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The EU Constitution: Will Europe Force a Way Forward?

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The recent demise of the anti-American Schroeder-Chirac partnership has allowed for renewed optimism in Washington about relations between the United States and the European Union (EU). However, the re-emergence of the draft EU constitution¹ represents a fundamental threat to American interests far more profound than the hostility of any one European leader. This draft constitution challenges U.S. strategic, diplomatic, judicial, and military interests. It enshrines modish and ephemeral values as supreme law for 25 separate nation-states with the intention of fully globalizing its lofty and elite-driven policies.

The United States needs to recognize the threat posed by Brussels' drive to centralize huge swathes of public policy as having significant negative implications for America and respond to that threat by applying appropriate diplomatic pressure to ensure that U.S. interests are upheld within the transatlantic alliance.

Rejection and Reflection— Forcing a Way Forward

The Treaty Establishing a Constitution for Europe will codify the supreme legal basis of the EU's 25 member states, marking a monumental departure from the traditional, incremental treaty-based approach to European integration. Perhaps because of its magnitude (or more likely in a fit of frequently imagined "European solidarity"), the constitution's drafting Presidium declared that unanimous agreement from all member states would be required for it to progress and that a rejection by one would mean a rejection by all.

Talking Points

- The draft EU constitution challenges America's strategic, diplomatic, judicial, and military interests.
- Much of the draft EU constitution has been or is being implemented in spite of its rejection in two national referenda.
- The draft EU constitution would have significant foreign policy implications for America, superseding traditional tools of foreign policy-making such as alliance-building. It would create a system in which America would be forced to negotiate with a single European power instead of forming ad hoc coalitions with sovereign nation-states and traditional allies.
- The potential for wrongful interpretation of the U.S. Constitution on the basis of foreign law would increase with the introduction of the Charter of Fundamental Rights, which is more plausibly a charter for permanently expanding government than a means of protecting the individual from state power.

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Ratification would proceed immediately by either parliamentary process or national referendum.

Its categorical rejection in two democratic referenda in 2005 should therefore have ended this “grandiose project.”² At a moment when the unanimity of all 25 EU member states was an agreed prerequisite for the constitution to go ahead, two of the six founding members—France and Holland—rejected it by large margins.³ Whether these results came in spite of or because of strong political and moral pressure from above is unimportant. The bottom line remains that the EU constitution was rejected in two freely and fairly conducted national referenda.

Outside of Europe, the EU constitution is widely assumed to be dead, but the dominant reaction within Europe since 2005 has been to force a way forward, regardless of the outcomes of the two referenda. In fact, just hours after France’s “Non,” Jean-Claude Juncker, Prime Minister of Luxembourg and arch integrationist, declared: “The European process does not come to an end today.”⁴ President of the European Commission José Manuel Barroso stated: “What is important is to recommit ourselves to this vision of Europe.”⁵ Vice-President Margot Wallström went even further, arguing for augmenting the constitution to include environmental commitments inspired by the Kyoto Protocol.⁶ For Europe’s elites, the constitution is anything but dead.

Member States: Will They Find a Way Forward?

Europe’s powerful Franco–German axis has taken on the mantle of resuscitating the constitution. As German Chancellor Angela Merkel took office in November 2005, she stated that the votes in France and Holland should “by no means lead to the idea of the constitution being given up.”⁷ Her Foreign Minister, Frank-Walter Steinmeier, similarly declared that “There is absolutely no reason to give up on the constitution,” although he also suggested that the name itself could be changed to allay voters’ fears.⁸

Leading French presidential candidate Nicolas Sarkozy has proposed a “mini-treaty” encompassing the most unpalatable provisions of the constitution, including a foreign minister, the abolition of several national vetoes, and tax-raising powers for Brussels. In an impressive display of political unity ahead of the 2007 presidential election, Sarkozy is joined by his closest rival, Socialist candidate Ségolène Royale, who wants “a great European project that affects people’s daily lives.”⁹

