

Strategic Asylum Law Making in Europe

Workshop on the Economics of Forced Migration

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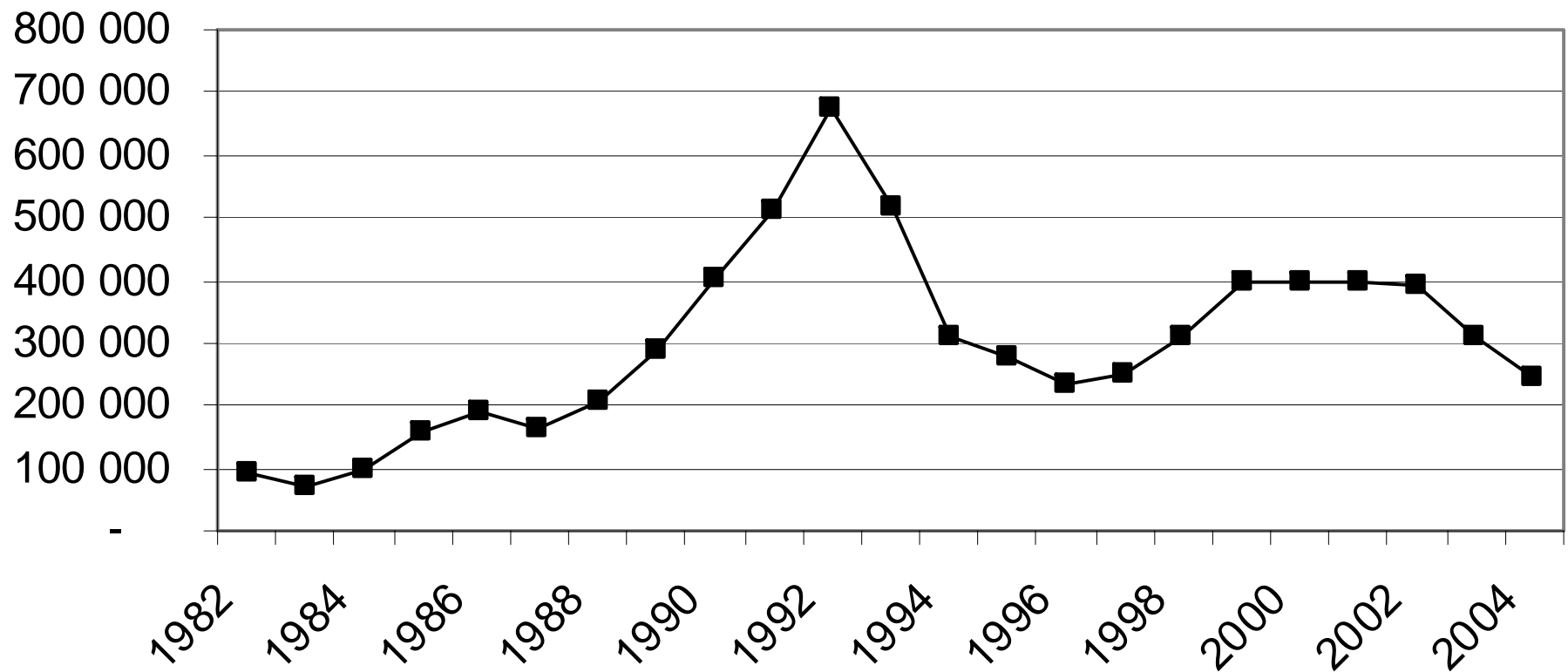
1. Introduction

Restrictive asylum policies are harmful to both:

- Refugees
- Less possibility of entry
 - Less rights
 - Higher probability of being rejected
 - Higher probability of being deported
- States
 - Cost (administrative, control)
 - Little success:

