som andra transnationella aktörer i olika besluts- och implementeringsprocesser; en fredlig världsordning utan terrorhot, där Öst och Väst, Nord och Syd åtnjuter välstånd och lever tillsammans i harmoni, tar ett gemensamt ansvar för frihet och rättvisa och där den starke erkänner den svages rättigheter. George W. Bush fångade emellertid inte det gyllene tillfället och realiserade den nya världsordning som beskrivits av bland annat hans egen far på dagen elva år innan de ödesdigra terrorattackerna mot USA. Istället valde George W. Bush, starkt influerad av en liten grupp neokonservativa ideologer det andra alternativet: unilateralism baserad på hot och militärt våld.

Der neokonservativa nätverket utnyttjade terrorattackerna den 11 september 2001 fullt ut. Man spelade populistiskt an på det amerikanska folkets begripliga rädsla och förvirring, och sjösatte sin sedan länge planerade utri-

kes- och säkerhetspolitiska agenda (såsom den kommit till uttryck i exv. *the Defense Planning Guidance* (DPG) 1994 – 1999, ”A Clean Break” [1996] och det öppna brev, med krav på amerikanskt militärt angrepp på Irak, som PNAC skrev till president Clinton den 26 januari 1998 (se www.newamericancentury.org). Det neokonservativa nätverket uppnådde efter den 11 september 2001 en position där man inte endast i platonsk anda kunde hoppas på att få utbilda de härskande, nätverket kunde nu formulera den utrikes- och säkerhetspolitiska agendan.

Ingen av Bush närmaste medarbetare, Colin Powell undantagen, gav uttryck för en avvikande uppfattning än presidenten efter terrorattackerna. Därigenom kan förklaringen till varför Bushadministrationen valde att agera som den gjorde delvis ges med hänvisning till det med Irving L. Janis (1972) så intimt förknippade fenomenet ”groupthink”. Med begreppet förstås:

> *A mode of thinking that people engage in when they are deeply involved in a cohesive in-group, when the members' strivings for unanimity override their motivation to realistically appraise alternative courses of action (Janis 1972:9).*

Bushadministrationen var i chock omedelbart efter den 11/9 2001 och sökte ett förhållningssätt till hur den svåra situationen kunde hanteras. De neokonservativa hade sedan länge en starkt ideologiskt underbyggd utrikes- och säkerhetspolitisk agenda färdig; i och med den 11 september gjorde Bush och hans medarbetare denna agenda till sin. Tiden då presidenten lyssnat på olika uppfattningar och sedan bestämde sig för en linje hade därmed nått vägs ände. Avvikande uppfattningar accepterades inte längre. Situationen antogs kräva handlingskraft snarare än diskussion och analys. Vad som var rätt och fel ansågs odiskutabelt; *moralisk relativism förkastades*. Moral och sanning antogs vara de samma i varje kultur, vid varje tid och på varje plats. Faktum är att USA ansågs av Bushadministrationen inte bara ha en moralisk rättighet utan också en moralisk skyldighet att agera. Sammantaget kan konstateras att Bushadministrationens utrikes- och säkerhetspolitik vilar på ett lager av *evangelisk moralism*.

Det var emellertid inte bara ideologiskt som Bushadministrationens fokus kom att snävas av efter terrorattackerna den 11 september 2001. Det skedde även en geografisk avgränsning, mot Mellanöstern i allmänhet och Israel i synnerhet. Orsakerna till den geografiska avgränsningen står att finna i dels en neokonservativ uppfattning om att ett starkt Israel kan tjäna som en motvikt och ett gott exempel i Mellanöstern, den region i världen där antiamerikanismen frodas som mest, och, dels på grund av president Bush kopp-

ling till den kristna högern i USA. *Den kristna högern* (eller mer korrekt den evangeliskt kristna rörelsen, med cirka 70 miljoner anhängare i USA) *delar, trots alla olikheter, ett stort intresse för Israel med det neokonservativa nätverket*. Grunden för den kristna högerns intresse för Israel är helt annorlunda än vad som är fallet för de neokonservativa. Den kristna högerns intresse är religiöst snarare än geopolitiskt; enligt den kristna högern kommer de som välsignar Israel så småningom att själv välsignas (Baaz 2006d).

