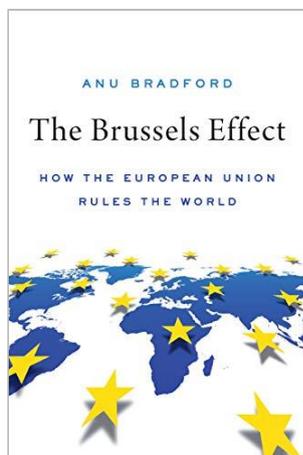

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The Brussels Effect – How the European Union rules the world

By Anu Bradford
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Reviewed by Jean-Pierre Vidal, Cabinet of the President of the European Council | SUERF

The *sui generis* and complex nature of the European Union makes it challenging to assess the strength and transmission channels of its global influence. By contrast the political clout of other global powers comes across as extremely visible. While the extra-territoriality of American law is well known, the global influence of the European Union's rules and standards has been largely neglected.

In her excellent, recent book, Professor Anu Bradford sheds light on the ability of the European Union to regulate the global market place. She christened this EU's ability to softly export its rules and standards 'the Brussels Effect'. The pervasiveness of this effect, which is carefully documented in the book, stands in sharp contrast with the tendency of Europeans to mourn Europe's declining global influence.

The Brussels Effect – What is it?

The theory of the Brussels Effect is exposed in the first part of the book, whose reading is a must. First, Professor Bradford identifies the single market as the fundament of the EU's global regulatory power. The Brussels Effect therefore comes across as an unintended consequence of the process of European integration driven by EU regulation. As goods sold on the single market ought to comply with EU standards regardless of their origin and the European Union is a large open economy, compliance with EU regulation and standards is key to access the Single Market, paving the way for the global clout of EU rules.

What are the conditions for a polity to become a global standard setter? Professor Bradford

identifies five conditions. First, a large **market size** is essential to successfully globalize a country's internal rules. Second, she shows how the Union has increasingly been endowed with the necessary **regulatory capacity** throughout the process of European integration. Third, she explains that only **stringent regulations** have the potential to become global standards, since complying with the most stringent regulations ensures access to all markets, including those that have softer regulatory standards. Fourth, stringent domestic regulations can operate as global standards only if they aim at **inelastic targets**. Products sold to EU consumers are inelastic targets, because the location of consumers cannot be changed and determines the application of EU law. Fifth, there must be no way for multinational companies to divide the world in regulatory regions and adapt their products to each one of them, a feature dubbed **non-divisibility**. Non-divisibility can result from economic, technological or legal aspects. Production processes subject to increasing returns to scale compel multinational producers to sell standardized goods (economic non-divisibility). Technological constraint can make it impossible to clearly separate production lines to ensure compliance with different standards (technological non-divisibility). Finally, global mergers have to be authorized by the most stringent jurisdiction (legal non-divisibility).

Typical examples of the Brussels Effect

Detailed case studies are presented in the second part of the book, which the reader in a hurry can overlook in first reading without losing thread of the book's main thesis. Four policy fields are carefully covered. First, **competition law** offers a good example of the Brussels Effect, since competition is an exclusive competence of the Union. Essential elements of EU legislation are presented in a

concise, yet precise and informative manner. Furthermore, concrete Commission's decisions, such as the 2001 decision to block the merger between General Electric and Honeywell that had been approved by the US Department of Justice, illustrate the impact of the Brussels Effect in practice. Evidence of both de facto and de jure Brussels Effects are documented in each of the fields. Contrary to the de facto effect that imposes EU rulings on multinational companies, the de jure Brussels Effect results from the adoption by foreign jurisdictions of EU regulations. Interestingly, the first case study shows how EU competition law has been borrowed by other jurisdictions, including China's 2008 Anti-Monopoly Law.

The second case study reviews the **digital economy**. It covers data protection, where the EU General Data Protection Regulation (GDPR) has global impact. GDPR is the most stringent regulation, as privacy is considered as a fundamental right in the Union. Through the GDPR, the Union projects this fundamental right worldwide. Subsequently, it shows how EU regulation on hate speech online has influence on leading IT companies worldwide, even though the right of free speech has always been more broadly conceived in the US since the First Amendment.

The third case study deals with the **protection of consumer health and safety**. Genetically modified organisms (GMOs) illustrate diverging food standards. In her exposition of the different case studies, Professor Bradford rigorously elaborates on the political economy of the EU-US regulatory divergence: while the approach to GMOs is dominated by the precautionary principle in the EU, the US are more inclined to support the development of new technologies. The second illustration relates to the regulation of the chemical

industry, where the EU regulation concerning the Registration, Evaluation, Authorisation, and Restriction of Chemicals (REACH) has a substantial clout worldwide.

The fourth case study relates to **environmental protection**, a regulatory field strongly supported by the high environmental awareness of European citizens. Several examples are presented in detail, running the gamut from hazardous substances and economic waste to animal welfare or emissions trading in aviation.

The Brussels Effect: looking forward

The third part of the book is devoted to assessing the Brussels Effect, including benefits and costs, and to evaluate whether it is likely to prevail in the future. Professor Bradford reviews the three main strands of criticism on the European Union's regulatory power, namely that the Brussels Effect is bad for innovation, is a form of disguised protectionism, or a new form of regulatory imperialism, and dismisses them all on the basis of a balanced analysis of facts and claims. The final chapter looks at the future of the Brussels Effect, stressing developments likely to undermine its global clout: the possible emergence of China as a regulatory power in synch with the increase in the size of its internal market, the risk of deglobalisation fueled by populist politics, or the possible end of non-divisibility owing to the emergence of new technologies such as 3-D printing allowing to produce bespoke goods in line with local regulations.

The book ends on internal challenges, including Brexit and the possible

strengthening of anti-EU sentiment in the Union itself. Interestingly, the author underlines that Brexit "is easier to execute as a slogan than as a viable policy in practice", and explains why and how the United Kingdom "may soon find itself in the position of being bound by EU regulations without any ability to influence the content of those regulations".

Concluding observations

Professor Bradford's innovative exposition of the Union's regulatory power concludes that it is not only pervasive today, but likely to persist and even extend in the years to come. Only the future will tell us. In this respect, the debate on the Union's strategic autonomy will contribute to determining the shape of Europe's future and its role in the world.¹ This fascinating book helps understanding the nature and strength of the European Union's regulatory power, and will be of great benefit to all those interested in the process of European integration and contemporary policy-making at EU level.

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About the author

Jean-Pierre Vidal is Chief Economic Adviser to the President of the European Council, Charles Michel. He headed the Policy and Strategy Division of the European Investment Bank until December 2019 and was Counsellor to the Executive Board of the European Central Bank from September 2016 to June 2019. He was previously Chief Economic Adviser to the President of the European Council, Donald Tusk, and a member of the cabinet of the first President of the European Council, Herman Van Rompuy, and held several positions at the European Central Bank. Before joining the ECB as economist in 2000, he worked as senior researcher at the 'Centre National de la Recherche Scientifique' (CNRS). Jean-Pierre holds an MBA from ESSEC business school ('Ecole Supérieure des Sciences Economiques et Commerciales') and a Ph.D. from the University of Cambridge.

¹ See 'Strategic autonomy for Europe - the aim of our generation' - speech by European Council President Charles Michel to the Bruegel think tank, 28 September 2020 <https://www.consilium.europa.eu/en/press/press-releases/2020/09/28/l-autonomie-strategique-europeenne-est-l-objectif-de-notre-generation-discours-du-president-charles-michel-au-groupe-de-reflexion-bruegel/>