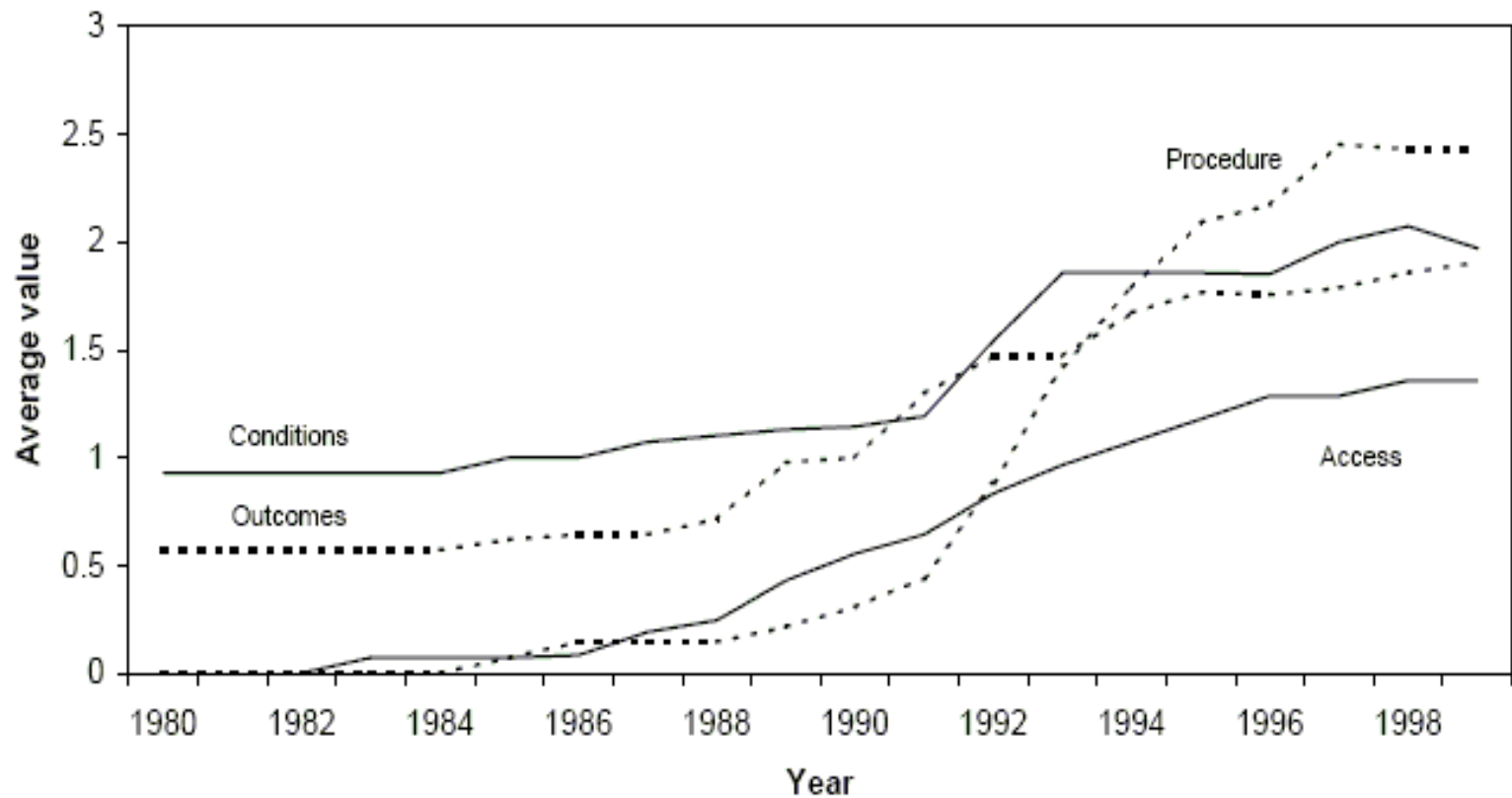
Introduction

Asylum applications in the EU, 1982-2004



Introduction

Asylum Policy Index, EU Average, 1980-99



Why do states continue to introduce restrictive asylum policies?

Source: Hatton 2004

2. Prisoner's dilemma

	Cooperation (C)	Defection (D)
Cooperation (C)	C,C	C,D
Defection (D)	D,C	D,D

Conditions for prisoner's dilemma:

