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# Introductory Remarks

## 1. 1. Letter from the Editor-in-Chief

Sabrina Sussman  
*Editor-in-Chief*

It gives me great pleasure to introduce the Summer 2020 issue of the Review of European & Transatlantic Affairs.

European Horizons seeks to give young people a voice in shaping the future of Europe and transatlantic relations, incubating innovative policy ideas through our publications, conferences, and chapters. RETA provides a platform for students to connect to each other, our partner organizations, academics, and policy makers, enabling them to develop ambitious suggestions for improving the transatlantic relationship and European policy.

Since the publication of our last edition, the world has changed immensely, sending shockwaves through the entire geopolitical order. Of greatest note, of course, is the continuing coronavirus pandemic, which has infected 20 million worldwide, killing nearly 750 thousand. This crisis is global, destroying not only our perceptions of personal and economic security, but in many cases our faith in national and global leaders. Economies are contracting, businesses are closing, families and friends are separated by public health measures, and trust in globalization is faltering. While the pandemic is at the forefront of the issues our world faces today, other problems persist, including climate change, the rise of populism, tensions in the transatlantic relationship, and regional security concerns, which



continue to pose existential challenges to the future of Europe.

Despite these issues, it is evident that there is much hope for the future of Europe and transatlantic relations. The political engagement we have seen over the course of the last six months is astonishing, with global protests, political education, and massive community efforts, largely utilizing the Internet. The youth, especially, are beginning to carve out a foothold, demand a voice in our future, and hold policy makers to account. As Europe continues to address the issues it faces, it is clear that young people, students, and organizations like European Horizons will play an increasingly important role in shaping the policy debate across the continent, working towards a brighter, more sustainable, and more inclusive future for the European Union.

This issue of RETA explores many facets of European policy, from security to the economy to multilateral relationships. It also includes the winning policy proposals from the European Student Policy Competition, held in April 2020: European Horizons' first-ever virtual policy competition, inspired by the necessity of virtual connection and virtual advocacy in the new world. These papers and policy proposals are the products of an incredibly diverse group of students, young professionals, and scholars, from across three continents, representing just a few of our 65 chapters worldwide. Our contributors, chapters, and editorial staff have been working tirelessly through a difficult and often stressful time to uphold European Horizons' values and goal: giving young people a voice in the policy and the future of Europe.

I hope that the papers and policy proposals contained in the Summer 2020 issue of RETA will contribute to the ongoing discussion on the issues facing the European Union and the transatlantic bond, that they will shine a light on the perspectives of young citizens working towards improving our world, and that they inspire students and policy makers alike to aim for a bright, prosperous, and inclusive future through continued advocacy and engagement.

*Sabrina Sussman is a senior at the Johns Hopkins University studying international studies and economics, as well as environmental science and French. She has interests in security policy, the transatlantic relationship, Sino-American relations, and Arctic policy. Sabrina serves as the Director of Publications for European Horizons, and as the Co-President of European Horizons at Johns Hopkins. She is passionate about policy research as a form of political engagement and education.*



# Economy

## 2. 1. European champions - a way to go?

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### OBSERVATIONS

While the EU countries' economies as a whole still contribute a significant amount to the global gross domestic product, a brief look on the list of world's largest companies shows a very different picture. Only a small number of large businesses have European roots and the number is decreasing. In fact, only 5 in the top 40 largest companies in the world have European origins.<sup>1</sup>

The nature of the current situation can be very well illustrated by the following example. Almost five decades ago, the governments of France and West Germany (later joined also by the UK and Spain) came together to establish the Airbus consortium to be able to successfully compete with American rivals in the aerospace industry. Last year, an attempt to repeat this success story by a merger between Siemens and Alstom, intended to create a viable competitor to Chinese competitors in the railway sector, was prohibited by the European Commission based on the application of EU competition rules.

This has sparked backlash between European chief executives and political lead-

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<sup>1</sup> A Franco-German Manifesto for a European industrial policy fit for the 21st Century, as jointly published by the French and German governments, available at: [https://www.bmwi.de/Redaktion/DE/Downloads/F/franco-german-manifesto-for-a-european-industrial-policy.pdf?\\_\\_blob=publicationFile&v=2](https://www.bmwi.de/Redaktion/DE/Downloads/F/franco-german-manifesto-for-a-european-industrial-policy.pdf?__blob=publicationFile&v=2), page 3.

ers, with many now arguing that the current system of EU competition (and, in particular, merger control) rules needs a radical overhaul<sup>2</sup> to restore competitiveness of the European industries and allow for the creation of companies capable of facing the Chinese and American “national champions” - large companies capable of fully exploiting the benefits offered by economies of scale and scope.<sup>3</sup>

For the European policy makers, the question now stands as follows: “Do we need ‘national champions’ to secure steady adding of jobs, increase the total welfare of European citizens and promote innovation? Or, in other words, do the EU competition rules, as carefully crafted over the past decades, still follow and achieve their aim to ensure effective competition within the single market? Or do they render European businesses uncompetitive on the global scale, which in turn leads to the deceleration of European economic growth, decrease in the welfare of European consumers and, ultimately, intensification of the EU polycrisis<sup>4</sup>, as described by Jean-Claude Juncker? Don’t the rules, as they now stand, worsen the resentment of EU citizens with the EU, rather than contribute to the success of Europe? And if so, what should be done to change the situation?”

## I. INTRODUCTION

When travelling on board a high-speed train, one would seldom ask what producer built the machine. However, should the question be asked, the answer would, with a high degree of certainty, be the following: the train was produced and delivered either by Alstom, a company headquartered in France, or Siemens, its German competitor. This is not surprising, given the fact that the combined market share of the two companies in the high-speed trains sector in the EU amounts to approximately 70%.<sup>5</sup>

What does this data tell us above the size of the two companies and their ability to compete? A brief look at the statistics clearly shows that although the two producers face certain competition from other companies (such as Stadler, Bombardier or CAF), their position on the market is very strong. The two companies can

2 E.g. Rachel Sanderson and David Keohane: European champions needed to fend off US and China. *Financial Times*, 20 May 2018, retrieved 6 February 2020.

3 Sometimes, such companies may be backed by national governments by way of subsidies or even explicitly used by them to advance national interests.

4 A term repeatedly used by EU leaders to describe the current economic, financial, political and social problems the Union faces and needs to resolve and stemming from the several crises the EU has gone through in the past decade (mainly the financial, refugee and sovereign debt crises).

5 Decision of the European Commission, File No. M.8677 - SIEMENS/ALSTOM dated 6 February 2019, page 38.

definitely be classified as large – in fact, they could probably be characterized as “German” or “French” national champions.

However, a rather different picture emerges when analysing the railway industry from a broader – global – perspective. From this point of view, neither Siemens nor Alstom look like large companies. They are surpassed by a company most lay people, who are not particularly interested in the trends in the railway industry, have probably never heard of: CRRC Corp, a Chinese conglomerate which came to its existence only in 2015 through a merger of several Chinese railway equipment producers. CRRC is a state-owned enterprise (SOE), conducting its commercial activities under the stewardship of its owner – the Chinese government.<sup>6</sup>

To describe CRRC as a “large company” would be an understatement. Its turnover amounted to CNY 224 billion<sup>7</sup> (EUR 27 billion) in 2017 and it has been growing constantly over the period of past years. This is much more than the turnover of both Alstom and Siemens combined.

The presence of CRRC is not particularly strong in Europe at the moment. So far, it has only succeeded (acting in a consortium with a local company) in one auction to supply high-speed train equipment in Romania<sup>8</sup> and even the fate of this solitary successful bid is now uncertain as the appellate body asked the Romanian Railway Authority to reassess the bid following complaints from Siemens and Alstom.<sup>9</sup> However, there is a fear among European industry leaders that this might change (recently, UK has been reported to be in talks with the CRRC in relation to the construction of the HS2, one of the largest European railway infrastructure projects in decades<sup>10</sup>). In fact, it was this fear which led the boards of Siemens and Alstom to propose a merger, which would allow them to derive economic benefits from the increased size<sup>11</sup> of the business and more successfully compete against the CRRC.

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6 Or, to be more precise, under the directions of the powerful State-owned Assets Supervision and Administration Commission of the State Council – a powerful governmental commission which owns many of the Chinese SOEs and governs their activities.

7 CRRC Corporation Limited 2017 Annual Results Announcement.

8 See article CRRC-Astra consortium ranks first for Romanian EMU tender from 23 September 2019, published at [www.railwaypro.com](http://www.railwaypro.com), retrieved 12 February 2020.

9 See article Appeal body asks for re-assessment of bids for massive train contract in Romania from 3 December 2019, published at [www.romania-insider.com](https://www.romania-insider.com), retrieved 6 April 2020.

10 Based on the following article: Gill Plimmer, George Parker: China offers to build HS2 in five years and for less money. Financial Times, 14 February 2020, retrieved 14 February 2020.

11 Economic theory suggests that the increased size of the company allows it to decrease the average cost of production as the input increases. This is caused by the fact that the increase in the input reduces the fixed costs for each unit produced. The phenomenon is usually described with the term economies of scale.

Nonetheless, the merger failed as, on 6 February 2019, the European Commission prohibited it under the EU Merger Regulation.<sup>12</sup> According to the Commission, the “merger would have harmed competition in markets for (among others) high-speed trains as it would have resulted in higher prices and it would also significantly reduce innovation, foreclosure of small competitors and less choice for the customers.”<sup>13</sup> As a result, both Siemens and Alstom remain competitors.

In fact, the merger of Siemens and Alstom is not the only example of a failed “national champion” attempt. Analogously, and also in 2019, a suggested merger between Deutsche Bank and Commerzbank, two German banking powerhouses, failed after lengthy negotiations. While competition rules were reported not to be the direct cause of failure in this case, the potential risk of “getting the deal through the regulators” has been one of the concerns which led to the collapse of the merger. While the merger of Deutsche Bank and Commerzbank failed, another merger might soon be attempted by their French counterpart – Société Générale – which is now reported to be looking for ways to consolidate its business by merging with one of its French or other continental rivals.<sup>14</sup>

The idea of mergers in the banking industry follows the same pattern as the above described merger between Siemens and Alstom. European banks lag behind their American counterparts in terms of their size. In terms of market capitalization, the largest European bank, HSBC, is less than half its largest US rival – JP Morgan.<sup>15</sup> The difference is even more significant when looking to other competitors. In the banking industry, the described disparity is even more concerning given the fact that the American banks produce higher returns on equity as compared to the European competitors.<sup>16</sup>

## II. LAGGING BEHIND THE WORLD: RESPONSE FROM THE EUROPEAN LEADERS AND CHIEF EXECUTIVES TO THE SIEMENS/ALSTOM FAILED MERGER

The notion of the creation and protection of “national champions” has been present in the debate among political and executive leaders in Europe for decades. As

<sup>12</sup> Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings.

<sup>13</sup> Press release of the European Commission: Mergers: Commission prohibits Siemens-Alstom merger, dated 6 February 2019.

<sup>14</sup> Based on the following article: Stephen Morris, David Keohane: SocGen: making the case for European Bank Champions. Financial Times, 6 January 2020, retrieved 12 February 2020.

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

described at the beginning of this essay, the idea of having a national champion was a driving force behind the plan to create Airbus – a European national champion which would be large enough to compete against the American Boeing in the civil aerospace industry.

The debate, however, culminated only last year when the Siemens/Alstom merger prohibition attracted significant attention. Siemens' CEO, Joe Kaeser, described the thinking of the Commission as “technically right, but wrong for Europe as a whole”.<sup>17</sup> While it is not unusual for the executives of involved parties to criticize a Commission's prohibition decision, the rows of critics were larger this time. Echoing Mr. Kaeser's sentiments, Nicola Beer, an MP for Germany in the European Parliament, urged the EU lawmakers to support the formation of national champions.<sup>18</sup>

In a similar vein, the (then) German minister for economic affairs Peter Altmaier and his French counterpart Bruno Le Maire called the decision an “economic mistake” (Mr. Le Maire even suggested “that the rejection of the Alstom-Siemens merger would serve China's economic and industrial interests”)<sup>19</sup> and argued for changes to the EU competition rules after the decision in Siemens/Alstom has been issued.<sup>20</sup>

More importantly, on 19 February 2019, both economic affairs ministers issued a so-called Franco-German Manifesto for a European industrial policy.<sup>21</sup> According to the manifesto, Europe needs a “genuine industrial policy” if it wishes to retain its economic and industrial strength in the upcoming decade. As part of this industrial policy, the manifesto calls for unification of forces<sup>22</sup> if Europe does not want its “industrial base and capacity to gradually disappear”. Such unification should not only strengthen the industrial capacity of European countries, but should also ensure that European “economic sovereignty and independence” remain in place.

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17 Based on the following article: Siemens-Chef Kaeser greift EU-Kommissarin Vestager an. Der Spiegel, 28 January 2019, retrieved 6 February 2020.

