Paper prepared for the
Third Euroacademia Global Conference
Europe Inside-Out: Europe and Europeaness Exposed to Plural Observers

Prague, 15 – 16 March 2013

This paper is a draft
Please do not cite

From dual to collaborative federalism
- A constructivist reading of intergovernmental policy coordination in Canada and the European Union

(A paper to be presented at the Euroacademia conference - work in progress, please do not cite or circulate beyond the conference)

Robert I. Csehi
PhD student, Central European University
Csehi_Robert@ceu-budapest.edu
+36 30 245 8229

ABSTRACT

Despite the over fifty years of integration and federal institutionalization, the European Union (EU) lives through a renaissance of intergovernmentalism, as it attempts to address the tension of further coordinating member-state jurisdictions without formally transferring any more responsibilities to the federal / European level. The economic crisis highlighted the growing interdependence among member-states that leads to the divergence between jurisdictional and actual policy boundaries. This, however, is not an EU specific problem, but can also be witnessed in other federal political systems. As a result, the constitutional distribution of legislative powers needs to be balanced with a deliberative procedure of intergovernmental policy coordination that may alter the actual allocation of powers as well. Consequently, this paper asks how, and under which conditions do constituent units of federal political systems turn to intergovernmental policy coordination instead of the traditional governing methods based on legislative decision making?

In order to be able to understand this turn to a renewed and reformed intergovernmental activity, this study advances a constructivist approach to federal theory that attempts to finetune the idea of 'collaborative federalism' (Cameron and Simeron, 2002) by blending it with the 'deliberative turn' (Neyer, 2006). Focusing on different aspects of the creation of economic union in Canada (internal trade) and the EU (economic governance), this comparative study argues that the 'deliberative capacities' in the system influences the emergence of intergovernmental coordination, and provides with a complementary development path to legal coordination. The paper sums up the findings based on a number of interviews conducted with government officials and public servants in Canada and the EU.

Keywords: federalism, intergovernmental relations, constructivism, deliberative capacities, economic union

"Union method(…)a coordinated European position is not necessarily the result of the application of the community method. This common position is sometimes an outcome of the intergovernmental method. The main thing is to have a common position on important issues(…)a coordinated action in a spirit of solidarity, each one of us [i.e. EU

institutions and member states] in the sphere which comes under their responsibility but while focusing on the same aim."

(Angela Merkel, 2 November, 2010, Brugge)

"Today, I call for a federation of nation states. Not a superstate. A democratic federation of nation states that can tackle our common problems, through the sharing of sovereignty in a way that each country and each citizen are better equipped to control their own destiny. This is about the Union with the Member States, not against the Member States. In the age of globalisation pooled sovereignty means more power, not less(…)I said it on purpose a federation of nation states because in these turbulent times these times of anxiety, we should not leave the defence of the nation just to the nationalists and populists. I believe in a Europe where people are proud of their nations but also proud to be European and proud of our European values."

(Jose Manuel Barroso in his State of the Union speech, 12 September, 2012)

"The European engine in my time was the Commission(…)The direction was towards some sort of quasi-federal Europe. In the coming years, Europe will also make progress, but it will not be [led by] the Commission but by the Council(…)The voice of the Commission is very, very soft(…)Van Rompuy, who was really unknown, is step by step becoming the centre of Europe."

(Romano Prodi in an interview with EUobserver, 2 February, 2013)

"Federalism works when the premiers agree. When the premiers do not agree, federalism does not work. Canada exists by the grace of the premiers. This is implicit in all such exercises in executive federalism. Every time the premiers meet, the same corrupting idea is stealthily reinforced: There is no sovereign nation called Canada; there is no overriding national interest to which the premiers are required to submit. There are only the several populations of the provinces, whose interests are entirely in conflict, and whose sole legitimate representatives are the members of their respective provincial legislatures - or rather, not the legislatures, but the premiers…the federal cabinet has all but been supplanted by the First Ministers Conference as the locus of important national decisions, except that here the Prime Minister is no longer first among equals, or even equal among equals."

(Globe and Mail, 25 July, 1994 - Federalism works! We have it on the highest authority)

INTRODUCTION

For long, we have been looking at the European integration process either from an intergovernmentalist or a supranationalist / federalist perspective. The latest developments unfolding in the shadows of the economic crisis, however, seem to question the utility of this dichotomy. As Herman Van Rompuy, President of the European Council argued:

> "We discovered that our financial interdependence was stronger than our economical integration, and much stronger than our political integration"[i].

As the European Union (EU) attempts to rebalance its monetary and fiscal policies, there is a particular paradox emerging where member states start to recognize the need to coordinate in areas of their own jurisdiction (i.e. fiscal policy in this case), while at the same time they are very reluctant to formally transfer more competences to the federal / European level[ii]. This, however, is not an EU specific characteristics, but can also be witnessed in a fully-fledged federal state, such as Canada.
As a respond to this challenge in the EU, despite the over fifty years of integration and supranational / federal institutionalization, intergovernmental institutions have changed and policy coordination has intensified (see quote from Romano Prodi). This, however, seems to have reinforced federal dynamics as well. As Herman Van Rompuy put it:

> "Even if we had to use the 'intergovernmental' road…, the work we have been doing has actually resulted in stronger Community institutions"[iii].

All this points towards *"un modele d'un fédéralisme intergovernmental"*, as former French President Nicolas Sarkozy implied in his speech in Toulon[iv]. Yet, we know very little of this 'intergovernmental

federalism', even though, the growing disconnection between jurisdictional and policy problem boundaries (and the tension it creates) is likely to occur in other areas as well. In fact, it is somewhat puzzling, why some areas (e.g. energy policy) still lack such a coordination?

As the constitutional distribution of powers (legislative decision-making) gives way to a political procedure of actual power allocation among the different orders of government (intergovernmental policy coordination), scholars of federalism have to rearrange their focus to understand the fundamental dynamics. Consequently, this paper attempts to answer how and under which conditions federal political systems turn to intergovernmental policy coordination instead of the traditional methods of governance based on legislative decision-making procedures (in the EU's case the community method)?[v] To this end, the study builds upon a constructivist approach that shifts the focus of federalism from constitutional statics to procedural dynamics and therefore it can help us understand how political practices are institutionalized into federal political relationships that are neither international nor domestic in nature. Blending the analytical framework of collaborative federalism (Cameron and Simeon, 2002) with the 'deliberative turn' (Neyer, 2006) shall provide with valuable insights about the procedural elements of intergovernmental policy coordination that seems to complement legislative decision-making as a governance tool of federal political systems.