- $CC < DC$
- $CD < DD$

Bilateral cooperation CC

Minimal sense: absence of restrictive policies

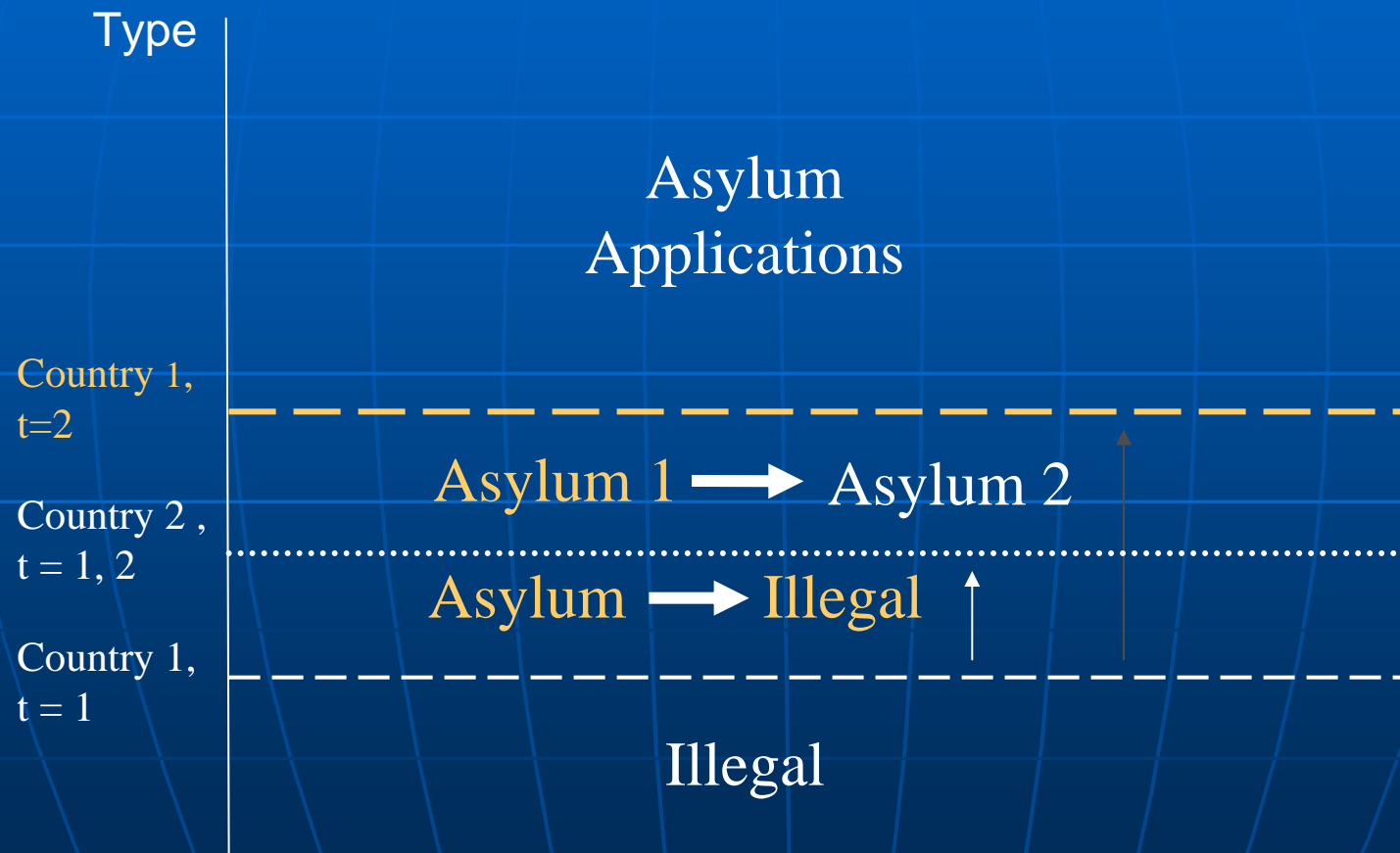
⇒ No change (= 0)

Unilateral defection DC

Two effects:

1. Externality effect: good for votes
2. Costs

Externality effect



Costs

- Control costs = costs of applying policies
 - Border controls
 - Internal controls
- Secondary costs
 - Increased trafficking
 - Increased share of illegal immigrants

⇒ Impact on security, taxes, integration

Unilateral cooperation CD

- No costs of policies
- But : negative externality from the policy in the other country