18 In this relation, the MP has used the following words to support her statement: Weil wir Europa lieben, wollen wir es verändern.” – “Because we love Europe, we want to change it. The emphasis on emotion illustrates the urgency of the problem as viewed by the lawmakers.

19 Based on the following article: Harriet Agnew: EU blocks Siemens-Alstom rail merger, Le Maire says. Financial Times, 6 February 2019, retrieved 6 February 2020.

20 Ibid.

21 [https://www.bmw.de/Redaktion/DE/Downloads/F/franco-german-manifesto-for-a-europe-an-industrial-policy.pdf?\\_\\_blob=publicationFile&v=2](https://www.bmw.de/Redaktion/DE/Downloads/F/franco-german-manifesto-for-a-europe-an-industrial-policy.pdf?__blob=publicationFile&v=2). (English version).

22 Although the wording of the Manifesto is rather unclear in this respect, it can be derived from its context that by unification of forces, the authors most likely meant a unification of political forces on the EU-level to bring a legal solution which would allow the creation of European national champions.

In order to achieve this, the authors of the manifesto propose changes to the current European regulatory framework. In particular, although current EU competition rules, now codified in the EU 2004 Merger Regulation<sup>23</sup>, are considered to remain “essential” by the drafters, the manifesto urges the existing rules be “revised to be able to adequately take into account industrial policy considerations in order to enable European companies to successfully compete on the world stage”.

Why was such a sudden change of these rules, which have now been in force for more than 40 years, requested? According to the authors, no level regulatory playing field exists on the global stage today. As a result, some countries are able to gain market share by subsidizing their own domestic companies or letting them grow to the size of national champions through flexible merger control rules. As a result, European companies fall behind in the competitiveness race, being unable to compete under unequal conditions, causing European companies to lag behind, which in turn has a negative impact on the welfare of European citizens and, in general, on the shape of the EU.

### III. THE CURRENT REGULATORY FRAMEWORK

Before delving into possible alternatives, it is worth briefly outlining and describing the current EU competition law framework. The current system involves two sets of rules. Each member state of the European Union retains its own set of rules regarding competition law. These rules are applied by the national competition authorities (such as the Bundkartellamt in Germany or the Competition and Markets Authority in the UK) and, generally speaking, it can be said that their scope covers domestic cases of competition law violations and merger notifications which have no implications for the functioning of the EU internal market.

On the European Union level, the competition law rules are contained in the Treaty on the Functioning of the European Union (TFEU). In this respect, Article 101 of the TFEU deals with infringements which involve bi- or multilateral conduct (so-called “cartel cases”) while Article 102 covers cases involving unilateral conduct (so-called “abuse of dominant position”). However, Article 101 and Article 102 have little to do with the creation of national champions. The rules apply ex post, governing the behaviour of already existing undertakings. As concerns the attempts to create national champions, it is the rules governing mergers (so-called “merger control” rules) which are of particular importance.

<sup>23</sup> Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings.



However, neither the TFEU nor preceding treaties contain any rules on merger control. It is sometimes (and probably rightly) argued that the rules were omitted (as compared to rules governing abuse of dominant position and cartels) in the treaties in particular because merger control can be seen as a strong tool of economic sovereignty and diplomacy. Should the legality of mergers be assessed purely from a legal perspective, based on economic arguments, member states would lose the capability of promoting their economic interests by nudging the companies<sup>24</sup> to merge or, to the contrary, prevent companies from merging should this prove to be disadvantageous from a political perspective. To put this into context, imagine a situation in which an esteemed domestic industrial company, providing jobs to thousands of workers, should be taken over by a foreign financial investor who allegedly intends to sell its assets and close down the plants. Under such circumstances, there is a strong political incentive to intervene notwithstanding whether such intervention fetches positive or negative macroeconomic results.

Given the above considerations, merger control rules, involving a central role played by the European Commission, were adopted on a EU-wide level only in December 1989,<sup>25</sup> using secondary (not primary, as compared to Articles 101 and 102 TFEU, governing cartels and abuse of dominant position) legislation as a legislative instrument. Subsequently, the 1989 regulation was replaced by a 2004 Merger Regulation which is the current piece of legislation containing merger control rules on the EU level.

The current regulatory framework as contained in the 2004 Merger Regulation operates in a “mechanistic” way. The Commission draws its legal conclusions as to whether to allow a merger to go through or prohibit it based solely on the basis of a legal test contained in the regulation. According to this test, the merger will be prohibited should it cause “significant impediment to economic competition”.<sup>26</sup> The Commission, before drawing a conclusion, conducts complex economic assessment involving the definition of the relevant market, the position of the merging companies on the market and analysis of the effects the proposed merger would have on the competition in the market. The analysis the Commission conducts is therefore based solely on arguments of an economic and legal

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<sup>24</sup> The 2004 Merger Regulation prefers the term “undertaking” (rather than “company”) as a description for the merging entities. The term has a specific meaning under EU competition law rules. However, for the purposes of this essay, a simplified term “company” will be used to avoid further complexity.

<sup>25</sup> Council Regulation (EEC) No 4064/89 of 21 December 1989 on the control of concentrations between undertakings.

<sup>26</sup> Articles 2 and 3 of the 2004 Merger Regulation.

nature and does not involve any degree of political consideration.<sup>27</sup>

In addition, each final decision of the Commission on the merger can be subject to review by the General Court. Should one of the parties to the merger (or a third person which is concerned by the merger) decide to appeal the Commission's decision, the General Court is granted the power to review the decision in full jurisdiction (review of legality carried out by the EU Courts under Article 263 TFEU).<sup>28</sup> This means the General Court will review not only the procedure and the legal conclusions made by the Commission, but also the economic assessment conducted in the respective case. In this relationship, it must be emphasized that although the Commission, in assessing the merger, usually conducts very complex economic assessments of sophisticated factual background, and it should therefore be granted a margin of discretion as regards such assessments, the Court of Justice repeatedly emphasized that in order to adhere to the standards stemming from Article 6 of the European Convention on Human Rights and Article 47 of the Charter of Fundamental Rights of the European Union (i.e. right to an effective remedy and fair trial), it is necessary for the General Court to conduct an in-depth review of the decision, including the review of economic assessments made by the Commission when deciding on the legality of the proposed merger.<sup>29,30</sup>

Finally, the decision of the General Court can be appealed before the Court of Justice. Although the appeal is restricted to points of law only (i.e. only the General Court retains full jurisdiction to review the decisions of the Commission), it adds an additional layer of protection to the parties to the proceedings. Taken as

27 Although this is true only to a limited extent – the final decision is adopted by the Commission as a whole, with each Commissioner having one vote. This gives basis to arguments involving possible political influence to be exerted over the decisions of the Commission. However, evidence of meddling of politics into the decision making is virtually non-existent.

28 The decision of the Commission can be appealed before the General Court on the following grounds: abuse of powers of the Commission, lack of competence procedural infringements and infringements of the EU treaties and related acts (infringements of the 2004 Merger Regulation – “substantive law flaws”).

29 Decision of the Court of Justice C-67/13 P *Groupeement des cartes bancaires (CB)* dated 11 September 2014, ECLI:EU:C:2014:2204.

30 Although, according to the Court of Justice, in order to meet the requirements of the principle of effective judicial protection in Article 47 of the Charter of Fundamental Rights of the European Union, it is reaffirmed that “in areas giving rise to complex economic assessments, the Commission has a margin of discretion with regard to economic matters” (Decision of the Court of Justice C-199/11 *Otis and Others* dated 6 November 2012, ECLI: EU:C:2012:684), the Court further adds that “that does not mean that the EU Courts must refrain from reviewing the Commission's interpretation of information of an economic nature. Those courts must, among other things, not only establish whether the evidence relied on is factually accurate, reliable and consistent but also to ascertain whether that evidence contains all the information which must be taken into account in order to assess a complex situation and whether it is capable of substantiating the conclusions drawn.”

a whole, the procedure as currently in place aims at ensuring the legality of the decisions taken by the Commission when deciding on the mergers and equips the parties to the proceedings with a sound right to judicial review.

#### IV. WHAT CAN BE DONE? ALTERNATIVES TO THE CURRENT REGULATORY FRAMEWORK (– AND RESULTING THREATS TO LEGAL CERTAINTY AND THE RIGHTS OF THE STAKEHOLDERS)

First and foremost, the option has been discussed (and also put forward in the Franco-German Manifesto) to equip the European Council (“Council”)<sup>31</sup> either with a full veto right or with a right to appeal the decision adopted by the Commission. As a result, a two-stage procedure would be created putting the Council in the position of an ultimate decision maker endowed with a power to override decisions made by the Commission, including those regarding both cases of merger clearance and prohibition.

Although such a solution would have far-fetching consequences, the Franco-German manifesto is oddly concise regarding its operation. The manifesto merely specifies that such veto power should be only restricted to a category of “appropriate in well-defined cases, subject to strict conditions.”<sup>32</sup> Some authors add that such a solution would “draw a line between technical concerns of competition that are dealt with by the cartel authority, and the political question of balancing the goal of protecting competition against other public interest concerns, such as the preservation of jobs, or, in our [note by the author: European] case, the strengthening of strategically important segments of national industry in order to prepare them for the challenges of a global playing-field.”<sup>33</sup>

However, there are several significant problems associated with the implementation of such a solution. First, the current framework of competition rules in the EU is highly praised around the world<sup>34</sup> specifically because of the fact that the rigid procedure followed by the Commission when deciding upon competition cases is based on a thorough system of economic and legal analysis, which is immune from political influences. In fact, one of the underlying ideas of the EU competition framework is that effective competition in the internal market and consumer welfare are best achieved by promoting economic, not political arguments. The

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31 Or another body of the EU.

32 A Franco-German Manifesto for a European industrial policy fit for the 21st Century, page 4.

33 ‘Editorial Comments Think big? Think twice! EU competition law in the face of calls for European champions’ (2019) 56 Common Market Law Review, Issue 2, pp. 329–338.

34 In fact, many states across the world adopted their competition systems based on the EU framework.

question we should ask is the following: Are we truly willing to give up on a rigid economic theory with a decades long tradition based on exact mathematical and behavioral models in favour of political arguments, which often tend to be emotionally colored and which change from time to time according to the changes in political leadership?” Or, in other words: “Should the vague notions of ‘economic sovereignty’, ‘national pride’ and the ‘need for more European champions’ be given preference over science and precise knowledge vested with the Commission?”

The above described does not constitute the only problem associated with the political veto over Commission’s decisions. Such a solution would also clash with the system of judicial protection established by the treaties. Political decisions escape effective judicial review precisely because they are political. While rigid arguments contained in Commission’s decisions based on economic thinking can be easily reviewed as they are based on exact models and theories, political arguments tend to be per se emotional and loose, thus difficult to verify and review.

Should, *exempli gratia*, the Council override the Commission’s decision and allow the proposed Siemens/Alstom merger to go through based on arguments consisting in “protecting of industrial base” and the “need for a national champion in the railway sector to compete against Chinese competitors”, how would the General Court review such decision? In fact, the only suitable way to go to make the system work would be to exclude judicial review of the Council’s decisions altogether. However, this would almost certainly violate both Article 6 of the European Convention on Human Rights and Article 47 of the Charter of Fundamental Rights of the European Union as such solution would deprive the merging parties from the right to a fair trial and effective remedy.

In addition (and what is perhaps even more worrying), two categories of companies that wish to merge would be created. The first category would consist of “privileged” companies who escape the intervention of the Council, allowing their cases to be fully reviewed by a court should they wish to do so. Second, there would exist a category of “other” companies who would be deprived of their rights should the Council intervene in their case. Such an inequality would not only affect the position of the merging companies, but also (and even more significantly) other market participants – companies present in the market as competitors. While under the current regulatory framework, such companies can appeal the decision should the proposed merger have an impact on their position in the market (if they opine that the Commission cleared the concerned merger in contradiction of the competition rules), they would be deprived of such right in cases where political veto power would be exerted by the Council.

Finally, the proposed system involving the Council's right to veto the Commission's decisions would arguably have a detrimental (in fact, "detrimental" is an understatement in this context – 'deadly' would be a more suitable description) impact on legal certainty and comprehensibility of the decisions. Although the Franco-German Manifesto claims to contain the veto merely to "well-defined cases, subject to strict conditions", such definition is a disturbing example of an open and unclear definition, giving rise to any conceivable interpretation. Even if the veto power was confined to one single category of cases – e.g. the "promotion of industrial base", as defined in the Manifesto, this is still a broad category subject to ad hoc decision making according to the needs of the governments in power. It opens doors to abuse and creative interpretation based on political, not economic, arguments.

It shall also be emphasized that the decisions of the Commission today often spread over hundreds of pages involving economic and legal analysis.<sup>35</sup> Would the Council, acting as a political body, take into account the argumentation contained in such a decision and provide arguments for why the Commission's decision should be set aside? And if so, will the decisions of the Council be comprehensible enough when they come under the scrutiny of European stakeholders? In this respect, the mere fact should not be omitted that while the DG Comp (a department of the European Commission responsible for competition rules enforcement) has dozens of experts in the field of competition law, the Council can hardly compete in terms of theoretical economic knowledge of its experts. In this light, it can easily be argued that such a solution would, rather than promoting industrial strength of European companies, lead to the distortion of competition within the internal market by ill-founded political arguments based on an emotional rather than rational nature.