Other major European leaders are also keen to move forward. Italian Prime Minister and former European Commission President Romano Prodi has called for a simplified version of the constitution to be introduced forthwith.¹⁰ Greek Prime Minister Kostas Karamanlis has warned against “inertia” about the future of the constitution during

1. For the text of the draft EU constitution, see European Union, “A Constitution for Europe,” at www.europa.eu/constitution/en/allinone_en.htm (December 8, 2006).
2. Nicholas Watt, “EU Constitution a Grandiose Project That Failed, Says Beckett,” *The Guardian*, October 18, 2006, at www.politics.guardian.co.uk/print/0,,329603460-107988,00.html (December 7, 2006).
3. Rejection was carried by 55 percent in France and by 61.5 percent in the Netherlands.
4. Katrin Bennhold and Graham Bowley, “Charter ‘Not Dead,’ EU Insists,” *International Herald Tribune*, May 31, 2005, at www.iht.com/articles/2005/05/30/news/france.php (December 7, 2006).
5. George Parker, “Would a Constitution by Another Name Smell Sweeter?” *The Financial Times*, May 29, 2006.
6. Mark Beunderman, “Brussels to Defend ‘Core’ of EU Constitution in Treaty Talks,” *EUobserver*, October 19, 2006, at www.euobserver.com/18/22676 (December 7, 2006).
7. Mark Beunderman, “Merkel Says Germany ‘Will Not Solve’ EU Constitution Limbo,” *EUobserver*, October 30, 2006, at www.euobserver.com/18/22761 (December 7, 2006).
8. Agence France-Presse, “EU Seeks More Time to Resurrect Constitution,” May 28, 2006.
9. Beunderman, “Brussels to Defend ‘Core’ of EU Constitution in Treaty Talks.”
10. Agence France-Presse, “Italy’s New Leader Sees Simplified EU Constitution,” May 29, 2006.

this official period of reflection.¹¹ In fact, the governments of Denmark, Finland, and Luxembourg have all come out in vocal support of reviving the draft constitution.¹²

The British public, however, are unlikely to support this constitution, or indeed any constitution emanating from Brussels. Neither Prime Minister Tony Blair nor his likely successor Gordon Brown has the appetite for the tremendous political dogfight that would be necessary to foist this on the British people. British Foreign Secretary and Blair loyalist Margaret Beckett struck a note of finality when she commented that the constitution was “a grandiose project but it didn’t come off.”¹³ The British are joined by the Dutch, who are inclined to respect the wishes of their people, and the Poles, who want to reopen the Pandora’s box of members’ voting rights. An elite-driven attempt to push on with the constitution in its current form will meet significant resistance.

The Backdoor Constitution

While Europe’s capitals engage in heated debate about the future of a formal document, the reality must not be ignored that much of the document has been or is being implemented in spite of the 2005 rejections; the EU intends to press on regardless. In fact, the European Union habitually introduces legislation in the absence of any real legal basis, with treaties and protocols merely confirming a pre-existing reality thereafter. Any judicial review will be conducted by the European Court of Justice, which has “ever closer union” as its primary mandate. This is how Europe has approached much of

the EU constitution. Countless EU agencies and legislative initiatives—substantially contrary to American interests—have been established since June 2005, as if the constitution were already in force.

Common Asylum Policy. Article III-257 of the draft constitution proposes “a common policy on asylum, immigration and external border control.” Article III-266 states: “The Union shall develop a common policy on asylum.” Regardless of the constitution’s rejection, the European Commission issued a Returns Directive on September 1, 2005, establishing a common asylum policy¹⁴ in which the European Convention on Human Rights would henceforth trump national legislation in determining treatment of deportees—adding yet another complication to already controversial extradition procedures.¹⁵