Bilateral defection DD

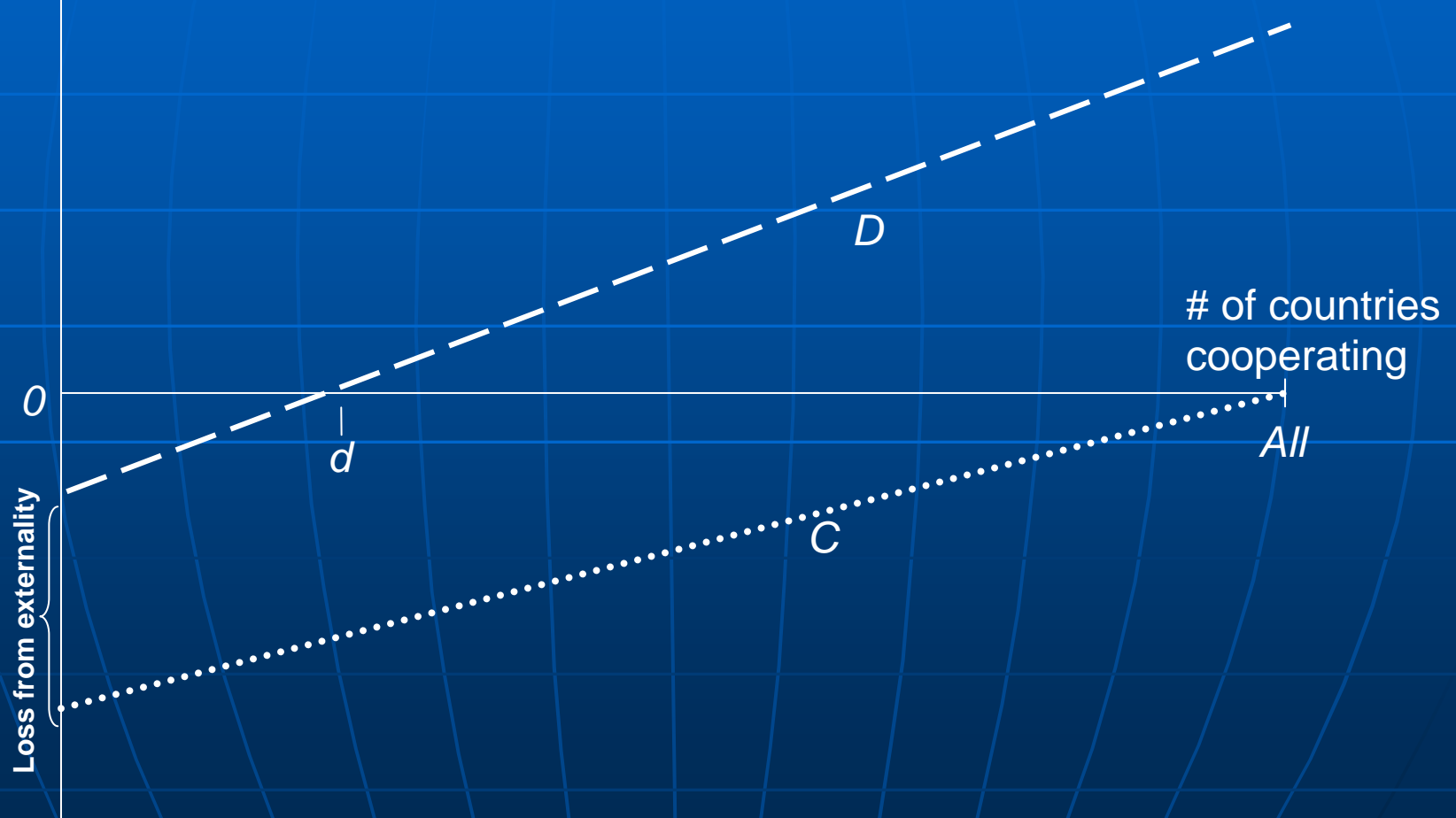
- Costs of policies
- But : No (small) externality effect

Prisoner's dilemma

- Condition 1 : $CC < DC$
 - ⇒ $0 < \text{positive externality} - \text{costs}$
 - ⇒ Governments use restrictive policies, so their net gain must be evaluated > 0
- Condition 2 : $CD < DD$
 - ⇒ Negative externality $<$ costs of policies
 - ⇒ Governments use restrictive policies in order to avoid the negative externalities