Another solution proposed by the Franco-German Manifesto is to "update the current merger guidelines to take greater account of competition at the global level, potential future competition and the time frame when it comes to looking ahead to the development of competition to give the European Commission more flexibility when assessing relevant markets. This could entail adapting regulation no 139/2004 [note by the author: the 2004 Merger Regulation] and current merger guidelines"<sup>36</sup>

While this initially sounds like a good idea (legal rules should be subject to periodic review and should be amended when they become outdated), it should first be asked whether such a solution is necessary and proportionate given the current

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<sup>35</sup> Take, for instance, the Siemens/Alstom decision, which is 401 pages long.

<sup>36</sup> A Franco-German Manifesto for a European industrial policy fit for the 21st Century, page 4.

state of things.

As discussed, the last significant change to the merger control rules occurred in 2004, when the “significant impediment to effective competition” test (sometimes called the “SIEC test”) was adopted in the 2004 Merger Regulation. At first glance, it can be seen that the definition is particularly flexible and subject to interpretation. And rightly so. The definition is open to evolve over time and allows to be interpreted in accordance with new economic developments. As a result, changes in economic reality do not require abrupt legislative changes to be made, but rather should lead to the repositioning of interpretation of the legislative instruments currently at hand. In addition, the Commission’s approach to merger control (among others) is defined not by legislative instruments (such as the 2004 Merger Regulation), but rather by soft law issued by the Commission.

For instance, when defining relevant markets in order to assess the market power of the merging parties, the Commission is guided by its own Notice on Market Definition.<sup>37</sup> First, it should be pointed out that in accordance with the notice, the Commission defines the market in each individual case. Therefore, should economic conditions change (e.g. as a result of legislative barriers being removed, which allows for foreign competitors to enter the market), the Commission will react and alter the definition of the respective market. Second, the Commission has also shown a willingness to adapt to new trends by changing the approach (and the corresponding soft law) itself. This year, for instance, commissioner Vestager accepted in one of her speeches that “changes like globalisation and digitisation mean that many markets work rather differently from the way they did, 22 years ago.”<sup>38</sup> The Commission is apparently ready to review the Market Definition Notice to adopt its practice to new developments in the markets.

What conclusions can be drawn from the above argumentation? First, it can be clearly seen that change and adaptation are possible even without direct legislative change. Such a solution promotes stability of the law and legal certainty. Second, legislative change should be proportionate – it should only be considered if other, less intrusive solutions (as regards stability of the law) fail to fulfil their purpose. However, this does not appear to be the case of the current merger control framework.

<sup>37</sup> Commission Notice on the definition of relevant market for the purposes of Community competition law.

<sup>38</sup> Margrethe Vestager’s speech from 9 December 2019: Defining markets in a new age Chillin’ Competition Conference, Brussels.

## V. NATIONAL CHAMPIONS: DOES EUROPE REALLY NEED THEM?

Finally, before implementing the above described changes, another question of significant importance must be asked: Do we, as Europe, really need national champions to promote the European industrial strength, increase the competitiveness of European industries and, ultimately, increase the well-being of European citizens and renew the faith in the European project?

On the one hand, both political and economic arguments can be used to justify the existence of national champions.

First, consider the political argument. National champions can be used (at least to some extent) as a protective tool against the negative forces of globalisation. With increasing globalisation, national governments, and even the EU, increasingly lose their grip over economic regulation as the creation of economic rules is taken from governments and conferred upon supranational bodies such as the World Trade Organisation. In other cases, free trade is promoted by means of bi- and multilateral agreements such as NAFTA, TTIP or TPP. Although this has an apparent positive effect in terms of increased cross-border trade (and increases the wealth of the involved countries in accordance with the theory of comparative advantage), it also creates feelings of detachment and alienation as it gives rise to the argument pursuant to which globalisation undermines state sovereignty, at least in the economic sphere.

Creation of national champions may be viewed as a tool to escape the negative consequences of globalisation. Strong players in the world economy are capable of creating or amending the rules according to their own preferences. On individual countries' level, the ability of national champions to play according to their own rules softens the negative effects of globalisation as it allows the rules to be created according to the wishes of such companies (which are often aligned with the interests of national governments). Companies can therefore arguably act as an effective counterweight against globalization. In addition, national champions are often considered to protect national identity as they promote the creation of jobs for domestic workers. National champions also manufacture domestic products which increases national pride and confidence in own state and culture. They can thus be viewed as tools of national self-realisation and self-esteem. In extreme cases, nevertheless, they may stir up nationalistic thinking and protectionism.

Second, even from a purely economic perspective, the policy of promoting national champions might also seem beneficial. It is a well-established fact in economic thinking that large companies easily benefit from the so-called economies of scale and scope.

Economies of scale is a term widely used in the field of microeconomics, which implies that large-scale operations and production creates benefits for the firms by reducing the proportion of fixed costs to total costs. This leads to a reduction in the average cost (cost per unit) which arises from increasing number of units produced. In other words, productivity of such companies tends to be higher.

For example, if it is necessary to buy an expensive machine for manufacturing a product, then a company that produces twenty-four hours a day without any break has a lower cost per product than a company which does not have enough workforce to do so (operations of such a company have a larger scale which allows for more goods to be produced, increasing total output). Also, in a large company, the division of labour is more diversified, everyone can specialize in a more limited sub-task and improve in their particular area of expertise.

On the other hand, economies of scope bring efficiencies which are related to the variety, not volume, of the goods produced. They are achieved if a single supplier can sell a variety of products (e.g. a post office can not only deliver shipments, but can also supply banking, insurance or lottery services). Economies of scope thus add to a decrease in the average cost of each unit if more types of products are being produced instead of just one.

Should the above-mentioned benefits be viewed as a definitive argument to the amendment of competition rules to promote creation or strengthening of the national champions? Not necessarily. Why? The policy of national champions has disadvantages too – it comes with a cost attached to it.

First and foremost, the current merger control rules, as now codified by the 2004 Merger Regulation, came (although in a slightly different form) into existence more than 40 years ago and it is widely accepted that they have served their purpose ever since. They do not necessarily prevent large companies, deriving benefits from the above described economies of scale and scope, to come into existence. In



fact, several very large mergers have been cleared in the past years.<sup>39</sup>

The competition rules only bite if the Commission reaches a conclusion the merger would significantly impede effective competition within the internal market of the EU. On the other hand, should the combination of the companies lead to the creation of a national champion, whose existence appears to be beneficial to competition and consumer welfare, the competition rules will not prevent such merger. From this assumption, a key solution should be drawn: the current system of competition rules will promote the creation of large companies provided that the merging parties are able to prove that the existence of such company is not detrimental to the competition in the market and welfare of the consumers.<sup>40</sup>

This is something which should be kept in mind when thinking about a possible change to the rules. Such change would necessarily mean that a merger might go through even though its effects are expected to be detrimental to the market and, in the end, to the well-being of European citizens. If we do not want to risk deepening the anger of people living in the European Union, we shouldn't let political arguments override this basic fact – in fact, it might soon prove dangerous to give preference to vague arguments of industrial policy while ignoring arguments based on economic welfare.

Moreover, national champions may not bring the desired results. Large companies tend to be spectacularly ineffective and are often subject to corporate mismanagement and scandals.<sup>41</sup>

What is probably even more important, governments are by no means in a posi-

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<sup>39</sup> Including the Anheuser-Busch InBev United Kingdom SAB Miller merger in the beer industry with a transaction value over EUR 90 billion, the Royal Dutch Shell and BG Group Merger in the petroleum and natural gas industry with a transaction value of almost EUR 100 billion or the Bayer and Monsanto merger in the pharmaceutical sector with a transaction value of more than EUR 50 billion.

<sup>40</sup> This is illustrated by the following opinion of Advocate General Wahl (made in relation to the application of Article 102 TFEU): “From the outset, EU competition rules have aimed to put in place a system of undistorted competition, as part of the internal market established by the EU. In that regard, it cannot be overemphasized that protection under EU competition rules is afforded to the competitive process as such, and not, for example, to competitors. In the same vein, competitors that are forced to exit the market due to fierce competition, rather than anticompetitive behavior, are not protected. [...] This is because, given its economic character, competition law aims, in the final analysis, to enhance efficiency.” (Opinion of Advocate General Wahl delivered on 20 October 2016, case C-413/14 P Intel Corp. v European Commission, ECLI:EU:C:2016:788).

<sup>41</sup> To mention just one example, Enron has become one of the largest US companies shortly before its failure in 2001. Large size of a company often comes at a cost of a lack of oversight and internal control.

tion to know which companies they should pick to promote as national champions. It can easily happen that instead of selecting the right company, they chose its competitor which lacks the prerequisites to grow into the position of a national champion. This would have devastating consequences in terms of productivity and the total performance of the European economies.

It should also be kept in mind that size does not always mean performance. This can be illustrated by the example of the banking sector briefly described above in this essay. While it is true that European banks lag behind their American competitors in terms of market capitalisation, a look on the European banks' balance sheets (assets) shows a different picture. In terms of assets, European banks are as competitive as their American counterparts.<sup>42</sup> What is the reason behind this apparent discrepancy? Market capitalisation often says little about the firm's true economic condition and position in the market. Even firms with smaller capitalisation can perform well and still be valued less than other firms in an economically comparable position. Market capitalisation does not always reflect the true condition of the firm. To the contrary, it reflects the subjective opinions of the market participants, which are often based on emotion rather than hard data and can quickly prove illusory.

The proposed change might also have a negative impact on the economies of smaller EU member states. Companies coming from such states would be negatively affected by the promotion of the national champions policy on the EU level. The size of the national champions suggests that such companies would most likely be recruited from large markets of countries such as France, Germany or Poland. Should these companies be given preferential treatment, smaller companies from medium and small EU member states will be forced to compete against their rivals, now preferred or even subsidized by their governments. This would not create conditions of effective competition – to the contrary, it would hinder the growth of such smaller companies, which, in fact, amount to a very important part of EU economy.<sup>43</sup>

Finally, it should be borne in mind that large companies tend to be economically ineffective. Promotion of national champions might bring the exact opposite effect than strengthening of competition – its deterioration. In a market abundant

<sup>42</sup> Based on the following article: Stephen Morris, David Keohane: SocGen: making the case for European Bank Champions. Financial Times, 6 January 2020, retrieved 12 February 2020.

<sup>43</sup> According to a report produced by PwC (Europe Monitor: Innovation and Digital Transformation: How do European SMEs perform?) from October 2018, SMEs (usually described as companies employing less than 250 people) amounted to roughly two thirds of the national total employment and total value added. The report is available at: <https://www.pwc.nl/nl/assets/documents/pwc-europe-monitor-innovation-sme.pdf>.

with a variety of smaller and medium enterprises competing against each other, innovation and economic competence is required to survive. On the other hand, national champions might soon become satisfied with their place on the market, reducing their desire for innovation and growth, ultimately stifling the productivity and competitiveness of the European economy. For innovation, employment levels, and productivity to improve in Europe, a market full of a range of smaller enterprises, rather than an oligopoly of few national champions is required.

## VI. CONCLUSION

Is the policy of promoting large companies – so-called “national champions” – to compete in global markets a way to go for the European political leaders and executives, as suggested by Germany and France in the recent Franco-German Manifesto for a European industrial policy fit for the 21st Century?

In this essay, it has been proven that taking such a path is dangerous and problematic, both from a legal and economic point of view. A detailed analysis clearly shows that while such a policy might bring certain benefits, it would not contribute to the solution of the EU polycrisis – to the contrary, evidence can be found that it might even worsen the crisis by stifling the economic growth and causing the well-being of the European citizens to deteriorate.

The current EU competition law framework has now been effective for more than 40 years. During this period, it contributed to the promotion of efficient competition and increase in the consumer welfare of European citizens. The 2004 Merger Regulation does not aim at preventing national champions to come into existence – it only intervenes should such a company significantly impede effective competition in the relevant markets.

From a legal perspective, the recent regulatory reforms, as proposed by the French and German ministers of economic affairs, bring more harm than benefit to the current framework. First and foremost, the proposition to equip the Council with a veto power over decisions of the European Commission on the clearance or prohibition of mergers would dilute legal certainty of market participants. In addition, it would negatively impact the existing robust system of judicial protection as it would most likely deprive a category of stakeholders affected by the Council’s veto decision of their right to a fair trial and effective remedy guaranteed by Article 47 of the Charter of Fundamental Rights of the European Union by taking away the opportunity to appeal such a decision under Article 263 TFEU.

From a socio-economic perspective, it is true changing the rules to promote national champions might bring some economic benefits. Large companies certainly profit from economies of scale and scope. The reform would allow the companies to make use from such benefits to successfully compete on markets which are now becoming increasingly more global and preoccupied by American or Asian companies. National champions might contribute to the protection of national identity and creation of jobs for domestic workers. This might in turn inspire confidence among European citizens.