The paper unfolds as follows: the next section shall introduce a constructivist approach to federal theory that shifts the major focus from constitutional power division to the political procedure of actual allocation of powers. It shall advance a different definition of federalism accordingly. The subsequent section shall describe the theoretical framework of collaborative federalism that builds upon that constructivist approach. It shall incorporate intergovernmental policy coordination and describe an alternative integration path from dual federalism based on the dominance of intergovernmentalism. Once the theoretical groundwork is done the study turns to a comparative analysis, based on analogy, between Canada and the European Union[vi]. First it shall analyze the Canadian example of internal trade then the EU case of economic governance. Last, but not least, the paper shall conclude with the findings relative to the theoretical framework advanced before.

A CONSTRUCTIVIST APPROACH TO FEDERAL THEORY

Federalism is one of the most contested concepts when it comes to the European integration process. Even though federalism has been one of the earliest reference points of the EU[vii], it has been in constant debate with the intergovernmentalist approach. As the EU never turned into a fully-fledged federation[viii], slowly but surely it became the "f"-word that caused unease among both practitioners and academics of the EU, even though a teleological approach to federalism is rather questionable (see Elazar, 1987: 12; Elazar, 1995; Koslowski, 1999: 563; Nicolaidis, 2001: 444). On the other hand, a purely IR-based intergovernmental approach has looked upon the EU as a confederation of nation-states, at most. Both approaches have looked at integration from a perspective of legislative decision-making that manifested themselves in a particular governance mode (i.e. community method and intergovernmental method). However, as the EU has overwritten these ideal-typical categories, and "moved beyond a confederation, yet [it] may never become a federal state" (Koslowski, 1999: 563), it poses a fundamental challenge to both theoretical frameworks. As the member-states of the EU recognize the need to coordinate in areas of their own jurisdiction without formally transferring any more competences to the European / federal level, we see a revival of intergovernmentalism that seems to alter the delicate distribution of powers, nevertheless. The political procedures of intergovernmentalism seems to complement the legislative decision-making based on the constitutional distribution of powers. This, however, is not an EU specific dynamics but can also be witnessed in other, fully-fledged federal systems as well. Consequently, there is a need to incorporate the political procedures of power allocation through intergovernmentalism within a federalist framework as „it seems misguided (…) to oppose European 'intergovernmentalism' to the 'federal' aspirations of the Union when the former is an inherent part of a genuine federal vision" (Nicolaidis, 2001: 454)[ix]. First, let us examine how this can be done.

There has been quite a confusion about the meaning of federalism which has rendered federal approaches to be extremely descriptive in nature. Most federal studies were concerned with constitutional statics that

led to a 'cottage industry' of definitions while reality seemed more and more distant from these academic abstracts. As federal political systems are increasingly challenged by the divergence between jurisdictional and actual policy problem boundaries (see among others Nicolaidis, 2001; Baier, 2005; Hueglin and Fenna, 2006; Bolleyer, 2009), there is a need to rearrange our research focus in order to be able to complement the constitutional power division with the political procedure of the actual allocation of powers. It is increasingly important as "[a]ny evaluation of how federal [a political system] is cannot be based on the formal division of competences, but must include consideration of additional features and institutions that can modify the actual practice of the division of competences" (Baier, 2005: 211).

The traditional understanding of federalism refers to a system where „(1) two levels of government rule the same land and people, (2) each level has at least one area of action in which it is autonomous, and (3) there is some guarantee (even though merely a statement in the constitution) of the autonomy of each government in its own sphere" (Riker, 1964: 11). This definition not only presupposes 'watertight compartments' as far as the different jurisdictions are concerned, but its narrow focus on the legal / constitutional components of the system lacks any consideration of the political relations. Daniel Elazar, another distinguished scholar described federalism as „a genus involving a combination of self-rule and shared-rule" (Elazar, 1995: 7). This approach already implies the importance of political procedures, yet this definition still lacks exactness and does not go beyond description. Herman Bakvis defined federalism as a balancing act between „flexibility and formality" (Bakvis et al., 2009: xiii) that reflects the equal importance of the political and legal dimensions of federalism. In order to be able to complement the constitutional elements of federalism with the political procedures and have a more procedural approach to federalism, this study advances the following definition: federalism is a combination of intragovernmentalism and intergovernmentalism among sovereign jurisdictions formally bound together. Intragovernmentalism refers to a governance mode where individual jurisdictions are responsible to find solutions to their problems within their governmental structure, through legislative decision-making[x]. This can be manifested either at separate jurisdictional levels (also known as dual federalism with constituent unit legislatures independently in charge) or combined at the federal level (also known as cooperative federalism with constituent unit level represented in the federal legislature). Intergovernmentalism, however, opens up the possibility for certain coordination among these sovereign jurisdictions to face common challenges (Further elaboration on intra-, and intergovernmentalism can be found in the following chapter). It implies the importance of the political process of allocating powers among the different orders of government as growing interdependence renders the question of power distribution essentially „negotiable and open-ended" (Hueglin and Fenna, 2006: 219). It provides with a possible complementary integration procedure outside the constitutional framework / legislative decision-making procedures which is extremely important if we consider the paradox outlined in the beginning.

Constructivism clearly has an added-value to the procedural understanding of federalism. Where the distribution of powers among the different orders of government derives not only from the legal / constitutional setting, but also from the deliberative political process of constructing a negotiated allocation of powers (through intergovernmentalism), constructivism is useful[xi]. Consequently, a constructivist approach shifts the focus of federalism away from the locus of power (which order of government has jurisdiction) to the actual policy roles and responsibilities (which order exercises a particular power). In other words, instead of legal certitude and legislative decision-making, the main focus is on political deliberation and intergovernmentalism[xii]. Deliberation constructs and reconstructs power relations and political practices that become routinized into institutions characterized by federal relationships even if they manifest themselves through intergovernmentalism[xiii]. Consequently, a constructivist approach to federalism shifts the focus to the process of change when it comes to questions of power distribution (see following section).

Deliberation is important because of the nature of the policy problems in question. Where exclusive jurisdictions require coordination (due to complex interdependencies), interests tend to be rather fluid, and identities are negotiable, discursive practices become rather important. Preferences, identities, and power relations will be constructed in the deliberative procedures of intergovernmentalism. In return, the capacity-building of intergovernmental institutions becomes a primary concern in order to be able to effectively face challenges through consensus-building. In other words, social structures and agents are mutually codetermined (see Risse, 2009).

As a constructivist approach looks at federalism as a procedure of allocating powers among different orders of governance, one of its main concerns will be the basic norms, principles and procedures that drive the process. Once these norms are identified it turns its attention to how these norms are routinized into political institutions. Once it is done, it shall inquire into the procedures that preserve these institutional settings. A constructivist approach to federal theory naturally concerns itself with the question of actual allocation of powers. However, going beyond the legal / constitutional distribution of powers shifts our understanding of power checking mechanisms as well. It is not only "limiting [the] sphere of action but, within this sphere of action, limiting [the] freedom of action" (Nicolaidis, 2001: 455). It derives simply from the fact that it is not the division of power that changes, but rather the division of roles and responsibilities. Once again, it speaks to the change of focus from legislative decision-making based on the constitutional division of power to the intergovernmental policy coordination based on the deliberative political procedures that alter the exercise of powers. This, nevertheless, allows us to monitor the governance methods connected to specific policy areas, and may help us delineate a specific development path based on intergovernmentalism rather than intragovernmentalism. This shall be elaborated in the following chapter.