European Space Program. Article III-254 tasks the EU with formulating “a European space policy” to ensure that “all European space activities will be launched from a single coherent platform.”¹⁶ On December 28, 2005, seven months after the French and Dutch referenda, the GIOVE-A satellite was launched in anticipation of the joint EU–Chinese Galileo satellite system, representing a serious strategic threat to future American military interests.¹⁷

European Defense Agency. Article I-41 declares: “An agency in the field of defense capabilities development, research, acquisition and armaments (European Defense Agency) shall be established.” In fact, the European Defense Agency opened its Brussels headquarters in 2004. The EDA continues to describe its purpose and role in the exact words of the rejected constitution: “defense capabilities

11. Agence France-Presse, “EU Seeks More Time to Resurrect Constitution.”

12. Agence France-Presse, “Denmark Would Put EU Constitution to Referendum: Foreign Minister,” May 29, 2006; Parker, “Would a Constitution by Another Name Smell Sweeter?”; and William J. Kole, “EU Envoys in No Rush to Revive the Continent’s Troubled Constitution,” Associated Press Worldstream, May 28, 2006.

13. Watt, “EU Constitution a Grandiose Project That Failed.”

14. Commission of the European Communities, “Proposal for a Directive of the European Parliament and of the Council on Common Standards and Procedures in the Member States for Returning Illegally Staying Third-Country Nationals,” September 1, 2005, at www.eur-lex.europa.eu/LexUriServ/site/en/com/2005/com2005_0391en01.pdf (December 7, 2006).

15. David Rennie and Philip Johnston, “EU to Set Down New Rules for Expelling Extremists,” *The Daily Telegraph*, August 31, 2005.

16. European Commission, “First ‘Space Council’ Sets Sights on European Space Programme,” November 29, 2004, at www.ec.europa.eu/enterprise/space/news/article_1701_en.html (December 7, 2006).

17. “A System to Make Jove Proud: Satellite-Navigation Systems,” *The Economist Global Agenda*, December 29, 2005.

development; armaments co-operation; the European defense, technological and industrial base and defense equipment market; research and technology.”¹⁸ This will greatly exacerbate the anti-American inclinations of current EU procurement policy.

Harmonization of Policing Methods. Article III-275 sets out extensive policies for “police cooperation.” Just months after the supposed death of the constitution, the European Police College opened in Bramshill, United Kingdom,¹⁹ together with radical restructuring of Britain’s police force in line with European regional constituencies. This was in spite of warnings from Britain’s own Intelligence and Security Committee that this move could threaten the local knowledge important to counterterrorism,²⁰ potentially undermining transnational cooperation with one of America’s strongest allies in the war on terrorism.

Agency for Fundamental Rights. One of the constitution’s most controversial proposals is the Charter of Fundamental Rights, a charter so all-encompassing that it “covers everything from the right to equal pay for men and women to the right to access health care and medical treatment.”²¹ Once again in disregard of the constitution’s rejection, the EU is continuing with plans to establish an Agency for Fundamental Rights in Vienna in 2007 “to ensure that the values enshrined in the Charter of Fundamental Rights are respected.”²²

A Rival, Not a Partner

The resurrection of the EU constitution poses a grave threat to American security interests in Europe.

At the heart of the document is the concept of a formal “legal personality” for the European Union, allowing it to “speak with one voice” on the international stage in place of individual member states.²³ The constitution would create a powerful European Foreign Minister and create a system in which America would be forced to negotiate with a single European power instead of forming ad hoc coalitions with sovereign nation-states and traditional allies. In a European Union where hostility to American power and interests predominates, this represents a clear and present danger for American alliance-building in Europe.

During her 2005 trip to Europe, U.S. Secretary of State Condoleezza Rice made robust statements in support of further European integration.²⁴ What the Administration needs to realize is that the European constitution, with its advanced Common Foreign and Security Policy, goes far beyond creating a modest or inconsequential European identity; it supersedes traditional tools of foreign policy-making, such as alliance-building.