Problemen med den starkt ideologiskt influerade utrikes- och säkerhetspolitik som Bushadministrationen gjort till sin sedan terrorattackerna den 11 september 2001 är flerfaldiga. Det viktiga kriget mot terrorismen, vilket (initialt) ansågs vara en gemensam internationell angelägenhet, har lidit allvarlig skada av antagonismen mellan USA och Europa samt mellan USA och övriga världen. Sammankopplingen mellan Irakkriget och kriget mot terrorismen är artificiellt och accepteras av få utanför USA.

Kostnaderna för Bushdoktrinen börjar närma sig 1 000 miljoner USD. Beräkningar visar att cirka två miljoner människor, inklusive flera tusen amerikanska soldater har mist livet. Bushdoktrinen är till sin karaktär unilateral och folkrättsvidrig. Till yttermera visso, Bushdoktrinen fyller inte ens sin egen målsättning: *att skydda den egna befolkningens säkerhet och tillvarata USA:s intressen utomlands*. Den amerikanska ockupationen av Irak utgör (tvärtemot sitt uttalade syfte) en kraftig stimulans för arabisk och muslimsk anti-amerikanism och bidrar därigenom till islamistisk terrorism. Vad gäller målsättningen att tillvarata USA intressen är resultatet lika nedslående. Irakkriget har djupt skadat USA:s image och därigenom också landets intressen i världen. USA framstår idag i mångas ögon som arrogant och imperialistiskt; inte bara i den muslimska världen. Flera av USA:s tidigare allierade i Europa, vilket indikerats ovan, är öppet kritiska. Bushadministrationens utrikes- och säkerhetspolitik har lett till att den amerikanska befolkningens säkerhet har minskat. Slutsatsen av det ovan anförda blir att den ideologi som utvecklats sedan 1930-talet och som idag går under namnet neokonservatism utgör en synnerligen dålig grund för amerikansk utrikes- och säkerhetspolitik i allmänhet och det idag så viktiga kriget mot terrorismen i synnerhet. Ideologi har fått ersätta empiriskt grundad analys. Konsekvenserna av Bushadministrationens utrikes- och säkerhetspolitik är, har det visat sig, kontraproduktiva och farliga.

Styrka är vad stater använder det till. Bushadministrationen använder idag USA:s odiskutabelt överlägsna militära styrka på ett sätt som urholkar tron på FN som en beskyddare av fred och säkerhet och därigenom underminerar man också fundamenten – multilateralism och internationell rätt – som dagens moderna internationella samhälle vilar (Reus-Smit 1997, 1999). Därigenom finns det en risk att Bushdoktrinen utöver vad som beskrivits ovan

också har mer långtgående konsekvenser. Den förståelse av världen och, i förlängningen, de utrikes- och säkerhetspolitiska val Bushadministrationen gjort riskerar att omforma den världsordningen så som vi känner den, från ett *internationellt samhälle* – förstått som, "a group of states (or more generally, a group of independent political communities) which not merely form a system, in the sense that the behaviour of each necessary factor in the calculations of the others, but also have established by dialogue and consent common rules and institutions for the conduct of their relations, and recognise their common interest in maintaining these arrangements (Bull och Watson 1984:1) – till ett *Imperium Americanum*.

Irakkriget är inte unikt. Tvärtom. Det ligger helt i linje med Bushadministrationens utrikes- och säkerhetspolitiska agenda. Som alla tidigare imperier anser sig USA ha rätt att styra och ställa långt bort från det egna kärnlandet. Bland de länder som pekats ut av Bushadministrationen som "problematiska" återfinns utöver Afghanistan och Irak också: Iran, Nordkorea, Libyen och Kuba. Under år 2006 förekom uppgifter om att USA planerade storskaliga flyganfall mot Iran och att, helt i linje med Albert Wohlstetters idéer från kalla kriget, bomblasterna delvis skulle bestå av strategiska kärnvapen (Baaz 2006e). Retoriken har också understundom varit hård mot såväl Nordkorea som Kuba. Vad avser Libyen förefaller landet emellertid ha tagits till nåder på sistone.

Det har emellertid blivit allt kostsammare för Bushadministrationen att hålla samman sitt imperium. Krigen i Afghanistan och Irak har medfört att USA:s försvarsbudget ökat med över 50 procent i reella termer under perioden 2001-2006. Stockholm International Peace Research Institute (SIPRI) konstaterar i sin senaste årsbok (2007) att de ökade militärutgifterna har bidragit till att skapa ett stort underskott i USA:s federala budget. USA:s militära utgifter var på närmare 530 miljarder dollar 2006. Det är i runda tal 46 procent av alla militära kostnader i världen och mer än tio gånger så mycket som Kinas och mer än 15 gånger så mycket som Rysslands militära utgifter. Trots att USA står för nästan hälften av världens militärresurser så kan man idag inte besegra motståndsgrupper som saknar reguljära militära styrkor och sofistikerade vapen. Varken i Irak, Afghanistan eller Somalia har USA lyckats nå några bestående militära framgångar under de senaste åren (SIPRI Yearbook, 2007).