A constructivist approach naturally has an impact on methodological considerations. As we are most interested in the norms that manifest themselves in specific institutional settings and procedures that preserve them, our methodological focus turns towards deliberative procedures, discourses and routinization practices. Consequently, most of the data collected during the field work for this study are based on document analysis and personal interviews with government officials and public servants.

FROM DUAL TO COLLABORATIVE FEDERALISM

We have already stated that one possible constructivist reading of federalism is a combination of intragovernmentalism and intergovernmentalism (depending on the policy area in question)[xiv]. Looking at federalism as a process may help us better understand how the allocation of powers in a particular public policy field changes over time (how it is constructed and reconstructed). Instead of looking strictly at the legal developments (changes in the legislative decision-making) and drawing up a major shift from dual to cooperative federalism (see Schuetze, 2009), this study advances a different, complementing reading[xv]. By looking at the political procedures manifested in intergovernmental relations, this paper argues that an alternative development path may be from dual to a collaborative type of federalism that is rather politically than legally driven[xvi].

The traditional understanding of dual federalism refers to a system where competences among the different orders of government are neatly separated. Within this type of federalism the legal component of intragovernmentalism dominates as each order of government deals with problems under their own jurisdiction through legislative decision-making. The political component of intergovernmentalism remains very limited and competitive in nature. However, this ideal-typical arrangement has been challenged by globalization. As interdependence grows, it is extremely difficult to separate policy areas that naturally belong together, let alone legislate in them. Elements of opaque policy areas, such as an economic union, seem almost inseperable. Monetary and fiscal policies go hand-in-hand with trade issues and considerations of labor markets. As challenges point beyond the jurisdictional boundaries of the constituent units, it becomes necessary to coordinate these legally separate areas in order to be able to provide efficient answers. Traditional federal theory would suggest that whatever becomes a federal concern naturally shifts toward the federal level of government (see Hueglin and Fenna, 2006: 147). If the political dynamics are matched with its legal counterpart, in other words, the institutional settings can accommodate the required coordination through legislative decision-making, a cooperative type of federalism evolves. Usually, it is assured by a second chamber in the federal legislation where the constituent units are represented. In this sense, intragovernmentalism shifts from the constituent unit level to the federal level, but remains intragovernmental, nevertheless. This cooperative arrangement can be of either legislative or of administrative nature (see Hueglin and Fenna, 2006: 146-147). The former refers to a system where separate but interdependent legislative jurisdictions are synchronized. This, however, would be orchestrated through the legislative bodies of the different orders of governance, and a common position outside the constitutional / legal framework would not necessarily emerge. The latter refers to a system where legislation is made at the federal level but implementation is left for the constituent units. However, this

also highlights the importance of legislative decision-making.
But what happens when the political process of altering the allocation of powers cannot and does not want to find its match in the legislative decision-making procedures? What if the existing institutions are insufficient to accommodate for the required change and the actors deliberately avoid building upon them? Is it possible to coordinate legally separate jurisdictions purely through the political procedures of intergovernmentalism?

Building upon Cameron and Simeon's (2002) idea this study argues that a collaborative type of federalism evolves where federal goals are achieved not by the federal level acting alone but rather are codetermined by the constituent units that act collectively. In the collaborative form, intergovernmentalism dominates as policy coordination cannot be assured through intragovernmental institutions (legislative decision-making) but is rather orchestrated through the deliberative political procedures of intergovernmentalism that substitutes legislative decision-making with policy coordination. When faced with the need to coordinate separate jurisdictions without formal power transfers, deliberation becomes extremely important. As Nicolaidis argues (2001: 455): "What matters is that the political sphere be pledged to ground decisions about levels of governance in rational argumentation rather than political expediency". Consequently, we need to focus on the 'deliberative capacities' of political procedures that may promote deliberative rationality (see Risse, 2009). These are 1.) the existence of a 'common life world', 2.) the uncertainty of interests and identities, 3.) the relative absence of power relations (see Risse, 2000). The first component refers to "a supply of collective interpretations of the world and of themselves, as provided by language, a common history, or culture (…) norms and rules as perceived legitimate, and the social identity of actors being capable of communicating and acting" (Risse, 2000: 10). The second component implies that "the goal of the discursive interaction is to achieve argumentative consensus with the other, not to push through one's own view of the world or moral values" (Risse, 2000: 10). Last, but not least, the relative absence of power means a non-hierarchical, non-centralizing environment where access to the discourse is equal.
This study hypothesizes that the less 'deliberative capacities' the intragovernmental institutions of federal systems are equipped[xvii] with the more likely they will turn to intergovernmentalism when it comes to cross-jurisdictional policy coordination. Once the intergovernmental wheels are turning factors influencing the deliberative processes determine the results of negotiations. In sum, the 'deliberative capacities' of a federal political system are responsible for its intergovernmental policy making and its effectiveness. In general, there are two distinct tiers that need to be separated. In the first phase the deliberative capacities of the federal system (the institutional and sociological (and normative) elements thereof) are assessed which lead to increased intergovernmental relations. During the second phase the deliberative capacities built into the new intergovernmental arrangements influence the legitimacy and effectiveness of policy outcomes. In the next two sections a Canadian and a European case study will be assessed and measured against the notions of this developmental path from dual to collaborative federalism.

THE CANADIAN EXPERIENCE WITH INTERNAL TRADE

As this study attempts to pinpoint the major elements of the deliberative political procedure of power allocation through intergovernmentalism, it is necessary to divide our empirical case study into different phases to be able to better highlight the major institutional developments, transformations. First, it is important to sum up the political and constitutional reality to have a clear understanding about the subject matter.
The question of economic union has been present in the political discussions of Canada ever since the birth of the country (e.g. think of the National Policy initiative of the first federal government). Slowly but surely, it became clear that regional development in Canada was only feasible if the provinces got rid of their trade barriers and discriminatory commercial practices and there was greater integration in the area of internal trade. By the 1980s considerations of internal trade integration intensified as the existing framework did not seem to serve the interests of the people and the businesses any more. According to the constitution, Section 91(2), and 121, the Parliament has the authority to regulate trade and commerce, both international and interprovincial, and the free movement of goods shall be guaranteed among the provinces. However, during the time the constitution was drafted, numerous components which were rendered to under the jurisdictions of the constituent units have become subjects of trade negotiations (e.g. public procurement, transportation, energy, etc.). Furthermore, it has not been established whether the federal

government is allowed to create general rules without the consent of the provinces. As the first negotiations of the NAFTA agreement started, and the emergence of a global economy put the Canadian arrangement under great pressure, there was a need to address the question of internal trade once again. The following subsections shall review the process of intergovernmental development that led to the signing of the Agreement on Internal Trade (AIT).