However, the veto solution, supported by further amendments to the current system of EU competition law framework, would put small and medium companies, in particular those coming from smaller EU member states into an unequal position and would de facto lead to a preferential treatment of the national champions. It would create companies with significant economic and political power, which might escape any form of oversight. This would arguably hinder economic growth and innovation.

Given the above-mentioned arguments, the author of this essay shares the opinion that the current system of competition rules, which is based on a proven economic theory and sound arguments of scientific nature, should not be supplemented by a superior layer of political decision making. To put it simply – the current system of EU competition law should not be politicised, as this would bring more harm than benefits. In fact, substituting a rigid system with a proven track-record with vague political notions of economic sovereignty, national pride and the need for European champions might prove dangerous and would have disastrous effects not just on the well-being of European citizens, but also on their faith in the European project.

Rather than trying to overhaul the current framework, European political leaders and business executives should look abroad to engage in negotiations to create a level playing field on a global level. This would effectively mean to export the EU competition rules to other parts of the world and persuade political leaders abroad of the benefits of implementing such rules. In other words, rather than softening and politicising competition rules in Europe, European leaders should strive to promote them in other parts of the world and by doing so, pave the way for European companies to compete against their foreign rivals and thus positively contribute to the well-being of the European citizens and economic strength of the European Union.

## 2. 2. Do European Free Trade Agreements Work?

SUBMITTED BY

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### INTRODUCTION

#### OUTLINE

On 30 June 2019, the European Union (EU) and Vietnam signed a Free Trade Agreement (FTA) and an Investment Protection Agreement to provide opportunities to increase trade and economic growth through eliminating tariffs and opening up services and public procurement markets. As of 2020, the EU has 38 FTAs in place, including the EU-Mexico FTA which began in 2000, the EU-South Korea FTA of 2015, the EU-Japan FTA of 2019 and the EU-Singapore FTA of 2019, as well as 48 FTAs provisionally applied and 24 FTAs yet to be ratified. These FTAs do not only serve to promote business in both the EU and its partner countries through fully exploiting the comparative advantages of both sides. They also allow the EU to exert greater political and diplomatic influence upon foreign governments' policies and regulatory decisions through the power of norm-setting. As a strategic instrument essential to the EU, the FTAs have been utilised for multiple purposes over time, including maintenance of political stability, promotion of regional socio-cultural integration, as well as the more recent emphasis on trade creation in the new millennium. At present, the EU is negotiating and ratifying new-age FTAs, trade agreements that look at much more than trade. These FTAs deal not just with trade but have strong norm-setting intent, including stricter labour and environmental regulations as well as human rights guarantees. Nevertheless, the transition from political to commercial motivations and the recent separation of Investment Protection Agreements from FTAs have provoked increasingly heated debate on their utilisation and effectiveness in meeting their various aims.

This paper first focuses on the history of the EU's FTAs since the 1950s. It then proceeds with a review of the relevant literature on FTA utilisation, before considering several best practices for boosting FTA utilisation. However, the meaning of 'utilisation' itself is contested, and this is explored further in the paper. We argue that the structure of an FTA is a more significant determinant of utilisation than government promotion efforts, which have an important but secondary role. To

enhance utilisation, trading partners should simplify Rules of Origin (ROO) and the bureaucracy associated with them.

Current measures and studies of FTA utilisation suffer from several deficiencies. Most notably, there is a narrow focus on trade in goods with relatively little attention paid to trade in services and investment. This is problematic in a global trading environment where tariffs on goods tend to be very low and most trading barriers are associated with non-tariff measures. These disproportionately affect trade in services and investment.

## HISTORY OF FTAS

Woolcock (2014) and Young (2015) argue that the evolution of EU's trade policy fits into four distinct stages. It has transitioned from a diplomatic strategy based on political and security motivations in the twentieth century to a trade policy of long-term commercial dynamics.

Beginning in the context of the Cold War and decolonisation, the EU's founding members initiated proactive policies of Preferential Trade Agreements (PTA)<sup>1</sup> with their former African, Caribbean and Pacific colonies. This aimed to protect access to their market and raw materials, as well as retain economic and political connections with these newly independent states. The proportion of EU exports destined for African, Caribbean, and Pacific states had decreased from 8% in 1975 to less than 4% by 2000. While these first-stage PTAs still played an important role in securing Europe's agricultural supply in certain crops (notably bananas), these agreements were increasingly viewed as development-motivated.

The end of the Cold War precipitated the second wave of PTAs, particularly with the former Comecon states in Eastern Europe. The primary motivation remained political, to guarantee social stability in Eastern Europe after the fall of the Soviet Union through economic adjustments, privatisation and liberalisation, and to promote European integration and collective security.

Similar socio-political concerns underpinned the third stage of free trade policy in the 1990s. Following the formal establishment of the EU in 1993 and the creation of the European Central Bank in 1998, successful European economic and institutional integration enabled the Union to extend its influence beyond Europe. From 1995, the Euro Med FTAs signed with North African and Middle Eastern states involved the promotion of economic growth and stability in these regions. Seeking to limit the diversionary trade effects of the North American Free Trade Agreement (NAFTA), the fourth stage of FTAs with Mexico and Chile in the 2000s

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<sup>1</sup> A PTA reduces tariffs but does not necessarily abolish them completely, and generally covers a less broad range of goods than an FTA.

further reflected the global expansion of the EU's political ambition.

Since 2000, accelerated globalisation and the rise of emerging markets has led the EU to reorient its trade policy from political and security concerns to trade promotion and commercial interests. The failure of the Doha Development Agenda in 2008 motivated the EU to abandon its traditional approach of region-to-region negotiation. Subsequently, it began to pursue more pragmatic bilateral FTAs with rising trade powers. This was part of a global shift from the promotion of multilateralism to competitive liberalism which has been ongoing since the mid 1990s. Competitive liberalisation meant promoting market access, regardless of whether it is done on a multilateral, regional, bilateral or plurilateral basis. As a result of the shifts in trade practices globally, the EU customised its new trade strategy to potential partners such as China, India, Brazil and the Association of South-east Asian Nations (ASEAN) members. The subsequent FTAs with Singapore and Vietnam arguably reflect the EU's shift towards trade promotion and commercial interests.

It appears that the new-age FTA model is here to stay for now, especially so under the leadership of the new EU Trade Commissioner Phil Hogan, for whom, “‘best in class’ means a trade agreement that is not just about economic and financial gains, with zero tariffs and zero quotas, but an agreement which is in the interest of [the] people, their environment, respect for their rights and for their quality of life”.

FTAs have served different purposes across the EU's recent trade history. Current FTAs ostensibly aim to deliver market access, increased trade in goods, services and investment protection, while exporting EU norms and regulations to partner countries. This is the standard which is borne in mind as the paper considers the effectiveness of various FTAs.<sup>2</sup>

## LITERATURE REVIEW

### OVERVIEW

The literature that engages with the effectiveness of the EU's FTAs is vast but scattered. It is divided amongst the fields of history, law, and economics. It can be found in academic journals, as well as trade publications by national customs agencies, international trade bodies and trade-linked think-tanks. General FTA literature consists of several smaller sub-literatures. This review will consider works in these subfields that seek to understand what it means to utilise an FTA

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<sup>2</sup> “Speech by EU Trade Commissioner Phil Hogan at Dublin Business Event - Trade - European Commission,” accessed February 12, 2020, <https://trade.ec.europa.eu/doclib/press/index.cfm?id=2088>.

and interrogates specific features of FTAs, most prominently ROO, which are an inescapable part of these agreements. It is also necessary to consider a final category of emergent work that utilises a new type of transaction-level data to draw more granular insights about FTA utilisation. The review will omit extensive detail about successes and failures of specific FTAs, as this will be explored in a later section of the paper.

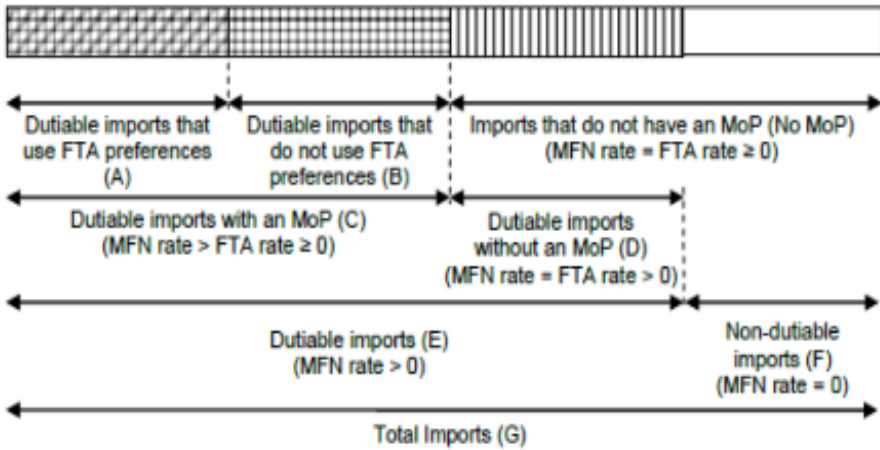
## PREFERENCE UTILISATION RATES

### DEBATES ABOUT DEFINITION

Trade is a complex and technical enterprise. Therefore, some terminology needs to be clarified before moving forward. A common measure is the preference utilisation rate (PUR), which aims to capture the proportion of eligible trade that uses FTA provisions. When trading goods that are not covered by FTAs, the Most Favoured Nation (MFN) tariff level, which refers to the tariffs a given good is subject to under prevailing bilateral and multilateral trade agreements, is considered. When tariff reduction takes place after an FTA is implemented, the difference between the MFN tariff and the new tariff level is called the Margin of Preference (MoP). The MoP may be zero if there is no change in tariff level. The crucial difference between trading under MFN tariffs and those stipulated under the FTA is the need to comply with the ROO specified in such agreements.

Debates around PURs question whether they are the best measure of an FTA's effectiveness, given that they only measure the use of trade preferences in relation to goods. Furthermore, PURs for FTAs vary widely over time as businesses may get more familiar with an FTA or if another separate trade agreement comes into force and becomes more widely utilized. There is also debate over the way PURs themselves should be calculated. A PUR consists of two elements - a fairly uncontested numerator (total value of goods being imported/exported using the ROO in a given FTA) and a contested denominator. Hanakwa (2013) outlines the different categories one could possibly consider when deciding what the denominator should be. For example, it could be imports that are technically eligible but for which FTA provisions would never be utilised (e.g. when MoP is at or below zero). Drawing on the earlier work of Plummer et. al. (2010), he proposes three distinct rates. The first, a utilisation rate where the denominator is total imports or exports. The second, a utility rate that divides the numerator by total trade technically eligible for preferential tariffs under the FTA, including those where the MoP is zero. The last is what he calls a usage rate, where the denominator is the total trade that has MoP greater than zero. Unfortunately, these clearer definitions are not conventionally applied, which poses great challenges for comparability across studies.





Source: Shintaro Hamanaka, 2013. *On the use of FTA: a review of research methodologies*.

### BOOSTING UTILISATION: INCREASING MOP

The apparent centrality of MoP in business decisions about utilising FTA provisions has been questioned. Some have found a positive correlation between the size of the MoP and the PUR (Hayakawa, Kim, et al.; Hayakawa, Hiratsuka, et al.). This has also led to work on identifying a supposed ‘threshold’ value at which using FTAs becomes profitable and cost-saving. These threshold MoP studies generally identify a value between 2% to 6% of the value of the goods traded (Manchin; Bureau et al.). These studies look not just at the MoP but also the role played by the restrictiveness of the ROO, and the size of firms. Most find that larger firms are better able to utilise FTAs as they possess the necessary administrative resources.

Moreover, they found that there was a learning effect, whereby businesses’ PUR increased over time as they became more adept at navigating the technical provisions of a given trade agreement. Unsurprisingly, more restrictive ROO do lead to lower PURs. Manchin (2006), in particular, shows that the size of the preference margin does not affect the amount of preferential trade once the decision to request preferences has been taken. While there is broad consensus on the positive correlation between MoP and PUR, some studies have detected a negative correlation between these factors and a decline in PUR over time.<sup>3</sup> The main takeaway is that increasing MoP is not only politically challenging but also of fairly uncertain value. Furthermore, MoP is only significant if the prevailing MFN tariff is high. Tariffs on most goods are extremely low; the World Bank calculates that the global

<sup>3</sup> Stefan Legge and Piotr Lukaszuk, “Which Factors Determine the Utilization of Preferential Tariff Rates?” 2019, [www.econstor.eu](http://www.econstor.eu).

average goods tariff is now less than 3%.<sup>4</sup>

## RULES OF ORIGIN

Imagine a small trader who hears of the benefits of FTAs on the news and decides they want to use it. This trader faces two challenges: which FTA do they use, and how do they avail themselves of the FTA provisions? In East and Southeast Asia, the state of trade agreements has been described as a ‘noodle bowl’ of overlapping agreements, with varying ROO and procedures.<sup>5</sup> This section of the review will examine work that lays out the difficulty in proving origin to comply with ROO and evaluates attempts to boost FTA utilisation through simplifying ROO and boosting MoP.