Since the collapse of the Soviet Union, the perceived need for another power to “counterbalance” the United States has motivated European integrationists. This thinking was displayed by the EU most nakedly during the buildup to Operation Iraqi Freedom, in which powerful nations not just critiqued, but also obstructed American foreign policy. EU accession countries were even threatened with delays to their accession for supporting the war.²⁵ Underlying this diplomatic crisis was the

18. European Defence Agency, “Background,” updated November 6, 2006, at www.eda.europa.eu/background.htm (December 7, 2006).

19. CEPOL, “Vacancies,” at www.cepol.net/KIM/Pagina.ASP?WCI=Pagina&WCE=18148 (December 7, 2006).

20. Intelligence and Security Committee, “Report into the London Terrorist Attacks on 7 July 2005,” p. 38, at www.official-documents.co.uk/document/cm67/6785/6785.pdf (December 7, 2006).

21. European Parliament, “MEPs Back EU Agency for Fundamental Rights for 2007,” September 15, 2006, at www.europarl.europa.eu/news/public/story_page/015-10743-255-09-37-902-20060915STO10742-2006-12-09-2006/default_en.htm (December 7, 2006).

22. Social Rights Bulgaria, “European Commission to Establish an Agency for Fundamental Rights,” August 17, 2005, at www.socialrights.org/spip/article1242.html (December 7, 2006), and European Parliament, “MEPs Back EU Agency for Fundamental Rights for 2007.”

23. Nicolas Sarkozy, “EU Reform: What We Need to Do,” *Europe’s World*, Autumn 2006, at www.europesworld.org/article.aspx?Id=2ada8047-7362-4d8e-85d1-62ad90b88da5 (December 7, 2006).

24. Philip Stephens and Daniel Dombey, “Rice Pledges Washington Support for a Common European Foreign Policy,” *Financial Times*, February 11, 2005.

message that the time had come for Europe to directly challenge a sovereign foreign policy decision of the United States in an attempt to contain American power.

This argument has been driven home by EU elites for some time now.

- Former French Prime Minister Lionel Jospin's attack on America's status as an "unchecked hyper-power"²⁶ supplemented former President Francois Mitterand's assertion that "we are at war with America.... [T]hey are voracious, they want undivided power over the world."²⁷
- German Chancellor Gerhard Schroeder argued for further European integration on the grounds that "whining about U.S. dominance does not help, we have to act."²⁸
- Belgian Prime Minister Guy Verhofstadt describes the direction of the EU in terms of a European "emancipation" from the United States.²⁹
- Spanish Prime Minister Zapatero openly talks about deconstructing American global influence within two decades.³⁰

Any future EU foreign policy will undoubtedly revolve around this anti-American world vision in which Europe is a counterweight to the United States—a rival, not a partner.

Foreign Policy Implications

Although this virulent anti-Americanism prevails within many European governments, it is insufficient to prevent the United States from dealing with individual allies to build ad hoc coalitions. In spite of boasts by the European Commission that "EU

diplomats... have over time come to share the reflex of a European response to foreign policy issues and dilemmas,"³¹ foreign policy remains—in large part—the preserve of European nation-states. The European constitution would reverse that completely.

Articles I-40 and I-41 set out the EU Common Foreign and Security Policy, demanding the "achievement of an ever-increasing degree of convergence of Member States' actions." A single European foreign policy would require "a common approach" with consultation before "undertaking any action on the international scene or any commitment which could affect the Union's interests." Article III-294 prohibits dissent from the consensus: "Member States shall support the common foreign and security policy actively and unreservedly in a spirit of loyalty and mutual solidarity." The EU's single foreign policy would then "be put into effect by the Union Minister for Foreign Affairs and by the Member States, using national and Union resources." Put into force, this would make current High Representative Javier Solana a full foreign minister with a mandate to dictate foreign policy through his very own European diplomatic corps.