The pre-negotiation phase

When the challenge of coordinating provincial jurisdictions under trade policy presented itself again, the Canadian federal system first tried to resolve it by rearranging the constitutional framework / legislative decision-making procedures. As both the Meech Lake and Charlottetown agreements failed it led to the a general consensus that "a direct link between an agreement on the economic union and an agreement on the constitution was not necessary (…) [therefore] the reduction of intergovernmental trade barriers in Canada transcended the constitutional arena" (Doern and MacDonald, 1999: 39). It was a deliberate aim to go forward with a non-constitutional way. As one former senior federal official put it:

> "One of the most important norms throughout the negotiations was to deal with the practical problems created by the federation without disturbing it (…) You simply did not want to constitutionalize…rather we were aiming at a mutually acceptable undertaking that was definitely not legal in nature, as it did not change the constitution"[xviii].

This, on the other hand, relates to the weak deliberative capacities of the existing intragovernmental institutional settings as well (see also Simeon and Nugent, 2012: 61). The common understanding to go through with a non-constitutional procedure rendered the federal legislative decision-making body, the Parliament rather limited in coordinating provincial dynamics. As one former federal official put it:

> "Simply put, the federal parliament did not have the capacity to overrun established jurisdictions"[xix]

Furthermore, as one official from the Maritime provinces explained it:

> "The only way that was feasible was intergovernmental to do some kind of quasi-legal agreement that would show good faith to the Canadian people"[xx]

In a similar tone, the Senate, in general, also lacks the necessary powers to coordinate cross-jurisdictional matters, as one Senator explained:

> "I strongly believe that the Senate is an under-utilized resource when it comes to federal-provincial relations…we do have a constitutional obligation to represent the provinces, but only in areas falling under federal legislative powers"[xxi].

In other words, the Senate only plays a role when intragovernmental coordination takes place in the form of legislative decision-making[xxii].
The role of the federal government became similarly marginal once a non-constitutional arrangement was decided for. In general,

> "Parliament has a real constitutional role in intergovernmental relations…in a majority parliament, the role diminishes and goes to the Prime Minister, but in a minority parliament, the Prime Minister must at all times have the approval or support of the house"[xxiii].

All this set the scene for intergovernmental policy coordination that would complement the existing constitutional framework of legislative decision-making powers. Let us now see, how the intergovernmental institutions reacted to this challenge of power allocation.

The negotiation phase

Once the basic norm and principle was established to go through with the process in a non-constitutional way that would not influence the legislative decision-making powers among the different orders of governance, and accordingly, it became clear that the existing institutional setting was insufficient in resolving the problem (as it was suitable only for intragovernmental coordination), the intergovernmental arena activated itself. Accordingly, it was important to build the capacities of the intergovernmental method to be able to effectively face the policy challenge at hand. Right at the beginning, a pragmatic view of federalism was adopted, according to a former official:

> "There was a strong commitment to go through with the negotiation process"[xxiv].

This is further buttressed by a government review paper that states that the constant political leadership of the Ministers was a huge factor in the success of the negotiations as it "led their officials in terms of commitment to the process and willlingness to change"[xxv]. Furthermore, as one federal official highlighted it:

> "There was a general understanding that a political instead of a constitutional agreement was negotiated. [It was important to stress] as constitutional megotiations create a rather all or nothing scenario, whereas intergovernmental relations provide with a lot of room to accommodate negotiations"[xxvi].

Part of the norms of the 'common life world' around the issue of internal trade was the way it was framed. As one trade policy official argued:

> "Interest groups have defined it as a national issue across the country…Yet, we have regions, we have all kinds of subsidy issues, we have all kinds of economic disparity issues, we have regional issues that are different in the East than to the West"[xxvii].

As far as the instability of interests and identities is concerned, despite the strong sense of regionalism in Canada, a former federal official argued that

> "They managed to create a strong sense of a group that was national and complete"[xxviii].

Asking an official from the Western provinces about the extent to which positions have changed throughout the intergovernmental negotiations, he answered:

> "Absolutely…people changed their minds and positions"[xxix].

A government review paper suggests the flexibility of preferences as well and highlights the importance of deliberative procedures by stating that "the preference was to identify issues through discussion"[xxx]. Furthermore, "At the start, most governments probably did not appreciate the implications of their commitments. They were generally reluctant to take any substantive action"[xxxi]. However, they "gradually accepted the need for a comprehensive undertaking when other options were demonstrated to be ineffective"[xxxii].

This was supported by the fact that mandates for provincial officials given by ministers were somewhat obscure which gave the necessary flexibility to the negotiations and made it a negotiation where positions could change. Furthermore, one of the most helpful institutional settings that helped achieve the goal of flexible preferences was:

> "(…)the private meetings that give Premiers face-time together where they could get away from officials and they are not directed which helps build closer trust ties among themselves"[xxxiii].

Furthermore as a retired public servant highlighted it:

> "Throughout the negotiations, ministers met to resolve contested issues on a regular basis based on the reports they received"[xxxiv].

One important element that speaks both to the instability of interests and the relative absence of power

relations is the fact that it is extremely hard to identify where the issue of internal trade originated from. As one retired official put it:

> "…sort of everyone thought of it at the same time…crossfertilization was all over the place during AIT negotiations"[xxxv].

As for the relative absence of power relations, it is important to stress that neither order of government could reach its interests without the other. Therefore, there was no hierarchical relationship involved in the negotiations. John Manley, the federal industry minister at the time, argued that "Our governments have achieved this voluntarily, not through an arbitrary and contentious attempt to use federal powers or other forms of coercion. I believe this agreement demonstrates that, even with significant regional and partisan differences among the federal, provincial and territorial governments, there is common ground on a major issue. It is an important win for Canada"[xxxvi]. As one former senior official put it:

> "Canada is a federation of equals. Consequently, the federal government never thought of itself as the official leader of the negotiations. Its role was rather to ensure that the national, Canadian interests were protected and no regional interest would distort the process"[xxxvii].

In a sense it became the guarantor of policy coherence without taking the whole issue over from the provinces. As one official put it:

> "The federal government took the reigns of the constitution but kept it loose"[xxxviii].

As a review paper suggests it: "Provincial ownership of the issue allowed the federal government to act as an honest broker leaving most of the responsibility to the provinces"[xxxix].

As far as the institutional development is concerned, "the internal-trade process was supported by a new set of institutions designed specifically to deal with policy making through negotiation between jurisdictions" (Doern and MacDonald, 1999: 45). The role of Premiers in this institutional development cannot be downplayed.