### PROVING ORIGIN

ROO are rules that specify the conditions under which a given product is considered to have ‘originated’ from a specific territory. ROO are created to prevent trade diversion from non-signatories of the FTA through signatory countries. The standard procedures for administering ROO are set out in the Kyoto Convention (1977) on the Simplification and Harmonization of Customs Procedures.<sup>6</sup> Goods are split into two categories: goods consisting entirely of inputs from countries that are part of an FTA and products that use multiple inputs from signatory and non-signatory countries. The latter requires substantial transformation in a signatory country before they can be granted a Certificate of Origin (COO).

Proving origin is therefore a central aspect of FTA utilisation. Origin can be proven in three ways: a change in tariff classification code (a change at either the 8-, 6-, or 4-digit level of the Harmonised System<sup>7</sup>); added value; or by applying specific processes to products.<sup>8</sup> The test to be applied is specified in the FTA and occasionally, a product will have to pass more than one test to prove origin. In some cases, these rules are applied co-equally, so a business need only utilise the rule most suitable for their products. As Haddad et. al. (2009) point out, specific regions face structural limitations in passing these origin tests. ASEAN, for example, has a 40% added value test, which is challenging to satisfy because of the fragmentation of manufacturing due to the relatively high import content of key manufacturing sectors. Low MoPs and high import content are prevalent in industries, such as

4 Pricewaterhousecoopers. “Australian Free Trade Agreement Utilisation Study,” 2018. [www.pwc.com.au](http://www.pwc.com.au), 18.

5 Haddad, Mona, Titik Anas, Olivier Cadot, Dourng Kakada, Robert Kirk, Miriam Manchin, George Manzano, et al. “Trade Issues In East Asia Preferential Rules Of Origin Policy Research Report East Asia And Pacific Region Poverty Reduction,” 2007, i.

6 Ibid., 7.

7 An international system of classifying international products, with about 5,000 commodity groups each defined by a six-digit code, arranged in a legal and logical structure.

8 “Singapore Handbook on Rules of Origin for Preferential Certificates of Origin,” n.d., 7-12.

electronics, with severe process fragmentation. This is exacerbated by high administrative costs of proving origin; already low MFN tariffs; and the dominance of commodities with low MoPs in intra-ASEAN trade. As such, less than 5% of intra-ASEAN trade makes use of the ASEAN Free Trade Area (AFTA) preferences. In the context of NAFTA, researchers have shown that the administrative cost of ROO compliance corresponds to 6% of the import value.<sup>9</sup>

Alongside figuring out which ROO applies, the small trader must also navigate the complexity of attaining a COO. Most FTAs in the Asia Pacific adopt a third-party certification system, in which case these certificates can only be issued by government bodies or trade associations. Such systems can cause delay as a COO is only issued after goods are shipped; the ‘bill of landing’ is one of the documents required for the issuance of a COO. COO might take time to reach importing countries, adding warehouse and administrative costs. A second certification type, self-certification, reduces cost to some extent but places greater stress on firms to self-monitor. Hybrid systems, where a certificate system allows an approved exporter to use the self-certificate system, have been adopted by EU under the Registered Exporter System.<sup>10</sup>

### **BOOSTING UTILISATION: ROO AND COO SIMPLIFICATION**

Much work has been devoted to the challenges posed by the ‘noodle bowl’ of varied, confusing ROO, each with their own COO procedure. There has been some work on potential solutions but rarely have they been specific enough for implementation. Some alternatives to the 40% value content rule for the aforementioned AFTA have been proposed. De minimis rules allow for a specified maximum percentage of non-originating materials to be used as though they were originating. Cumulation provisions allow inputs from across a region to be considered as originating from the exporting country. Another potential solution is absorption, whereby non-originating inputs are given origin status through meeting specific processing requirements.<sup>11</sup> Outward processing rules recognise that some manufacturing work can be done outside the country in question and then be returned and exported from said country. Similarly, third-country invoicing has been used, whereby countries with an office in two countries can manufacture goods in one and declare origin in the other.

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9 Anson, Jose, Olivier Cadot, Antoni Esteveordal, Jaime de Melo, Akiko Suwa-Eisenmann, and Bolormaa Tumurchudur. “Rules of Origin in North-South Preferential Trading Arrangements with an Application to NAFTA.” *Review of International Economics* 13, no. 3 (August 1, 2005): 501–17. <https://doi.org/10.1111/j.1467-9396.2005.00520.x>, 1.

10 Hayakawa, Kazunobu, Daisuke Hiratsuka, Kohei Shiino, and Seiya Sukegawa. “Who Uses Free Trade Agreements?” *Asian Economic Journal* 27, no. 3 (September 1, 2013): 245–64. <https://doi.org/10.1111/asej.12013>, 446.

11 Medalla, Erlinda, and Jenny Balboa. “ASEAN Rules of Origin: Lessons and Recommendations for Best Practice,” 2009. <http://hdl.handle.net/10419/126788www.econstor.eu>, 7.

Others have radically proposed a reduction in Regional Value Content required in the AFTA to 20%, allowing more extensive de minimis application and promoting the development of templates for value-added accounting that MSMEs (micro-, small-, and medium- enterprises) can use.<sup>12</sup> Given that awareness and complexity are both problems in FTA utilisation, ASEAN's focus has been to build SME capability and awareness of FTAs through national trade agencies.<sup>13</sup> Some countries, such as Singapore<sup>14</sup>, Korea<sup>15</sup> and Thailand<sup>16</sup>, have fared well in outreach efforts and SME education.

## BEST PRACTICES

With FTAs enjoying varying levels of success, this section looks across the board to identify and recommend best practices, focusing on reducing technical barriers and government efforts to promote FTAs in particular.

## REDUCING TECHNICAL BARRIERS

### HARMONISATION

The “noodle bowl problem” complicates international trade in East and South-east Asia: the lack of harmonisation across a range of bilateral or regional FTAs with overlapping ROO creates additional costs and confusion for businesses.<sup>17</sup> Businesses are confronted with multiple possible FTAs that have different ROO requirements, incur different costs and offer different benefits depending on the terms of the FTA. Harmonisation of policies, rules, and COO procedures across overlapping FTAs in a region is thus the first step to improving FTA utilisation. This is illustrated well using the example of the EU.

In the EU, an origin declaration can be made by an approved exporter or by any exporter provided that the total value of the products does not exceed 6,000. Furthermore, goods are placed under customs-approved treatment using the Single

<sup>12</sup> Ibid.

<sup>13</sup> ASEAN Strategic Action Plan for SME Development 2016-2025,” 2016, [www.asean.org](http://www.asean.org); “ASEAN Strategic Action Plan for SME Development 2010-2015,” 2010.

<sup>14</sup> Kawai, Masahiro, Ganeshan Wignaraja, and William Pratt House. *Asia's Free Trade Agreements: How Is Business Responding?* Accessed February 12, 2020. [www.e-elgar.com](http://www.e-elgar.com), pp.159-198.

<sup>15</sup> Cheong, Inkyo. “To Improve the Use of FTA: Lessons Learned from Korea.” In *East Asian Integration*, edited by L.Y. Ing, 67–92. ERIA, 2015

<sup>16</sup> Kohpaiboon, Archanun, and Juthathip Jongwanich. “Use of FTAs from Thai Experience,” 2015. [http://www.wto.org/english/tratop\\_e/region\\_e/region\\_e.htm](http://www.wto.org/english/tratop_e/region_e/region_e.htm).

<sup>17</sup> Kang, Jong Woo. “The Noodle Bowl Effect: Stumbling or Building Block?” ADB Economics Working Paper Series, 2015; Kawai, Masahiro, and Ganeshan Wignaraja. “Asian FTAs: Trends and Challenges.” *SSRN Electronic Journal*, December 28, 2011. <https://doi.org/10.2139/ssrn.1480508>, 13-15; Haddad et al. Titik Anas, Olivier Cadot, Dourng Kakada, Robert Kirk, Miriam Manchin, George Manzano, et al. “Trade Issues In East Asia Preferential Rules Of Origin Policy Research Report East Asia And Pacific Region Poverty Reduction,” 2007.

Administrative Document (SAD), which reduces the amount of information required and standardises customs requirements across the EU. Streamlined administration at the EU level is supported by collaboration with Member States and business councils through mechanisms like the Expert Group on EU Trade Agreements, which provides the Commission with advice on FTA implementation, and the FTA Coordinators Network, which allows for intensified coordination with Member States.

While variations exist between ROO in different FTAs in the EU, this is mitigated by active attempts to provide comprehensive and accessible information and harmonise export and import procedures across the region. With the various mechanisms to enhance coordination and harmonisation in the region, the ‘noodle bowl’ problem is effectively mitigated by both reducing overlap on a regional level and providing businesses with assistance to navigate any remaining complexities.

In ASEAN particularly, the confusing plethora of bilateral and multilateral agreements has spurred the desire for a transition towards a region-wide FTA for consolidation. This would engender multiple benefits: increasing market access to goods, services, skills and technology, permitting specialization and economies of scale, facilitating technology transfer as well as standardizing trade rules and standards.<sup>18</sup>

### **LIBERAL AND FLEXIBLE ROO**

Even with harmonized rules, FTAs can be difficult to navigate for businesses with global supply chains that obtain materials from more than one country. Cumulation provisions and a de minimis rule are effective in encouraging and easing FTA utilisation in such scenarios by providing businesses with greater flexibility while further enhancing deeper regional integration.<sup>19</sup> For instance, diagonal cumulation allows countries tied by the same set of preferential origin rules to use products that originate in any part of the region as if they originated in the exporting country.<sup>20</sup>

The EU-Singapore Free Trade Agreement is the first bilateral FTA where goods made in Singapore will be able to enter the EU tariff free under ‘ASEAN cumulation’, allowing companies to extensively cumulate materials from other ASEAN Member States. Singaporean manufacturers are able to include the use of raw materials and parts sources from ASEAN Member States as originating content when determining whether their exports can meet the required ROO. Addition-

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18 Kawai and Wignaraja. “Asian FTAs: Trends and Challenges,” 18-21.

19 Medalla, Erlinda, and Jenny Balboa. “ASEAN Rules of Origin: Lessons and Recommendations for Best Practice,” 2009. <http://hdl.handle.net/10419/126788www.econstor.eu>, 7.

20 Haddad et al. “Trade Issues In East Asia Preferential Rules Of Origin Policy Research Report East Asia And Pacific Region Poverty Reduction”, 16-18.

ally, Asian food products made in Singapore are able to enter the EU tariff-free under liberal ROOs up to a combined quota of 1,250 tonnes annually, removing the need to ensure that ingredients were grown or produced in Singapore as long as the product was made in Singapore. The incorporation of ‘ASEAN cumulation’ is an example of an application of de minimis provision that can encourage businesses to utilize FTAs more effectively by providing greater flexibility for exporters. This is particularly important for goods such as food produce that needs to be sourced from different states across a region. By allowing for more liberal and flexible ROOs, the administrative costs and technical complexities of complying with ROO are mitigated.

## **STREAMLINING COO PROCEDURES**

As noted in the World Bank Report (2007) and the ECORYS report (2018), one way to simplify COO procedures is by automating the system and allowing self-certification of origin, an example being the Registered Exporter (REX) system. In the EU-Korea FTA, semi self-certification is carried out where exporters are able to get an ‘Approved Exporter status’ that removes the requirement for EUR-1 certificates, thereby reducing administrative costs.<sup>21</sup> The REX system performs the same function by registering operators as ‘registered exporter’ and providing certification of origin automatically. Self-certification reduces the cost of administrative procedures by simplifying and automating the certification process, allowing businesses to get certified more quickly and more easily. This mitigates the common problem faced under existing third-party certification systems where COOs are issued only after goods are shipped due to the delays in certification and can cause high warehouse and administrative costs. While there are concerns that self-certification places greater stress on firms to self-monitor, self-certification or hybrid systems can present a viable alternative to third-party certification, reducing the administrative burden on firms while simultaneously allowing greater coordination through an automated database for governments.

## **GOVERNMENT PROMOTION OF FTAS**

### **PROVIDING ASSISTANCE AND INFORMATION**

Much of the onus of FTA utilisation lies on the active involvement of governments to assist companies in adopting FTAs through consultations and outreach efforts. This is especially important for MSMEs: Kawai and Wignaraja (2009) uncover significant country-level variation in the utilisation of FTAs by firms – Singaporean firms had the most negative perception of FTA utilisation while Korean firms had

21 Plaisier, Nora, Corine Besseling, Stephanie Bouman, Henri De, and Groot Rotterdam. “ECORYS Study on the Use of Trade Agreements in Netherlands”, 2018, 42.

the least.<sup>22</sup> This can be ascribed to national FTA strategies, industrial structures, and varying levels of institutional support. Through the case studies of Korea, the EU, Singapore, the Philippines, and Thailand, this section will identify potential strategies for consideration.