The constitution's defenders argue that member states would enjoy a national veto in foreign affairs under the "common approach" requirements of the constitution. However, a Europe unable to reach agreement would have to come to a majority consensus or national vetoes would deprive EU member states of any active foreign policy, either as a bloc or as individual states. The capacity of the United States to build coalitions and alliances through bilateral discussion and diplomacy with individual nation-

25. Adam Daniel Rotfeld, "Primum Non Nocere," interview of Witold Żygulski, April 4, 2003, at www.warsawvoice.pl/view/1892 (December 7, 2006).

26. Lionel Jospin, quoted in Bill Cash, "European Integration and Government: Dangers for the United States," *European Foundation Working Paper 2*, October 2000, p. 3, at www.europeanfoundation.org/docs/Working%20paper%202%20-%20Dangers%20for%20the%20United%20States.pdf (December 7, 2006).

27. *Ibid.*

28. Associated Press, "Schröder to Europe: Unite vs. US," December 28, 1999.

29. John Vinocur, "Criticism of U.S. Obscures Growing Disunity on Continent; What Does Europe Want?" *International Herald Tribune*, January 20, 2004.

30. Irwin M. Stelzer, "An Alliance of Two," *The Weekly Standard*, November 22, 2004.

31. European Commission, External Relations, "Taking Europe to the World: 50 Years of the European Commission's External Service," 2004, p. 57, at www.deltha.ec.europa.eu/en/Publications/07_50_years_broch_en.pdf (December 7, 2006).

states would all but cease. Either way, it is a lose-lose situation for constructive foreign relations.

The United Nations Security Council, where Britain and France enjoy separate permanent seats, would present a strange beast under a united European foreign policy. The drafting Presidium considered unifying the seats into a single EU seat but dropped the recommendation after strong political backlash. However, the language of “unity,” “coherence,” “consultation,” and “unification” allows for the dominance of a powerful EU foreign minister to permeate U.N. alliance-building and potentially undermine the close voting relationship that the U.S. and U.K. currently enjoy.

Independent military procurement would also undoubtedly be a casualty of a united European foreign policy, with the European Defense Agency and the European Space Program dominating the procurement agenda. The decision to spend £1.4 billion on the European Meteor air-to-air missile rather than buy an existing product from the United States at a fraction of the cost evidences the extent of anti-Americanism in the current European Union.³² At the heart of the European Space Program is the Galileo project—the costly and unnecessary pursuit of a European global positioning system independent of the United States. China has bought itself the same privileges through a 20 percent stake in Galileo, creating the possibility—greatly damaging even as a possibility—that European systems could be used to guide Chinese missiles to American targets in any future conflicts.³³

Replacing individual European allies with a single EU foreign minister in any context or institution is a bad idea. Inevitably, even if unintentionally, American interests will lose in the discussions that matter most. As Henry Kissinger has said:

When the United States deals with the nations of Europe individually, it has the possibility of consulting at many levels and to have its view heard well before a decision is taken. In dealing with the European Union, by contrast, the United States is excluded from the decision-making process and inter-acts only after the event, with spokesmen for decisions taken by ministers at meetings in which the United States has not participated at any level.... Growing estrangement between America and Europe is thus being institutionally fostered.³⁴

Legal Implications

Another insidious long-term threat to American values is posed by Part II of the draft European constitution, the Charter of Fundamental Rights. The EU has proposed a Fundamental Rights Agency to ensure that this part of the treaty will come into force as quickly as possible. The charter’s 51 clauses are more plausibly a charter for permanently expanding government than a means of protecting the individual from state power,³⁵ and America will not be immune from this greatly expanding scope of state power.

The creeping application of phony customary international law, no matter how erroneous, into

32. Bill Cash, “United States Policy on European Integration: An Understandable But Strategic Error Since 1990,” European Foundation, *The European Journal*, Vol. 13, No. 3 (March/April 2006), p. 14, at www.europeanfoundation.org/docs/March%20April%202006.pdf (December 7, 2006). For a full analysis of how British procurement is being directed in favor of the EU and in opposition to the United States, see Richard D. North, “The Wrong Side of the Hill: The ‘Secret’ Realignment of UK Defence Policy,” *DefenseIndustryDaily.com*, August 2005, at www.defenseindustrydaily.com/files/UK-EU-US_Wrong_side_of_the_hill_def_4.pdf (December 7, 2006).