The establishment of the Committee of Ministers on Internal Trade (CMIT) was an important step. "For the first time, a dedicated intergovernmental ministerial committee, armed with a clear mandate and resources for its accomplishment, was working in the internal-trade policy field (…) it also established a lasting forum for governments" (Doern and MacDonald, 1999: 43). The role of the CMIT cannot be stressed enough, as "a signal was sent by the CMIT that intergovernmental negotiations were possible and that the institution that had been developed for this process was capable of facilitating agreements" (Doern and MacDonald, 1999: 44).

One of the most important elements was the establishment of a neutral chair. As one government document put it: "negotiations would not have been successful using co-chairs from the federal government and a province"[xl]. Furthermore there was a Secretariat which reported to this Chair, and even though it was staffed and paid for mainly by the federal government, it was separate from the Federal Chief Negotiator. In fact, based on my interviews it became clear that there was often a conflict between these two actors, as the Secretariat often challenged the stand of the federal government.

The substantial issues were negotiated through 'tables' of sector specialists from all jurisdictions where one jurisdiction was always the Chair. This setup ensured that responsibility was distributed and "provinces, functioning as the lead on an issue, had to mediate among various positions, including their own"[xli], as a government review paper summed it up. Issues that could not be settled at the tables were sent back to the neutral Chair.

The role of the Internal Trade Secretariat was to "provide analytical resources (…) [which] was valuable in terms of establishing a common level of understanding" (Doern and MacDonald, 1999: 55).

In sum, intergovernmental policy coordination has been established due to a fundamental normative basis to go through with the process in a non-constitutional way. The institutional setting that emerged had been the result of the routinization of 'deliberative capacities' that were the necessary components to be able to alter the exercise of power in the area of internal trade.

The post-negotiation phase

The intergovernmental procedure of coordinating provincial jurisdictions in the area of internal trade ended with the official signature of the Agreement on Internal Trade (AIT) in 1994. The AIT is a comprehensive agreement, inasmuch as it covers a wide range of trade-related policy areas (see the different chapters of the agreement). It is a political rather than a legal document and its importance lies in the fact that it covers areas of provincial jurisdiction (e.g. public procurement, energy, etc.) which need to be coordinated for a better functioning economic union (see Poirier, 2001). As an official put it, the main aim of the agreement is to build down the trade barriers between the provinces in a way that

> "does not interfere with the separation of powers as provided in the Canadian constitution. The AIT merely constitutes a structure that allows collaboration amongst provincial/territorial and federal governments"[xlii].

In that it is different from national regimes such as the Medicare where federal legislation has been passed. As argued before, the AIT emerged from within the intergovernmental arena, as none of the contracting parties saw a possibility for constitutional change. Consequently, as a reitred official put it

> "the AIT agenda is almost entirely driven by 'politics'. Constitutional matters are rarely (if ever) discussed"[xliii].

Nevertheless, the impact of the AIT cannot be underestimated, as "it does indeed remove or lessen the capacities of governments, especially provincial governments, to act in ways that had been possible in the previous three decades" (Doern and MacDonald, 1999: 154). "It is the discriminatory power of the provincial governments that have been most reined in. In short, the range of available provincial policy instruments has been narrowed" (Doern and MacDonald, 1999: 162). In other words, even though the constitutional distribution of legislative decision-making power remained intact, the deliberative procedure of intergovernmental coordination did alter the actual allocation of powers by constraining the exercise of power at the provincial level. However, the agreement further strengthens the heterarchical nature of the coordination as "The language of the deal is as if it was between sovereign states (…) Enforcement is almost non-existent (…) You would not know that it was a document within a federal system. The role of the federal government is just not there"[xliv].
The AIT highlights the fact that instead of the settled, static constitutional arrangement of jurisdictions, intergovernmental policy coordination renders the allocation of power open-ended. As one official put it:

> "There is no end-step but the next step"[xlv].

Accordingly,

> "we needed some kind of institutional structure that would ensure the continuation of negotiations"[xlvi].

Despite the political nature of the document (the AIT is not legally binding) it attempts to formalize the intergovernmental institutional setting it called into life (Chapter 16). The Committee on Internal Trade, the Secretariat and Working Groups on Adjustment are formalized in the document. However, beyond these it is important to mention that the Council of Federation (CoF), which is an institutionalization of the former Annual Premiers' Conference, has a significant role in the coordination procedure of internal trade as well. Internal trade is one of the major concerns of the council, and it is very active in terms of providing an agenda for needed revisions of the agreement. Furthermore, as one provincial official pointed it out:

> "The Council of the Federation has turned into a horizontal policy coordination body where Premiers lead on issues important for Canada…the nature of the CoF is different to that of its predecessor the Annual Premiers' Conference…it is rather a CoF 2.0 nowadays with its role in policy coordination"[xlvii].

As the political procedures of intergovernmental policy coordination complements the distribution of legislative decision-making powers, it is important to look at the complementary power-checking mechanisms as well that have been established within the intergovernmental process. The AIT provides with a dispute resolution procedure (chapter 17) which has been reformed recently based on the 2004

Workplan. The dispute resolution procedure is either connected to a government-government dispute or a person-government one. During the procedure different panels may be called together depending on the subject. What is interesting about this tool is its compliance related measures. If one party to the agreement is not comlying with the decisions of the panels in a given time monetary penalties (up to $5 million), suspension of certain rights (e. g. right to dispute resolution), or other retaliatory actions may follow as consequences. Furthermore, the decisions of the dispute resolutions are not subject to judicial review (see article 1707.4), but each party shall take measures necessary to ensure that the decisions on monetary penalties may be enforced "in the same manner as an order against the Crown in that Party's superior courts" (article 1701.4 (b) i).

THE EUROPEAN EXAMPLE WITH ECONOMIC GOVERNANCE

(work in progress, most interviews have not been conducted yet, nevertheless, the general path of development is traceable and seems to fit the theoretical framework)

To create a common economic area was always an objective of the architects of the EU. As the integration process evolved and moved beyond being a simple free trade area where the movement of goods, services, capital and labour was assured, soon the idea of monetary and fiscal cooperation emerged. By the 1990s the monetary union was taking shape and gave birth to the common currency, the euro. However, the jurisdiction over monetary policy which was taken up by the European Central Bank (see Articles 127-133 of the TFEU), was not balanced with a similar initiative in the field of fiscal policy. The Stability and Growth Pact did not have the necessary weight to induce the required changes as far as budgetary issues were concerned. The reason was simple: whereas the member states who joined the Euro zone transferred their monetary competences to the ECB, fiscal matters remained under the jurisdictions of the member states. Then, the financial crisis reached the EU. The following subsections review the intergovernmental development that led to the signing of the Treaty on Stability, Coordination and Governance (TSCG).