### KOREA

The case of Korea appears to be a prime example of how government outreach efforts can increase FTA utilisation. In the late 2000s, the country's FTA utilisation rate was low: a 2008 survey by KONTRA found that only 19% of firms used FTA preferential tariffs. Cheong (2015) surveyed 221 Korean MSMEs which manufactured a wide range of goods, from automotive parts to electrical goods, with respect to Korea's FTAs with Chile, ASEAN, and EFTA. While a low tariff preference was cited as the most common impediment for not using the FTAs (a concern cited by 35.8% of businesses surveyed), the lack of information around such agreements was a close second (34.2%).<sup>23</sup> ROO are regarded as particularly opaque: a 2008 survey of 120 businesses by Cheong and Cho (2009) found that 40.0% of Korean businesses had "no idea" about FTA ROO.<sup>24</sup>

In response to these issues, the FTA Committee for Domestic Measures was established in Korea in 2007 which aimed to support the utilisation of FTAs, particularly for MSMEs. However, the efforts of the body were largely unsuccessful and efforts to promote utilisation were uncoordinated and unclear. This strategy was overhauled in 2010, when a comprehensive package supporting FTA utilisation was adopted to be led by the FTA Promotion and Policy Adjustment Authority (FTAP-PAA) and Ministry of Strategy and Finance. Regular consultations with businesses were established; seminars, brochures, and webpages offered clearer information about issues such as tariff restrictions and ROO. Courses were offered in FTAs and direct assistance was offered in the form of consulting, a call centre, and local FTA assistance centres.<sup>25</sup> This programme of active FTA promotion contributed to an increase in FTA utilisation by Korean exporters, varying by sector, from 40 to 90% by November 2013.<sup>26</sup>

It is important not to deduce that government FTA promotion is responsible for all of this increase. There are still significant variations between different FTAs. Notably, in November 2013, 92.0% of Korean exports to Peru used the available FTA preferences while only 43.0% of exporters to India did so. Similar differences are observed among sectors: 83.2% of Korean plastic and rubber exporters to the

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22 Kawai and Wignaraja. "Asian FTAs: Trends and Challenges," 13.

23 Cheong. "To Improve the Use of FTA: Lessons Learned from Korea," 73-74.

24 Cheong, Inkyo, and Jungran Cho. "The Impact of Free Trade Agreements (FTAs) on Business in the Republic of Korea." Asian Development Bank Institute Working Paper Series. Tokyo, 2009, 25-27.

25 Cheong. "To Improve the Use of FTA: Lessons Learned from Korea," 77-81

26 Ibid, 87.

USA employed FTA preferences in November 2013, while only 61.1% of electrical goods exporters did so. Such variation is explained largely by the degree to which different FTAs facilitate trade in different goods by significantly reducing tariff barriers while having non-restrictive ROO. Nonetheless, the role of government intervention has an important marginal effect. The simple average of Korean exporters' utilisation of FTAs with Chile, EFTA, ASEAN, India, the EU, Peru, and the USA rose by 4.61% between the end of 2012 and November of 2013.<sup>27</sup>

## EU

The EU has an extensive programme of FTA promotion which focuses on both making information more accessible for MSMEs and actively reaching out and encouraging the use of FTAs. The Trade Helpdesk allows the user to select the good being exported, the origins of the good, and the import destination. It is then easy to access the import procedures, product requirements, EU import duties, internal taxes, ROO, and trade statistics. The Market Access Database provides similar information for companies exporting from the EU to third countries. The TARIC database is a searchable database of all EU regulations pertaining to customs tariffs and commercial and agricultural legislation. To improve rapid operationalisation of FTAs, the European Commission (since CETA in 2016) has published complete information before implementation as well as factsheets, step-by-step guides for businesses, exporter stories and infographics. The Commission has also invested in studies of the domestic legal framework of several partner countries.

The Commission promotes FTA implementation through 'Market Access Day' events with EU member states. Enterprise Europe Network and Trade Promotion Agencies of member states work with business and trade associations (e.g. the European Business Organisations worldwide network) to provide information and promote specific opportunities in FTAs.

Market Access teams at EU delegations in third countries support FTA implementation at the other end of the agreement. This is often achieved through Partnership Instruments which finance activities of key interest to the EU in third countries. In particular, the EU provides aid for trade strategy and EU external investment plans support MSMEs from developing countries to utilise FTA opportunities. For example, a training session focused on the Trade Helpdesk was held in Ebolowa, in southern Cameroon, on 16 January 2020.<sup>28</sup> Cameroon was the first (and, at the time of writing, only) central African country to sign an Economic Partnership Agreement (EPA) with the EU which came into effect in 2014. The agreement included commitments on the part of the EU to provide '[s]upport for the competitiveness or diversification of the production sectors affected by the EPA' and to facilitate 'the establishment of EPA institutions' including through

<sup>27</sup> Ibid, 86-89.

<sup>28</sup> "The EU Launches Training to Help Local SMEs Make the Most of the Economic Partnership Agreement with Cameroon." *Business in Cameroon*, January 6, 2020.



close cooperation with the private sector.<sup>29</sup>

### **SINGAPORE**

Singapore has developed similar strategies for making information about FTA provisions accessible for businesses of all sizes through the Tariff Finder on the Enterprise Singapore website. Using the Tariff Finder, businesses are able to check which FTA provides the most tariff savings through entering the HS code of their product and the destination country. The tool provides extensive information comparing the various tariff savings and lists the detailed process of certification for specific FTAs. The Tariff Finder mitigates both the ‘noodle bowl’ problem and the complex administrative procedures by simplifying FTA utilisation at zero cost for firms. The Singapore Business Federation (SBF) also provides one-to-one advisory service and industry consultation for firms facing difficulties navigating the application process. FTA courses are regularly scheduled to provide technical assistance for inexperienced firms.

### **PHILIPPINES**

ASEAN countries have established FTA information programmes similar to that of the Korean government. The Philippines outreach strategy in particular has been praised as an exemplary model.<sup>30</sup> The ‘Doing Business in Free Trade Areas’ (DB-FTA) campaigns began in 2010 which had goals including increasing awareness of FTAs and consulting and responding to the concerns of interested parties. These were led by the Department of Trade and Industry (DTI), which worked closely with a wide range of public and private stakeholders: other government agencies (e.g. the Bureau of Custom, Tariff Commission), business interests (e.g. the Philippine Chamber of Commerce and Industry), and academics. An important part of the campaigns was public seminars in which Philippine firms were informed about market opportunities in FTA partners as well as the rules around tariffs, customs procedures, and ROO. ‘FTA Clinics’ were established to offer firms more tailored and detailed guidance about the opportunities associated with FTAs. DB-FTA was able to reach a large number of firms: 11,169 in 2012 alone.<sup>31</sup> This has led to a significant increase in the number of Philippine enterprises using FTAs, according to Alexander Chandra, with the utilisation of the ASEAN-Australia-New Zealand FTA reaching 76.1% in 2012 versus just 15.9% in Vietnam in 2011.<sup>32</sup>

### **THAILAND**

Thailand has a similarly extensive range of initiatives to promote FTA utilisation

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29 EUR-Lex, Official Journal of the European Union, no. 52, 2009, 40-45.

30 Tambunan, Tulus, and Alexander C Chandra. “Utilisation Rate of Free Trade Agreements (FTAs) by Local Micro-, Small-and Medium-Sized Enterprises: A Story of ASEAN.” *Journal of International Business and Economics* 2, no. 2 (2014): 150.

31 Ibid.

32 Chandra, Alexander C, and Ruben Hattari. “Indonesian SMEs and the Use of ASEAN-Led FTAs.” *The Jakarta Post*, December 12, 2013.

among businesses. In the Thai case, campaigns are led by the Department of Foreign Trade (DFT) in the Ministry of Commerce. This operation brought in a wide range of organisations: by August 2012, the DFT had established seventeen Memoranda of Understanding with government agencies and private enterprises. Many of the tactics used are recognisable from the Korean and Philippine examples, including public seminars and information provided on the DFT's website. Additionally, MSMEs are offered consulting services by the government and ROO resolutions as well as seminars for specific enterprises. An electronic data interchange system was established as early as 2000 to facilitate the application process of country of origin requirements for exporters. An ASEAN Economic Community (AEC) trade centre was founded in the Bang Pa-In district of Ayutthaya province and an online equivalent was also set up. The AEC alone conducted a total of 21 seminars by August 2012, with 6,123 participants. There have also been more generalised outreach efforts including promoting FTAs through AEC news alerts to the wider media and the publication of a quarterly journal on FTA preference utilisation. There were also networking events for MSMEs, notably the 'AEC business Trips for MSMEs'.<sup>33</sup>

Despite such efforts, PUR in Thailand fell from 61.3% of exporting firms in 2011 to 47.3% in 2012.<sup>34</sup> While this remains high for the region, it suggests that government efforts to promote FTA utilisation have a marginal impact when compared to issues around bureaucratic procedure. The issues around securing a Form D are particularly difficult. One Thai automobile manufacturer described how '[t]he preparation of documents for the initial cost screening takes two months and the screening procedures themselves about one month. There are 1,000 to 2,000 parts in a completed vehicle, and we must collect documentation (invoices, Form Ds, etc.) certifying local procurement from each supplier'.<sup>35</sup> Ultimately, procedure must be simplified if PUR are to increase.

## PROMOTING INTER-GOVERNMENTAL COOPERATION

Closer cooperation between governments allows for more specific FTA details to be negotiated, ensuring both parties are able to fully commit to FTA rules that are highly applicable for both countries. Consistent follow-ups would allow the countries to retrospectively identify areas for improvement, such that the FTA is always updated and relevant.

Language and cultural differences between countries surface during the imple-

33 Udomwichaiwat, Pitak. "Department of Foreign Trade Best Practices on FTA Promotion Policies The Case of Thailand," 2012, 17-22.

34 Tambunan, and Chandra. "Utilisation Rate of Free Trade Agreements (FTAs) by Local Micro-, Small-and Medium-Sized Enterprises: A Story of ASEAN", 145.

35 Haddad et al. "Trade Issues In East Asia Preferential Rules Of Origin Policy Research Report East Asia And Pacific Region Poverty Reduction," 13.

mentation of the FTA and require both governments to reconvene to discuss terms and make compromises. For the EU-Korea FTA, the interpretation and explanation of FTA rules are slightly different between partners and although there are efforts at the governmental level to ensure consistency in understanding the FTA, this rarely reaches officers enforcing these regulations on the ground.<sup>36</sup> This is also an issue afflicting public procurement as Korean tenders are mainly published in the Korean language, infrequently with a small summary in English.<sup>37</sup> For an EU company to qualify for a tender, they would require a Korean partner to facilitate operations, affecting both competition for such tenders as well as overall utilisation of the FTA. What this reflects is the importance of customising the FTA based on the geographical specificity of both countries and defining the commitments in detail to ensure a level playing field with opportunities that both parties are able to capitalise on.

## CONCLUSION

This paper has outlined the existing literature and best practices in FTA utilisation studies. FTAs have served various purposes across time, ranging from boosting stability through economic cooperation in the 1990s to the economic and norm-setting functions they (ostensibly) serve today. Having examined the history and current landscape of FTA utilisation, we now propose several key areas to consider in both academia and practice going forward.

As mentioned from the outset, studies on the effectiveness of FTAs skew in two ways. Firstly, they focus on trade in goods. Given low global MFN tariffs, it is worth considering that future opportunities for FTAs lie in services and investment protection, according to a 2018 study of Australian FTA usage.<sup>38</sup> Wignaraja (2014) was one of the first to draw attention to the paucity of transaction-level data, which has greater resolution and is better able to capture utilisation patterns of FTAs by firms.

Secondly, studies on effectiveness of FTAs also primarily use only aggregated data of import/export values or volumes. Albert and Nilsson (2016) have gone on to use disaggregated, transaction-level data obtained from Iceland's customs authorities to estimate the cost threshold at which firms will find FTA utilisation profitable. A 2019 report by the Swedish National Board of Trade studied transaction-level import data for the EU-Korea FTA for a single month in 2016.<sup>39</sup> It argued against

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36 Plaisier et al. "ECORYS Study on the Use of Trade Agreements in Netherlands," 57-60.

37 Ibid.

38 Pricewaterhousecoopers. "Australian Free Trade Agreement Utilisation Study", 18.

39 Kasteng, Jonas, and Patrik Tingvall. "Who Uses the EU's Free Trade Agreements?," 2019. <https://www.kommers.se/Documents/dokumentarkiv/publikationer/2019/publ-Who-Uses-the-EUs-Free-Trade-Agreements.pdf>, 1.

the prevailing understanding that exporters should be the focus of trade promotion policies, suggesting that importers are the ones who, in practice, request the use of tariff preferences and are therefore the main direct beneficiaries of potential duty savings. Consequently, efforts to increase the utilisation of tariff preferences should focus on importers.

