

# European Competition vs. Global Competitiveness

## Transferring EU Rules on State Aid and Public Procurement Beyond Europe

August 2010

 European  
 Competition vs  
 Global  
 Competitiveness

5

### BACKGROUND

- As long as there is no effective state aid control outside the EU, European firms are disadvantaged in global competition by strict EU rules, or the Commission comes under pressure to relax its controls thereby running the risk that fair competition within the EU will be undermined.
- In order to escape this dilemma and to resist downward regulatory pressures, the EU is actively promoting its state aid rules in neighbouring countries and at the WTO level, albeit, with varying success. In parallel with these efforts, attempts to export European rules to other countries and to the global level have been undertaken in relation to public procurement, a field which can have strong state aid implications.

### METHODOLOGY

- The authors address the following questions: through which channels does the Commission promote European rules on state aid as well as public procurement, and how can we explain its varying success?
- An outline is provided of EU rules on state aid and public procurement, followed by an analysis of the Commission's strategies to transfer these rules beyond the EU. The main reasons for the Commission's varying success in exporting EU rules are described, together with the benefits for European firms of EU regulatory transfer.

### KEY FINDINGS

#### Regulatory transfer to non-EU countries

- With regard to EU state aid and public procurement rules, three major groups of countries can be distinguished.
- Apart from Switzerland, the countries of the EFTA are subject to state aid rules largely identical to those of the EU, and rule enforcement has been delegated to a supranational surveillance authority closely modelled on the European Commission.
- For accession countries, adopting the entire *acquis* is a pre-condition for EU membership but, as previous enlargement rounds have shown, actual rule enforcement may be critical before accession.
- The EU has included provisions on state aid and public procurement in its Stabilisation and Association Agreements in order to encourage rule adoption in associated countries that might become accession candidates.

#### Regulatory transfer to the WTO level

- Depending on the degree of consent between the US and the EU, the authors find regulatory upload or, in the case of dissent, rather vague compromises at the WTO level. The latter is true for global state aid law, while public procurement rules are largely identical at EU and WTO levels.

#### Conclusions

- The success of EU regulatory transfer differs. Bilateral cooperation provides many opportunities to spread European state aid rules, in particular if domestic rule adoption is a condition for EU accession. Ultimately, however, strict enforcement is only guaranteed by an independent authority, that is, by the Commission itself or the EFTA Surveillance Authority.

# CCP Executive Summary

W: [www.uea.ac.uk/ccp](http://www.uea.ac.uk/ccp)  
 T: +44 (0)1603 593715  
 A: UEA, Norwich, NR4 7TJ

August 2010

 European  
 Competition vs  
 Global  
 Competitiveness

- Vertical upload of European rules to the multilateral (or plurilateral) WTO heavily depends on the EU's ability to reach prior consensus with its most powerful counterpart, the US government.
- Besides avoiding disadvantages for European firms, EU regulatory transfer may even produce benefits for them and for European institutions:
  - Firms that are already familiar with EU rules can save transaction costs that would arise from divergent rules at different levels or in different countries.
  - If questions of interpretation arise in the application of rules that are modelled after EU law, European jurisprudence takes a leading role beyond its proper jurisdiction.
- Given the growing competitive pressures from emerging market economies and the advancing legislation of international trade, it is expected that questions of regulatory export will gain in importance in the future.

# CCP Executive Summary

## THE CCP

The ESRC Centre for Competition Policy (CCP), at the University of East Anglia, undertakes competition policy research, incorporating economic, legal, management and political science perspectives, that has real-world policy relevance without compromising academic rigour.

## FOR MORE INFORMATION

The full working paper (Number) and more information about CCP and its research is available from our website: [www.uea.ac.uk/ccp](http://www.uea.ac.uk/ccp)

W: [www.uea.ac.uk/ccp](http://www.uea.ac.uk/ccp)  
 T: +44 (0)1603 593715  
 A: UEA, Norwich, NR4 7TJ



August 2010

European  
Competition vs  
Global  
Competitiveness

# CCP Executive Summary

## ABOUT THE AUTHORS

- Dr Michael Blauburger is a Researcher at the Collaborative Research Centre (CRC) 597 'Transformations of the State', Project A6, University of Bremen
- Rike U Kramer is a Researcher at the Collaborative Research Centre (CRC) 597 'Transformations of the State', Project A6, University of Bremen

W: [www.uea.ac.uk/ccp](http://www.uea.ac.uk/ccp)  
T: +44 (0)1603 593715  
A: UEA, Norwich, NR4 7TJ