The pre-negotiation phase

The introduction of a binding deficit rule in the EMU seems to have created quite a reluctance among member-states to go forward with the redistribution of legislative powers when it came to the question of fiscal policy coordination. As Puetter (2012) argues: “As member states want to guarantee the success of EMU we should expect intergovernmental policy coordination to have an important cooperative dimension and being geared towards collective policy coordination“. In fact, this seems to have happened. As one Commission official argued in relation to the economic governance agenda:

> “The Commission seems to lack the political initiative as it faces more and more political constraints (…) it has become more of a follower than a leader (…) the Commission does not seem to be strong enough to influence the procedures, and major decisions are mainly left to the cabinets of member-states”[xlviii].

This has been buttressed by the crisis as well. As one senior Commission official argued:

> “The financial crisis, but any crisis for that matter, puts the executive in a better position when it comes to coordination and intervention (…) we have seen a shift of attitude within the Council: they thought of the Commission as an institution that is slow, convoluted and quite dangerous to get involved with on these matters”[xlix].

The major shift from the supranational to the intergovernmental institutions, and therefore, a change of attitude from constitutional reshuffling of legislative decision-making powers to the deliberative procedures of intergovernmental coordination has been expressed directly by one Commission official:

> “The success of any initiative around economic governance originating from the Commission depends on whether we have received the green light from the Council or not”[l].

And also indirectly, which implies a change of roles rather than the change of powers among institutions:

> "The Commission fears that if you don't take the initiative, you might lose it…that's the reason why it attempts to feed the discourse, for instance with a Green Paper on Eurobonds"[li].

This also means that the intragovernmental institutions of legislative decision-making have been rendered to take a backseat. In general, it seems clear that member states recognized the need to coordinate their fiscal policies, yet they decided to avoid a transfer of legislative competences. Instead they started a capacity-building exercise that would enable the existing intergovernmental institutions to effectively come up with a solution. This has put the European Council in a very important position. It should come as of little surprise, as one associate of a European policy think tank explained:

> "The European Council is the only institution of the European Union that can act outside its constitutional framework (…) even though it is not formally part of the legislative decision-making procedure, it tries to influence it"[lii].

This has been interpreted by European Council President, Herman Van Rompuy as follows:

> "Until recently, it seemed natural to imagine that Europe would become more centralized. Instead we are seeing member states and national leaders take centre stage in particular in dealing with the public debt crisis. In my view this is not contradictory. Unlike some, I do not see the return of the ghosts of the past and the 'renationalization of European politics'. No, in my view, what is in fact happening is the 'Europeanization of national politics'"[liii].

This paper argues that the European Council might not want to influence legislation but merely wants to complement it with intergovernmental policy coordination that would alter the allocation of powers among the different orders of government nevertheless, as it constraints the exercise of a given jurisdiction.

The negotiation phase

(interviews to be conducted this spring)

From the previous section it has become clear that the most important actors of the coordination procedure have been the heads of state and government, as they thought that too much was at stake to leave the negotiations / discussion for other members within their cabinets. However, this has been new territory for them. As Herman Van Rompuy suggested:

> "(…)in times of crisis, we reach the limits of institutions built on rules and competences set in the past. The European Council (27 country leaders, the President of the Commission and myself), is well placed to play its part when we enter uncharted territory when new rules have to be set"[liv].

Accordingly, the working methods of the European Council have changed. Not only did economic governance occupy a very important position in the agenda of the European Council, but deliberative capacity-building became crucial as the financial crisis created an environment where the preferences of the member-states were rather fluid due to the high level of uncertainty (see Puetter, 2012). Similarly to the Canadian context, informal meetings of the heads of government became crucial as orientation debates to further the positions in specific questions. In general, strong interaction and real discussions prevailed which have been actively supported by the ECOFIN and the Eurogroup meetings as well which contributed greatly to the deliberations. The working methods, in general, have shifted towards more discussion whether in a formal or an informal setting. It has become an important norm, similar to the Canadian context, that there should be a clear result a the end of the discussions. Member-states recognized the need to go through with the process, and changed the institutional settings accordingly. As Herman Van Rompuy stressed it:

> "All the members of the European Council were willing to take more responsibility for these economic issues. Such personal involvement is indispensable. I was glad to find a high level of ambition around the table. The first result is that the European Council becomes something like 'the government economique' of the Union, as some would call it. (…) The financial and economic crisis obliges us to take steps on this road (…) To help find consensus among Member States, new institutions and new offices were created (…) However, it does not suffice to create a new institution to solve a problem, certainly, not immediately. This requires

consultation between Member States and time"[lv].

The post-negotiation phase

The TSCG was signed by 25 of the 27 member-states of the EU on 2 March, 2012. It is an intergovernmental agreement that does not change the formal distribution of competences between the EU and its member-states. As Article 2.2 states, it merely aims to help member-states coordinate their fiscal policies to be able to ensure the stability of the euro.

Similarly to the AIT in the Canadian context, the TSCG provides for the formalization of intergovernmental institutions. Beyond one of the oldest Council formations in the EU (ECOFIN), the agreement calls for informal Euro Summits where the heads of state or government of the euro-zone countries shall meet with the president of the Commission and the ECB semi-annually. This body shall elect its own president from among its members for a term equal to that of the President of the Council. The body that is responsible for all the preparation of and follow up to the Euro Summit meetings shall be the Eurogroup, the meeting of the finance ministers of the euro-zone countries (see Protocol 14 of the Lisbon Treaty). Even though the Council of the EU has its own secretariat which is responsible for operative support, the Eurogroup is actually one of the main stakeholders of the activities of the Directorate General for Economic and Financial Affairs within the Commission. According to article 13 of the agreement the role of national parliaments is regulated through Protocol 1.
In case a contracting party is not complying with the agreement, it is only the other Contracting Parties, that is the member states, who could bring the issue in front of the Court of Justice of the EU (article 8). So even though, the Commission has the capacity to decide whether a member state is not complying with the agreement, the other member states have the right to bring the case in front of the court. Similarly to the Canadian case, the possibility of a lump sum penalty is provided for. However, authority constricting measures also involve requirements of ex ante discussions on economic related reforms, and reporting on public debt related measures (see article 11).