The findings of this report, though preliminary and presently untested for applicability outside the Swedish context, are worth exploring in more detail. It runs against the conventional wisdom of FTA literature in several more respects. On the issue of firm size, it shows that PUR for small companies was 93% while for large companies it was 92%. It argued that what matters is the importing procedure – direct imports which account for most of the value of potential duty savings (82%) were used by large firms, but customs warehousing, where companies store goods in a customs warehouse and only withdraw the goods and register them when needed, formed the rest of it. Micro companies used customs warehousing the most, utilizing FTAs up to 99% of the time through that method. Perhaps most controversially, it argues that ROOs being complicated is not what matters; what is more crucial are import transaction volumes. They found that the larger the transaction volume, the more incentivised the companies are to utilise FTA preferences; the average import transaction value in the cases in which tariff preferences were utilized was about four times larger than the average import transaction value when the FTA was not used.

At the same time, it is important to recognise the larger picture – each country has its own entrenched economic directions and imperatives. Often, there is unequal commitment to the FTA due to a traditional focus on maximizing trade revenue, rather than the cooperative approach of minimising tariffs for both parties. In 2013, the Korean government implemented a policy, whereby the tax rebates on imports of crude oil would be cancelled when FTA preferences are used. This disincentivises Korean refiners to import oil from the EU using the tariff preferences of the EU-Korea FTA. Furthermore, the Korean customs are strict and follow regulations with little flexibility in order to apply tariffs and generate revenue, which is in the interest of the customs authority but not in the spirit of the FTA.<sup>40</sup>

This calls for a broader awareness and understanding of how FTAs embed themselves in existing trade networks and economic systems contingent on the country's unique institutional framework. Many ASEAN countries have a duty exemption scheme for imported intermediate products for export purposes, including fabrics and metals, which many traders are more familiar with than FTAs.<sup>41</sup> Moreover, given that much of the world's trade is already subject to zero MFN rates, there is a rising need to relook at the significance and role of FTAs. For instance,

40 Plaisier et al. "ECORYS Study on the Use of Trade Agreements in Netherlands," 57-60.

41 Hamanaka, Shintaro. "On the Use of FTAs: A Review of Research Methodologies ADB Working Paper Series on Regional Economic Integration," 2013, 8.

there are no tariffs for almost all imports into Singapore while the share of zero MFN trade in Malaysia is around 80%, and this creates little economic incentives to sign FTAs with Asian countries when the status quo is already highly favourable for trade.<sup>42</sup> This report thus highlights the need to identify and focus on trade areas that can be further coordinated or synergised.

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42 Ibid.

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# Europe and Multilateralism

## 3. 1. The Future is Pan-European Saving the Input Legitimacy of the European Union

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### EXECUTIVE SUMMARY

This policy proposal addresses the Bureau of the European Parliament, as it recommends the establishment of a pan-European party-system to raise the current second-order nature of EP elections to first-order supranational elections, in order to increase the input legitimacy of the EU. The reason for the declining voter participation is the second-order nature of EP elections, which are perceived to be of less salience than national elections. A focus on national concerns instead of EU-related issues moreover leads to a lack of representation of the electorate's preferences in the EP, which constitutes a clear policy problem. The root causes of this predicament are found in the defects of the current party system at the EU level. Two proposals have been put forward to ameliorate the situation: firstly the Spitzenkandidaten process, whereby European political parties appoint lead candidates for the role of Commission President, with the presidency of the Commission then going to the candidate of the political party that achieved sufficient parliamentary support. However, this process on its own is not able to improve the situation. Secondly, adding a transnational list to the current party system, which would allow European citizens to vote on common candidates across country lines. Shortcomings such as potentially re-enforcing the national character of

citizens' voting behaviour and favouring more populous member states would render this proposal unable to contribute to a solution. Establishing a truly EU party system with only pan-European parties competing for the seats in the EP is a viable way of elevating the second-order nature of EP elections to first-order supranational elections that would provide sufficient input legitimacy for the EU. Thus, this proposal concludes with five recommendations; (1) forming pan-European parties that run on the same manifesto in every member state, (2) a consideration on whether the parties should be elected via a closed-, or open-list system, which is a policy choice to be made by the Bureau of the European Parliament, (3) distribution of seats in the EP according to percentage shares of votes received by the party, (4) the use of Voting Advice Applications to bridge possible language barriers and increase knowledgeability of voters and (5) the harmonization of election days to increase feeling of "collective EU elections".

## I. POLICY PROBLEM AND CONTEXT

### 1.1 SECOND-ORDER ELECTIONS

The theory of second-order elections describes the difference between highly salient first-order and lower salience second-order elections. Nicoli<sup>1</sup> points to the domination of national concerns of minor elections, in which voter decisions are mainly based on national government satisfaction and party loyalty. Additionally, second-order elections are defined by their lower voter turnout in comparison to first-order national elections<sup>2</sup> (see Figure 1).

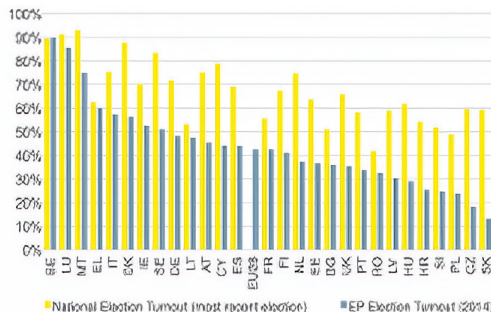


Figure 1. National Election Turnout compared to EP Election Turnout, by L. Cappello, G.

Pittors and S. van Hecke. From *Seniors in the 2014 European Parliament Elections: Turnout, Vote Intentions and Representation*.

*Turnout, Vote Intentions and Representation*.

1 Francesco Nicoli, "Democratic legitimacy in the era of fiscal integration." *Journal of European Integration* 39 (2017): 389-404.

2 Fabian Willermain, "European Elections: From 'Second-Order' Elections to 'First-Order Supranational' Elections. How Can a 'First-Order Supranational' European Election Be Created?," *Egmont European Policy Brief*, no. 34 (2014): 1-9. <http://aei-dev.library.pitt.edu/63566/>

EP election turnout has consistently scored lower than national election participation<sup>3</sup>, and has furthermore fallen at a higher rate; whereas EP election turnout in 1979 reached 62%, in 2014 it averaged at 42.54% and thus fell by 15.87% in a time span in which average national election participation only decreased by 9.5%<sup>4</sup> (see Figure 2). Moreover, Marsh and Hix<sup>5</sup> find that voter decisions in EP elections are often driven by considerations regarding the punishment of their national governments. Reif and Schmitt<sup>6</sup> further argue that EP elections are generally deemed less important than national elections and thus often function as an additional second-order national election. The next section investigates the root causes of the problem, which are anchored in the current European Parliament's party system.

## 1.2 ROOT CAUSES: A FOCUS ON THE NATIONAL AND RESULTING LACK OF REPRESENTATION

Weiler et al.<sup>7</sup> (1995) posit that the legitimacy of the EU is questionable not least because political parties currently fail to represent the European citizens' will.<sup>8</sup> As such, Sozzi<sup>9</sup> argues that the link between the electorate's preferences and the political legislative arena appears lost in EU politics, as parties that usually function as a connection between the two are not the same domestically as in the European realm. Political groups in the EP are currently linked through opaque and complicated affiliations, risking ideological dilution of policy standpoints which puts in question the representation of the electorate's preferences.<sup>10</sup> Moreover, since European Political Groups (EPGs) are only formed after the EP elections, the EPG system is not completely stable, highlighting another risk to adequate citizen

3 Lawrence Cappelle, Gilles Pittoors, and Steven van Hecke, "Seniors in the 2014 European Parliament Elections: Turnout, Voting Intentions and Representation," Wilfried Martens Centre for European Studies (June 2015) <https://lirias.kuleuven.be/1867109?limo=0>.

4 Fabian Willermain, "European Elections: From 'Second-Order' Elections to 'First-Order Supranational' Elections. How Can a 'First-Order Supranational' European Election Be Created?," 2.

5 Simon Hix, and Michael Marsh, "Punishment or Protest? Understanding European Parliament Elections," *The Journal of Politics* 69, no. 2 (May 2007): 495-510. <https://doi.org/10.1111/j.1468-2508.2007.00546.x>

6 Karlheinz Reif, and Hermann Schmitt, "Nine Second-Order National Elections - A Conceptual Framework For The Analysis Of European Election Results," *European Journal of Political Research* 8, no. 1 (March 1980): 3-44. <https://doi.org/10.1111/j.1475-6765.1980.tb00737.x>.

7 Joseph H. H. Weiler, "In the Face of Crisis: Input Legitimacy, Output Legitimacy and the Political Messianism of European Integration," *Journal of European Integration* 34, no. 7 (October 2012): 825-41. <https://doi.org/10.1080/07036337.2012.726017>

8 Fabio Sozzi, "National Parties, Political Processes and the EU democratic deficit: The Problem of Europarties Institutionalization. (Report No. 04)," (2013)

9 Fabio Sozzi, "National Parties, Political Processes and the EU democratic deficit: The Problem of Europarties Institutionalization", 10.

10 Pierre Jouvenat "THE FEDERALIST DEBATE Year XXIX, N° 2, Federalizing Political Parties in Europe. Towards a Single Party for Each Political Family." *Content.Sciendo. Com* 29 No 2, (2016): 19-23. <https://doi.org/10.1515/tfd-2016-0015>.

representation.<sup>11</sup> Since campaigning is done domestically and by national parties, an emphasis is placed on domestic concerns rather than on a discussion of EU policy matters.<sup>12</sup> This leads to a lack of attention towards the European project, its benefits, and its challenges, and does not give voters the chance to adequately consider which party would represent their interests best (Verger, 2018). As such, Lefkofridi and Katsanidou<sup>13</sup> point out that EPGs are merely “conglomerations of national parties” that have domestic reasons to differentiate themselves from each other, rather than developing proper and differentiated standpoints on EU-related debates.

Due to a lack of genuine competition on EU-issues, Bright et al.<sup>14</sup> even go so far as to speak of a representation deficit according to which some citizens are currently required to compromise over the extent of how well they will be represented by the parties available to them, as it becomes difficult for citizens to judge how their national parties will behave in their respective political groups once elected to the European Parliament. In their study, the authors find that 27.6%<sup>15</sup> of the electorate currently face this issue. Alemanno<sup>16</sup> further points out that the EU political system, especially the processes of representation and party competition, has not been able to catch up with the changing role of the EP. As such, party competition remains largely national in nature and often only exposes citizens to partial information on EU policies that feature exclusively domestic accounts of policy implications.

Moreover, it has been argued that the way EP elections are organized does not reduce the perception of EP elections as “just another national election”.<sup>17</sup> A study conducted by the Observatory on Political Parties and Representation (OPPR) identifies the 2009 EP elections as essentially “27 separate national elections to

11 Zoe Lefkofridi, and Alexia Katsanidou. “A Step Closer to a Transnational Party System? Competition and Coherence in the 2009 and 2014 European Parliament.” *JCMS: Journal of Common Market Studies* 56 No 6, (2018): 1462–82. <https://doi.org/10.1111/jcms.12755>.

12 Pierre Jouvenat “THE FEDERALIST DEBATE Year XXIX, N° 2, Federalizing Political Parties in Europe. Towards a Single Party for Each Political Family.”

13 Zoe Lefkofridi, and Alexia Katsanidou. “A Step Closer to a Transnational Party System? Competition and Coherence in the 2009 and 2014 European Parliament.”, 1467.

14 Jonathan Bright, Diego Garzia, Joseph Lacey, and Alexander Trechsel. “Europe’s Voting Space and the Problem of Second-Order Elections: A Transnational Proposal.” *European Union Politics* 17 (1), (2016):

184–98. <https://doi.org/10.1177/1465116515588965>.

15 Jonathan Bright, Diego Garzia, Joseph Lacey, and Alexander Trechsel. “Europe’s Voting Space and the Problem of Second-Order Elections: A Transnational Proposal.”, 190.

16 Alberto Alemanno. “Towards Transnational European Democracy?” *CARNEGIE EUROPE*, 2018. 2.

17 Fabian Willermain. “European Elections: From ‘Second-Order’ Elections to ‘First-Order Supranational’ Elections. How Can a ‘First-Order Supranational’ European Election Be Created?” *Egmont European Policy Brief*, no. 34, (2014): 1–9.

a supranational body”.<sup>18</sup> The lack of a common election day stands in the way of creating a feeling of shared elections across national boundaries, grounded in the lack of common parties campaigning for the EP elections.<sup>19</sup> Moreover, a lack of understanding of how EP elections work and an inherent confusion about the terminology surrounding European Party Groups, Alliances, Federations, EuroParties, and Transnational Parties has led voters to abstain from the elections.<sup>20</sup> Additionally, the distribution of seats on national basis increases the focus on and strength of domestic issues in the EP.<sup>21</sup>

These critiques are interrelated and constitute different aspects of why current EP elections are perceived as second-order in nature, which threatens the input legitimacy of the EU.