33. “A System to Make Jove Proud,” *The Economist Global Agenda*, and Christopher Booker, “Space Race: Europe’s Satellite System Is Wobbling Perilously off Course,” *The Sunday Telegraph*, October 30, 2005, at www.telegraph.co.uk/news/main.jhtml?xml=/news/2005/10/30/nbook30.xml (December 7, 2006).

34. Henry Kissinger, *Does America Need a Foreign Policy?* (New York: Simon & Schuster, 2001), p. 57.

35. For a full analysis of the potential long-term implications of the Charter of Fundamental Rights, see Allister Heath, “A Critique of the Charter of Fundamental Rights,” European Foundation *Working Paper* 8, July 3, 2001, at www.europeanfoundation.org/docs/Working%20Paper%208%20-%20A%20critique%20of%20the%20Charter%20of%20Fundamental%20Rights.pdf (December 7, 2006).

the American judicial system has given much hope to Brussels that its core values and principles can and will be universalized. On significant public policy questions—from juvenile death penalty cases³⁶ to environmental regulatory protocols³⁷—activist American judges have taken a degree of moral and legal comfort in citing foreign law in their decisions. As Jeremy Rabkin stated, “the Supreme Court has recently invoked foreign legal decisions as a guide to interpreting the U.S. Constitution—on the apparent assumption that our own constitution ought to be consistent with what the Court has called the opinions of ‘the world community.’”³⁸ Increasingly, foreign law is being used as a “rhetorical weapon” against the United States.³⁹

During the confirmation hearings of Supreme Court nominees John Roberts and Samuel Alito, Members of Congress specifically referred to the troubling trend of American courts citing foreign law in interpreting the Constitution as something that must be resisted. The wrongful interpretation of the American Constitution on the basis of foreign law would only increase with an EU constitution that encompasses such a vastly prescriptive legal enterprise. As Homeland Security Secretary Michael Chertoff said recently, “what we see here is a vision of international law that if taken aggressively would literally strike at the heart of some of our basic fundamental principles.”⁴⁰

Justice Antonin Scalia notes that the Framers of the U.S. Constitution were absolutely clear that the U.S. has a different moral and legal framework from Europe, one that is jeopardized by the aggressive

expropriation of EU law.⁴¹ The European Court of Human Rights has been responsible for some truly egregious rulings in recent years.⁴² With a Charter of Fundamental Rights, the European Court of Justice and European Court of Human Rights would together preside over the final destruction of common law tradition and promote judicial activism both within and outside of the EU.

How U.S. Policy Toward Europe Should Be Changed

The Administration should:

- **Recognize the threat posed to U.S. strategic, diplomatic, judicial, and military interests by the draft EU constitution.** The Administration needs to send a powerful message that it will ensure that its interests are upheld within the transatlantic alliance and that it will use the full range of U.S. economic, political and diplomatic tools to defend U.S. interests against public policy that runs contrary to those interests. It should encourage the expansion and global focus of NATO and oppose the militarization of the European Union, which will duplicate and undermine NATO structures. The Administration should send a consistent message that the EU constitution threatens American values and interests and should resist offering any support for this document.
- **Support U.S. allies who actively pursue the conservative vision of a European Union of self-determining, sovereign nation-states.** Conservative Party leader David Cameron has re-

36. *Roper v. Simmons*, 543 U.S. 551 (2005).

37. Lawrence A. Kogan, “Precautionary Preference: How Europe Employs Disguised Regulatory Protectionism to Weaken American Free Enterprise,” *International Journal of Economic Development*, Vol. 7, Nos. 2–3 (2005).