CONCLUSION

The European Union, as a federal political system, is increasingly challenged with the paradox that its member states need to coordinate in areas of their own jurisdiction and yet they are reluctant to pursue a constitutional legal redistribution of powers. Instead of reshuffling the legislative decision-making powers among the different orders of government, the EU seems to have adjusted its intergovernmental institutions to accommodate for a deliberative procedure of policy coordination that alters the allocation of powers. This, however, is not an EU-specific problem, but can also be witnessed in a fully-fledged federal state, such as Canada. Yet, we know very little of the way federal political systems use intergovernmental coordination, instead of the legislative decision-making procedures to reconstruct the allocation of powers among the different orders of government.
This study advanced a constructivist approach to federalism and defined it as a combination between intragovernmentalism and intergovernmentalism among sovereign jurisdictions, highlighting the equal importance of the legal and political components of a federal system. The paper argued that the intragovernmental institutions (legislative decision-making) prove to be limited in their capacity to accommodate the policy paradox highlighted above. In return, the intergovernmental institutions develop to compensate for that insufficiency. Accordingly, it is argued that there is a complementary development path to the legal evolution from dual to cooperative federalism. It is based on the political procedures of intergovernmentalism and shall be described as a path from dual to collaborative federalism. The success of this coordination depends to a great extent on the deliberative capacities emerging within these institutions.
As intergovernmental policy coordination complements the formal redistribution of legislative decision-making powers, the focus of federal studies have to change accordingly. The procedural approach of federalism changes the way we have to think about the division of powers, power checking tools, the role of legislatures, legitimacy and accountability, etc. The topic is highly relevant as other components of the creation of an economic union, such as labor market issues or energy policy considerations are likely to face similar challenges, both in the Canadian and European Union contexts, and possibly in other federal systems as well.

As a concluding note, it shall be stressed that the development from dual to collaborative federalism only describes a complementary procedure to the legal development from dual to cooperative federalism. This study does not consider the normative implications whether one is better or worse than the other. Also, it should be seen that the collaborative type of federalism may with time and formalization turn into cooperative federalism once the legal integration catches up with the political procedures. To what extent intergovernmental policy coordination should and may induce this change should be the subject of a different paper.

REFERENCES

BAIER, Gerald (2005). The EU's Constitutional Treaty: Federalism and Intergovernmental Relations – Lessons from Canada. *Regional and Federal Studies*, Vol. 15., No. 2., pp. 205-223.

BAKVIS, Herman – Grace Skogstad (eds.) (2012). *Canadian Federalism – Performance, Effectiveness, and Legitimacy*. Oxford University Press, New York.

BAKVIS, Herman – Gerald Baier – Douglas Brown (2009). *Contested Federalism – Certainty and Ambiguity in the Canadian Federation*. Oxford University Press, Toronto.

BOLLEYER, Nicole (2009). *Intergovernmental Cooperation*. Oxford University Press, Oxford.

BURGESS, Michael (2006). *Comparative Federalism – Theory and Practice*. Routledge, London.

BURGESS, Michael (2009). Federalism. In *European Integration Theory*, edited by Wiener and Diez, pp. 25-44.

CAMERON, David – Richard Simeon (2002). Intergovernmental Relations in Canada: The Emergence of Collaborative Federalism. *PUBLIUS: The Journal of Federalism*, Vol. 32., No. 2., pp. 49-71.

DE VILLIERS, Bertus (ed.) (1994). *Evaluating Federal Systems*. Martinus Nijhoff Publishers, Cape Town, South Africa.

DOERN, Bruce G. - Marc MacDonald (1999). *Free Trade Federalism - Negotiating the Canadian Agreement on Internal Trade*. University of Toronto Press, Toronto, Canada.

ELAZAR, Daniel (1987). *Exploring Federalism*. University of Alabama Press, Tuscaloosa.

ELAZAR, Daniel J. (1995). From Statism to Federalism: A Paradigm Shift. *PUBLIUS: The Journal of Federalism*, Vol. 25., No. 2., pp. 5-18.

FOSSUM, John Erik (2009). Europe's American Dream. *European Journal of Social Theory*, Vol. 12., No. 4., pp. 483-504.

HUEGLIN, Thomas (2000). From Constitutional to Treaty Federalism: A Comparative Perspective. *PUBLIUS: The Journal of Federalism*, Vol. 30., No. 4., pp. 137-153.

HUEGLIN, Thomas – Alan Fenna (2006). *Comparative Federalism*. Broadview Press, Ontario, Canada.

KING, Preston (1982). *Federalism and Federation*. Croom Helm, London.

KOSLOWSKI, Rey (1999). A constructivist approach to understanding the European Union as a federal polity. *Journal of European Public Policy*, Vol. 6., No. 4., pp. 561-578.

NEYER, Juergen (2006). The deliberative turn in integration theory. In *Journal of European Public Policy*, Vol 13., No. 5., pp 779-791.

NICOLAIDIS, Kalypso – Robert Howse (eds.) (2001). *The Federal Vision – Legitimacy and Levels of Governance in the United States and the European Union*. Oxford University Press, New York.

POIRIER, Johanne (2001). The functions of intergovernmental agreements: post-devolution concordats from a comparative perspective. *Public Law*, pp. 134-157.

PUETTER, Uwe (2012). Europe's deliberative intergovernmentalism – the role of the Council and the European Council in EU economic governance. *Journal of European Public Policy*, Vol. 19., No. 2., pp. 161-178.

RIKER, William H. (1964). *Federalism: Origin, Operation, Significance*. Little, Brown and Company, Boston.

RISSE, Thomas (2000). „Let's Argue!": Communicative Action in World Politics. In *International Organization*, Vol. 54., No. 1., pp. 1-39.

RISSE, Thomas (2009). Social Constructivism and European Integration. In *European Integration Theory*, edited by Wiener and Diez, pp. 144-160.

SCHUETZE, Robert (2009). *From Dual to Cooperative Federalism – The Changing Structure of European Law*. Oxford University Press, Oxford.

SIMEON, Richard - Amy Nugent (2012). Parliamentary Canada and Intergovernmental Canada: Exploring the Tensions. In Bakvis and Skogstad (eds.), pp. 59-78.

WATTS, Ronald L. (2008). *Comparing Federal Systems*. McGill-Queen's University Press, London.

WIENER, Antje – Thomas Diez (eds.) (2009). *European integration theory*. Oxford University Press, Oxford.

Robert I. Csehi is a PhD student in international relations and European studies at the Central European University at Budapest. His main research focus is on comparative federalism, Canadian and European studies. He has been awarded the Doctoral Student Research Award, a research grant by the Government of Canada, and has also been a STAGES intern in the Cabinet of Commissioner Andor. He has presented in various international conferences on both sides of the Atlantic (Victoria, Ottawa, Copenhagen, Budapest).

---

[i] Beyond the institutions: Why Europe today?, a speech delivered by Herman Van Rompuy, President of the European Council at the Europe Conference in Copenhagen, 11 May, 2012.

[ii] The divergence between the legal and political trends of European integration has been highlighted by Koslowski (1999: 571), Nicolaidis (2001: 450), and Neyer (2006: 787) as well.

[iii] Beyond the institutions: Why Europe today?, a speech delivered by Herman Van Rompuy, President of the European Council at the Europe Conference in Copenhagen, 11 May, 2012.