Extension to n countries

Payoffs



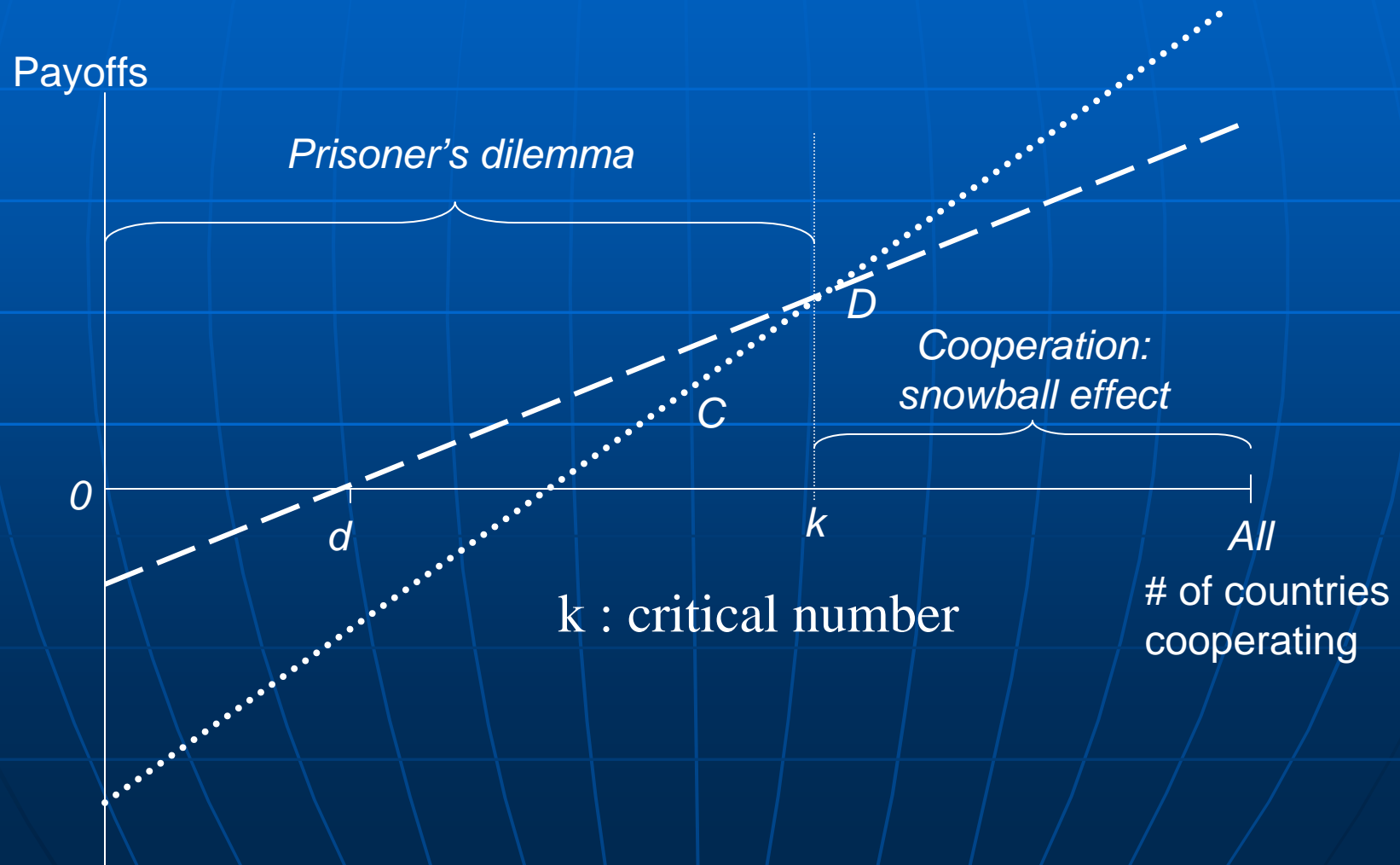
3. European strategies

1. Schengen
2. The Common European framework in theory
3. The Europeanization of asylum policy in practice

The Schengen Agreement

- Intergovernmental contract for freedom of movement that potentially increases the asylum externalities
- Includes measures to prevent this effect: limitation of movement of asylum seekers, responsibility of treatment of application
- Cooperation in asylum matters linked to free movement: increases gains from cooperation

The effect of Schengen on cooperation



The advantages of the European framework

2 stages:

- Intergovernmental approach
- Common approach:
 - 1992 Maastricht Treaty : question of common interest
 - 1997 Amsterdam Treaty : Integration in the EU
 - 2004 : Minimum standards, 1st pillar
 - Future: Common asylum system

Escaping the prisoner's dilemma

- Not all asylum issues can be linked to other areas
 - ⇒ European level: cooperation on asylum is linked to cooperation in all other areas
 - ⇒ EU can guarantee that the critical number of countries is met to make cooperation beneficial
 - ⇒ EU can initiate less restrictive policies without strategic loss
 - ⇒ Less pressure from the electorate

A reluctant Europeanization

Amsterdam: change of governments in key EU countries

⇒ Shift in evaluation of costs and externalities

But : governments use anti-asylum rhetoric and policies to gain votes

⇒ Shift in evaluation not big enough to concede European control over asylum

A reluctant Europeanization

- Result: The EU cannot control or determine national asylum policies
- The Common European Asylum system is founded on national policies
 - ⇒ Norms are still developed nationally
 - ⇒ The transfer of competencies is largely illusory

A reluctant Europeanization

- Post 9/11 shift in priorities in EU from asylum to security
- ⇒ No move to prevent restrictive policies

Will Europe stop the downward spiraling of asylum policies ?

- ⇒ There is no reason to believe so

Further research

- Governments' vote maximizing behaviour: defending both the right to asylum and anti-refugee policies
- Dynamic model: how is public opinion influenced by policy ?



WE'VE BOLTED
THE BACK DOOR.
USE THE FRONT.

OFFICIAL
REFUGEE
INTAKE

Nicholas
8 May 02