38. Ying Ma, “A Defense of Sovereignty: Jeremy Rabkin on Some Pressing Questions,” *National Review*, March 10, 2005, at www.article.nationalreview.com/?q=Y2FhZm10NjJkMmVjNWViZTRjN2E2ZTQwMmQzNzg4ZGQ= (December 7, 2006).

39. Reuters, “Chertoff Says U.S. Threatened by International Law,” November 17, 2006.

40. *Ibid.*

41. Antonin Scalia, speaking at the “Constitutional Relevance of Foreign Court Decisions” forum, American University, Washington College of Law, Washington, D.C., January 13, 2005.

42. In 2001, the families of eight terrorists shot during an attack on a police station were each awarded £10,000 in compensation for their loss after the European Court of Human Rights ruled that the terrorists’ human rights had been violated. BBC News, “UK Condemned over IRA Deaths,” May 4, 2001, at www.news.bbc.co.uk/2/hi/uk_news/northern_ireland/1311724.stm (December 7, 2006).

cently committed the British Conservative Party to leaving the highly federalist European Parliamentary grouping of the EPP-ED in 2009 and is likely to form a new pan-European group of genuinely reform-minded center-right parties, such as the Czech Civic Democratic Party and Polish Law and Justice Party. The Administration should signal its willingness to work closely with new groups in Europe on issues in which constructive engagement is beneficial to American interests.

- **End support for a unified European foreign policy.** Friendly relations with individual EU member states must be the highest priority for America's vast diplomatic service and remain the primary focus for future European visits by the Administration. The Administration should extend serious diplomatic credibility to allies that it would hope to rally for future initiatives and should continue to work closely with individual foreign ministers in institutions such as the United Nations and NATO. The Administration should work with new and old allies at the national level to approach common challenges.
- **Establish ad hoc coalition-building as an essential tool of U.S. foreign policy-making.** Although traditional alliance-making has been complicated since the end of the Cold War, Britain will remain America's strongest European ally for some time, supplemented by a vast array of strategically important countries in Central and Eastern Europe. The Administration needs to signal its willingness to work with multiple partners on a variety of stages and resist the "speak with one voice" approach. The Administration should leverage its economic and diplomatic might to continue constructive dialogue with those at the heart of power rather than with those who merely wish to be.
- **Use diplomatic and economic tools to support its allies' opposition to an EU détente with China.** The Administration needs to work closely with its plentiful allies in Europe with which it shares common strategic interests on

the question of China. It should use the full range of U.S. foreign policy tools to support opposition to Brussels' attempts to lift the EU arms embargo on China. The Administration should make clear that U.S. policy remains firmly opposed to lifting the embargo and that, if necessary, the U.S. will economically punish companies and countries that endanger U.S. interests and stability in the Taiwan Strait.

- **Support congressional and judicial opposition to the use of foreign law in interpreting U.S. law.** The Administration and Congress should support measures seeking to limit the scope of foreign law being used to interpret the American Constitution. American states should not seek to circumvent presidential authority on legislative measures such as the Kyoto Protocol, which the EU pushes on a state and regional level, having failed at the federal level.

Conclusion

In her famous 1988 Bruges Speech,⁴³ Margaret Thatcher laid out a vision for the future of Europe, a powerful alternative to relentless integration and further centralization. Her internationalist, decentralized vision for Europe leaves power vested in sovereign national parliaments and contrasts sharply with the EU constitution's federalist vision of a European superstate.

America needs to recognize that this is where its values and interests are best served. Lady Thatcher presided over a period of exceptionally successful transatlantic relations and left a legacy that should be preserved. She put forward an intellectually powerful model of intergovernmentalism for Europe in her Bruges Speech—one that the draft EU constitution would relegate to history.

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43. Margaret Thatcher, "Speech to the College of Europe ("The Bruges Speech")," Bruges Belfrey, Bruges, Belgium, September 20, 1988, at www.margarethatcher.org/speeches/displaydocument.asp?docid=107332 (December 8, 2006).