[iv] See http://www.lefigaro.fr/conjoncture/2011/12/01/04016-20111201ARTFIG00749-nicolas-sarkozy-trace-les-pistes-pour-sortir-de-la-crise.php The former French President, Nicolas Sarkozy, referring to the possible consequences of a more integrated fiscal policy, first talked about a two-speed Europe, "one gear towards more integration in the euro zone and a gear that is more confederal in the European Union." Even though he implied a federal-confederal cleavage in this statement, a month later, he emphasized that "the integration of Europe will go the inter-governmental way

because Europe needs to make strategic political choices."

[v] Ultimately, this means that intergovernmentalism is rather a *method* of governance and integration instead of a *model* of integration.

[vi] On the applicability of a comparative study between Canada and the European Union see Fossum (2009).

[vii] See e.g. Coudenhove-Kalergi's seminal work on Pan-Europa, or Altiero Spinelli and Ernesto Rossi's Ventotene Manifesto.

[viii] Based on the understanding put forward by King (1982), and used later by De Villiers (1994), Burgess (2006), and Watts (2008) this study uses the term federation as a specific institutional arrangement of federalism that is manifested in a federal state. The term 'federal political systems' does not have that state-centered connotation.

[ix] A similar suggestion made by Michael Burgess (2006: 33): „the role of EU member states as propulsive forces in helping to build a federal Europe has actually been underestimated by federalists themselves and should be much more effectively integrated into a federalist theory".

[x] Simeon and Nugent (2012) refer to this in the Canadian context as 'parliamentary Canada' as opposed to intergovernmental Canada.

[xi] As Hueglin and Fenna (2006: 145) put it: "By deviding powers between two levels of government, federalism invites a struggle over jurisdiction and an ever-present tendency to translate distributional conflicts into intergovernmental ones".

[xii] In a different context, the same expression was made by Thomas Hueglin (2000: 141).

[xiii] This corresponds with the Elazarian understanding that „the essence of federalism is not to be found in a particular set of institutions but in the institutionalization of particular relationships among the participants in political life" (Elazar, 1987: 12).

[xiv] A similar formulation can be found in Baier (2005: 206): "Governments alternate between support of a strict formal legal order and pragmatic adjustments via intergovernmental compromise".

[xv] It is important to stress that this is a complementary theory that shall by no means suggest that legislative decision-making based on the constitutional distribution of powers shall become obsolete. Rather, the aim is to understand the latest dynamics of federal political systems that do not fall into the categories of 'legal federalization', a. k. a. the formal transfer of competences.

[xvi] In general, this study argues that federal political systems are in constant disequilibrium where changes within a particular policy area are driven either by the legal or political processes.

[xvii] This could entail a deliberate avoidance of building upon these intragovernmental institutions.

[xviii] Anonymous interview conducted in Brussels, 6 April, 2012.

[xix] Anonymous interview conducted in Toronto, 9 January, 2013.

[xx] Anonymous interview conducted in Ottawa, 7 December, 2012.

[xxi] Anonymous interview conducted in Ottawa, 11 Dcember, 2012.

[xxii] The Senate's incapability to accommodate provincial interests is historically coded as well: 1.) it's an appointed, not an elected body, and the great belief in responsible government in Canada rendered this institution to become practically 'irrelevant' (the fact that all provincial legislatures got rid of the upper chamber is quite telling). 2.) Senators are appointed by the Prime Minister of Canada, instead of the provincial executive or legislative branches. 3.) There is a lack of equal representation among provinces in the Senate. In general, the federal Senate fares considerably weak when we come to its deliberative capacities (norms and principles are quite negative about its role, it does not provide for a forum of equal voices, and interests and identites are quite obscure due to the appointment procedures).

[xxiii] Anonymous interview conducted in Ottawa, 4 December, 2012.

[xxiv] Anonymous interview conducted in Toronto, 9 January, 2013.

[xxv] A Government Review Paper: Case Study on Federal-Provincial Collaboration - Internal Trade. 14 February, 1995.

[xxvi] Anonymous interview conducted in Toronto, 9 January, 2013.

[xxvii] Anonymous interview conducted in Ottawa, 7 December, 2012.

[xxviii] Anonymous interview conducted in Toronto, 9 January, 2013.

[xxix] Anonymous interview conducted in Toronto, 10 January, 2013.

[xxx] A Government Review Paper: Case Study on Federal-Provincial Collaboration - Internal Trade. 14 February, 1995.

[xxxi] A Government Review Paper: Case Study on Federal-Provincial Collaboration - Internal Trade. 14 February, 1995.

[xxxii] A Government Review Paper: Case Study on Federal-Provincial Collaboration - Internal Trade. 14 February, 1995.

[xxxiii] Anonymous interview conducted in Toronto, 10 January, 2013.

[xxxiv] Anonymous interview conducted in Toronto, 9 January, 2013.

[xxxv] Anonymous interview conducted in Toronto, 9 January, 2013.

[xxxvi] To demolish the trade walls between provinces, Globe and Mail, 5 July, 1994.

[xxxvii] Anonymous interview conducted in Toronto, 9 January, 2013.

[xxxviii] Anonymous interview conducted in Toronto, 10 January, 2013.

[xxxix] A Government Review Paper: Case Study on Federal-Provincial Collaboration - Internal Trade. 14 February, 1995.

[xl] A Government Review Paper: Case Study on Federal-Provincial Collaboration - Internal Trade. 14 February, 1995.

[xli] A Government Review Paper: Case Study on Federal-Provincial Collaboration - Internal Trade. 14 February, 1995.

[xlii] Anonymous interview conducted in Brussels, 6 April, 2012.

[xliii] Anonymous interview conducted in Brussels, 6 April, 2012.

[xliv] Ottawa's grip on economy at issue in debate over powers, Globe and Mail, 13 November, 1995.

[xlv] Anonymous interview conducted in Brussels, 6 April, 2012.

[xlvi] Anonymous interview conducted in Toronto, 9 January, 2013.

[xlvii] Anonymous interview conducted in Toronto, 10 January 2013.

[xlviii] Anonymous interview conducted in Brussels, 28 June, 2012.

[xlix] Anonymous interview conducted in Brussels, 9 July, 2012.

[l] Anonymous interview conducted in Brussels, 12 April, 2012.

[li] Anonymous interview conducted in Brussels, 10 July, 2012.

[lii] A remark made during the ECSA-C conference in Ottawa, Canada, 26-28 April, 2012.

[liii] Beyond the institutions: Why Europe today?, a speech delivered by Herman Van Rompuy, President of the European Council at the Europe Conference in Copenhagen, 11 May, 2012.

[liv] Beyond the institutions: Why Europe today?, a speech delivered by Herman Van Rompuy, President of the European Council at the Europe Conference in Copenhagen, 11 May, 2012.

[lv] The challenges for Europe in a changing world, a speech delivered by Herman Van Rompuy, President of the European Council at College d'Europe, Bruges, 25 February, 2010.