De senaste åren förefaller det som om inte ens Bushadministrationen fullt ut stödjer Bushdoktrinen. Flera av doktrinens arkitekter och förespråkare såsom Wolfowitz, Bolton och Rumsfeld har blivit avskedade, eller åtminstone fått nya jobb, relativt långt ifrån maktens absoluta centrum. Kort efter det att Bush hade omvalts till president reste han till Bryssel och gjorde ett allvarligt försök att reparera de dåliga relationerna med Europa, främst Frankrike

och Tyskland. Hans senaste utrikesminister Condoleezza Rice, betonade kort efter att hon tillträtt sitt ämbete vikten av internationell rätt och multilateralism. Hon inledde också diplomatiska förhandlingar med Nordkorea. Framtiden är således inte given, även om dagens situation är oroväckande. Framtiden kan komma att socialt konstrueras annorlunda än hittills; avgörande är hur de individer som bidrar till världspolitikens utformning förstår densamma och väljer att handla. Centralt i detta sammanhang är den sammanhållna uppsättning övertygelser eller antaganden som reducerar komplexiteten hos en del av verkligheten till något begripligt och bidrar till att hantera den del av verkligheten, det vill säga *ideologi*.

Bushdoktrinen kommer inte att försvinna med president George W. Bush i januari 2009. Republikanernas president kandidat John McCain är visserligen inte ideologiskt neokonservativ. Han kan snarare beskrivas som en traditionellt konservativ amerikansk nationalistisk politiker. McCain är intresserad av att bibehålla USA starkt militärt, men han kan tänka sig att, om än inte i samma omfattning som Bush att använda sig av denna militära styrka till att ersätta regimer i skurkstater och att sprida amerikansk demokrati. Han har under Bush år som president gett sitt stöd till presidenten såväl avseende anfallet på Afghanistan som kriget mot och ockupationen av Irak. Han förespråkar inte heller något snabbt tillbakadragande av amerikansk trupp från Irak.

Hillary Clinton stödde inledningsvis Irakkriget. Det är först senare hon börjat kritisera det. Hon förespråkar ett kontrollerat tillbakadragande av amerikansk trupp från Irak. Barack Obama däremot var emot det helt och hållet från början och han vill så snabbt som möjligt kalla hem de amerikanska trupperna. Dock bör erinras om att demokratiexport och föregripande krig traditionellt ryms inom demokratiskt utrikes- och säkerhetspolitiskt tänkande. Sålunda har Barack Obama, som retoriskt mest tydligt avviker från Bushdoktrinen, under sin nomineringskampanj gjort klart att om han blir president så lovar han ”to use force, unilaterally if necessary, to protect the American people” från omedelbara hot (The Economist, 2008-03-29:6). Huvuddragen i Bushdoktrinen kommer således att finnas kvar, åtminstone latent, i den amerikanska utrikes- och säkerhetspolitiska agendan under en lång tid framöver. I händelse av en ny terrorattack eller en långtgående provokation från en ”skurkstat” kommer dess centrala verktyg med all sannolikhet att (dammas av och) användas, oavsett vem som är president i USA.

Men, oavsett hur presidenten i världens mäktigaste land väljer att agera, agerar han eller hon inte i ett vakuum utan måste, vilket blivit allt tydligare under president Bush andra ämbetsperiod, ta hänsyn till omvärlden; till Ryssland, Kina och inte minst Europa. Klyftan mellan USA och Europa har sedan år 2006 minskat något, dels på grund av att Bushadministrationen bör-

jat föra en aningen mindre konfrontatorisk politik än tidigare, och, dels på grund av att Bushdoktrinens främsta kritiker i Europa, Jacques Chirac och Gerhard Schröder ersatts av respektive Nicholas Sarkozy och Angela Merkel. Dessa båda politiker betonar att principen om *multilateralism* inte kan vara ovillkorlig, den måste vara *effektiv*. Därigenom ligger det europeiska förhållningssättet – *effektiv multilateralism* – närmare Bushadministrationen än tidigare.

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