### 1.3 POLICY IMPLICATIONS - LACK OF INPUT LEGITIMACY

Legitimacy is an important factor for all political systems, such as the European Union, as it helps a system ensure voluntary compliance with undesired rules. Thus, a lack of it can severely undermine the system’s efficacy and ability to function, which poses a threat also to the European Union.<sup>22</sup> Legitimacy can be further categorized into input and output legitimacy, with the former focusing on electoral mechanisms of a system. The latter, in contrast, focuses on legitimacy through output and considers whether policy measures that are taken are effective in solving issues faced by citizens. Input legitimacy therefore is best delivered by parliaments and representative institutions. However, since EP elections are of second-order nature, the input legitimacy of the EP has been put in question.<sup>23</sup> Moreover, ensuring that the electorate’s preferences are adequately represented lies at the heart of input legitimacy.<sup>24</sup> Thus, political parties constitute the mech-

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18 Kai-Friederike Oelberman and Friedrich Pukelsheim. “Future European Parliament Elections: Ten Steps Towards Uniform Procedures.” *Zeitschrift Für Staats- Und Europawissenschaften*, 9(1), (2011): 9-28.

doi:10.5771/1610-7780-2011-1-9.

19 Damien Bol, Philipp Harfst, André Blais, Sona N Golder, Jean-François Laslier, Laura B Stephenson, and Karine Van Der Straeten. “Addressing Europe’s Democratic Deficit: An Experimental Evaluation of the Pan-European District Proposal.” *European Union Politics* 17 (4), (2016): 525–45. <https://doi.org/10.1177/1465116516630151>.

20 Enrico Calossi. “Europeanisation of Political Parties: The Emergence of Europarties.” Robert Schuman Centre for Advanced Studies, (2012).

21 Kai-Friederike Oelberman and Friedrich Pukelsheim. “Future European Parliament Elections: Ten Steps Towards Uniform Procedures.” *Zeitschrift Für Staats- Und Europawissenschaften*, 9(1), (2011): 9-28.

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22 Francesco Nicoli. “Democratic legitimacy in the era of fiscal integration.” *Journal of European Integration* 39, (2017): 389-404. <https://doi.org/10.1080/07036337.2017.1298591>.

23 Jonathan Bright, Diego Garzia, Joseph Lacey, and Alexander Trechsel. “Europe’s Voting Space and the Problem of Second-Order Elections: A Transnational Proposal.”

24 Zoe Lefkofridi, and Alexia Katsanidou. “A Step Closer to a Transnational Party System? Competition and Coherence in the 2009 and 2014 European Parliament.”

anism that connects policy preferences within the electoral arena with the legislative arena. This link, however, seems lost in the current system, as the actors in these two arenas are not the same. Moreover, the described lack of a truly European sphere in which European issues are debated further exacerbates the EP election's second-order nature, which leads to a lack of input legitimacy that risks the compliance with and acceptance of the EU as a whole.<sup>25</sup>

## II. PROPOSED POLICY OPTIONS - A CRITIQUE

### 2.1 THE SPITZENKANDIDATEN SYSTEM

In his article, Christiansen<sup>26</sup> investigates whether the initial goal of making the process of choosing the EU President more transparent and transnational to invoke a transformation of the EU's political system succeeded. While he acknowledges that the treaty change meant that candidates would have to appeal to a broader, pan-European audience, he points out that candidates were prone to campaigning more intensively in bigger countries in which they were already known, to increase their chances at being elected. Alemanno<sup>27</sup> additionally finds that the Spitzenkandidaten system is deficient, due to its unintelligibility to the voters and because it risks that only individuals from bigger states really stand a chance in the election. Moreover, the process did not reverse the continuous downward trend of voter turnout and lastly could not lead to a real change in the EU's political system, as center parties work together in defense against the Council, leading to a strengthening of the grand coalition.<sup>28</sup> Lefkofridi and Katsanidou<sup>29</sup> therefore conclude that the Spitzenkandidaten system has not been able to achieve its desired effects. On its own, the Spitzenkandidaten system cannot mitigate the second-order nature of EP elections.

### 2.2 TRANSNATIONAL LISTS

Under the establishment of transnational lists, citizens would cast two separate votes, one for the current national party list and one for a list of candidates from designated European political groups which are the same in all member states<sup>30</sup> (Verger, 2018, p. 3). Former rapporteur Duff proposed creating a pan-European

25 Francesco Nicoli. "Democratic legitimacy in the era of fiscal integration."

26 Thomas Christiansen. "After the Spitzenkandidaten: Fundamental Change in the EU's Political System?" *West European Politics* 39, no. 5, (2016): 992-1010. <https://doi.org/10.1080/01402382.2016.1184414>. 998.

27 Alberto Alemanno. "Towards Transnational European Democracy?": 4.

28 Thomas Christiansen. "After the Spitzenkandidaten: Fundamental Change in the EU's Political System?": 10005.

29 Zoe Lefkofridi, and Alexia Katsanidou. "A Step Closer to a Transnational Party System? Competition and Coherence in the 2009 and 2014 European Parliament."

30 Christine Verger. "Transnational Lists—A Political Opportunity for Europe With Obstacles to Overcome." Policy Paper 216 (2018): 1-10. <http://institutdelors.eu/wp-content/uploads/2018/02/Transnationallists-Verger-Feb18.pdf>.

seat from which 25 MEPs would be elected from transnational party lists in order to bridge the gap between current national parties and federal parties that have not yet emerged.<sup>31</sup> However, it has been pointed out that a two-level parliament system, as would be created by transnational lists, could again unduly favor larger member states, as voters might not yet be used to voting for nationals of other countries and would so prefer to vote for their own fellow nationals.<sup>32</sup> Moreover, adding another layer of choice to the ballot could lead to misinterpretation by voters and create a strong separation between a “European” and a “National” vote, increasing the national character of the EP elections. In his study on the feasibility of different options for the future of Europe, Valentin Kreilinger<sup>33</sup> warns that transnational lists could create two classes of MEPs: those connected to their electorate, and those that are seen as too distant from it. Lastly, as Duff’s original proposal stays vague on the question of how exactly those seats should be allocated, some have argued that the creation of more seats must follow, while others have proposed to use seats vacant after Brexit.<sup>34</sup> As this is an important aspect regarding the proposal’s feasibility, experts have warned that opposition to the proposal remains high.<sup>35</sup>

Thus, currently, the options that have been put forward to elevate the second-order nature of EP elections to first-order elections have either not succeeded in full (in the case of the Spitzenkandidaten system) or are unlikely to succeed for various reasons (in the case of the transnational list proposal). A third policy option has not attracted much scholarly attention, even though it has already partially been put in place: a pan-European party system as the new party Volt has been advocating for.

### III. RECOMMENDATIONS

Article 10, para. 4, of the Treaty on the European Union states: “Political parties at European level contribute to forming European political awareness and to expressing the will of citizens of the Union.” It is generally advocated in extension

31 Kai-Friederike Oelberman and Friedrich Pukelsheim. “Future European Parliament Elections: Ten Steps Towards Uniform Procedures.”

32 Pierre Jouvenat. “Transnational Lists: A False Good Idea.” *The Federalist Debate* 31 (2), (2018): 53–54. <https://doi.org/10.2478/tfd-2018-0023>.

33 Valentin Kreilinger. “A more Democratic European Union Propositions and Scope for Political Action (Report No. 212),” Jacques Delors Institute Berlin, (2018). DOI: 10.13140/RG.2.2.12401.58726.

34 Steven van Hecke, Alex Andrione-Moylan, Nathalie Brack, Isabelle de Coninck, Stephen Day, Wojciech Gagattek, Emilie van Haute, Isabelle Hertner, Karl Magnus Johansson, Teona Lavrelashvili, Gilles Pittoors, Wouters Wolfs. “Reconnecting European Political Parties with European Union Citizens.” *Reconnecting European Political Parties with European Union Citizens*, (2018). <https://doi.org/10.31752/idea.2018.71>.

35 Pierre Jouvenat. “Transnational Lists: A False Good Idea.”

of this Article that parties “should provide direct links with European civil society; connect EU-level democracy with Union citizens, stimulate citizen mobilisation on European issues; and more generally create a European civil society”.<sup>36</sup> A pan-European party-system would be able to fulfil this function more successfully than does the current establishment by providing a direct link between the EP and the electorate, not mediated by current EPGs.

Firstly, the pan-European character of the parties that is distinct from current national parties would necessitate campaigning on truly transnational, EU-related issues to appeal to a broader base than their current national counterparts. This would further elevate the competition on EU-policy matters.<sup>37</sup>

Second, building a truly pan-European constituency would avoid the one-sided exposure to EU-issues that Alemanno<sup>38</sup> finds problematic in the current system, in which voters are only confronted with a domestic account. As Pan-European parties do not have to fear domestic retaliation and since MEPs are not directly connected to any national constituency, they are less susceptible to the temptation of scapegoating the EU.

Third, as citizens would have to reorient themselves in the new system, voting behavior would likely improve on several dimensions.<sup>39</sup> By establishing pan-European parties and severing the ties to national counterparts, punishing national governments will no longer be a viable option to guide voting behavior.<sup>40</sup> Moreover, campaigns based on EU-related issues will not only lead to better informed citizens on EU policies, it will also mean that the electorate will have to base their vote entirely on their EU policy preferences. This would moreover improve representation of these preferences in the EP.

Fourth, as pointed out by Calossi<sup>41</sup>, the current system suffers from highly confusing terminology. Moreover, a large extent of voters do not understand the system of EPGs in the EP, meaning that they cannot cast a fully informed vote.<sup>42</sup> Establishing a system in which pan-European parties can be elected directly by the elec-

36 Jovenat, Pierre. “THE FEDERALIST DEBATE Year XXIX, N° 2, Federalizing Political Parties in Europe. Towards a Single Party for Each Political Family.” *Content.Sciendo.Com* 29 (2), (2016): 19–23.

<https://doi.org/10.1515/tfd-2016-0015>. 20.

37 Pierre Jovenat. “Transnational Lists: A False Good Idea.”

38 Alberto Alemanno. “Towards Transnational European Democracy?”. 3.

39 Pierre Jovenat. “Transnational Lists: A False Good Idea.”

40 Hix, Simon, and Michael Marsh. “Punishment or Protest? Understanding European Parliament Elections.” *Journal of Politics* 69, no2, (2007): 495-510. <https://doi.org/10.1111/j.1468-2508.2007.00546.x>.

41 Enrico Calossi. “Europeanisation of Political Parties: The Emergence of Europarties.”

42 Zoe Lefkofridi and Alexia Katsanidou. “A Step Closer to a Transnational Party System? Competition and Coherence in the 2009 and 2014 European Parliament.”



torate would serve to decrease the potential confusion.<sup>43</sup> Furthermore, having the same parties campaign in all member states and harmonizing election dates and frameworks could spark the feeling of a common election.<sup>44</sup>

Before laying out the specific recommendations of this proposal, a consideration of the feasibility of establishing a pan-European party-system is necessary. As currently only limited scholarship is available on the topic, conclusions about its feasibility are somewhat vague. Firstly, it is conceivable that the electorate would participate in pan-European party elections. In an experiment by Bright and colleagues<sup>45</sup>, the authors find that those participants that would be better represented by a party that is not national to them, do decide to vote for foreign parties. Moreover, a similar study asserts that 59% of the participants liked the idea of transnational parties competing in the EP elections.<sup>46</sup> Perhaps more importantly, Alemanno<sup>47</sup> finds that 56% of all surveyed believe new parties to be able to bring actual change to the current political situation, while 53% agree that such new parties would be able to find solutions to salient problems better than the current political establishment.

Secondly, the financial feasibility of the establishment of a pan-European party system must be illuminated. A study conducted by the OPPR in 2010 has shed light on how pan-European parties could be financed and firstly notes that parties can acquire some means by charging a membership contribution.<sup>48</sup> Moreover, as political parties at the European Level currently receive funding from the EP as anchored in Article 10 of the Treaty on the European Union, this could apply also to pan-European parties and generate part of the necessary financial support for both the campaigns as well as the general operation of the parties.<sup>49</sup> As such, they would have to fulfill the conditions set to qualify for funding, which would also function as a check on the party's suitability.

Having assessed the feasibility of this proposal, the following recommendations are aimed at giving the Bureau of the European Parliament a guideline to the successful establishment of pan-European parties.

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43 Pierre Jouvenat. "Transnational Lists: A False Good Idea."

44 Kai-Friederike Oelberman and Friedrich Pukelsheim. "Future European Parliament Elections: Ten Steps Towards Uniform Procedures."

45 Jonathan Bright, Diego Garzia, Joseph Lacey, and Alexander Trechsel. "Europe's Voting Space and the Problem of Second-Order Elections: A Transnational Proposal."

46 Damien Bol, Philipp Harfst, André Blais, Sona N Golder, Jean-François Laslier, Laura B Stephenson, and Karine Van Der Straeten. "Addressing Europe's Democratic Deficit: An Experimental Evaluation of the Pan-European District Proposal." 527.

47 Alberto Alemanno. "Towards Transnational European Democracy?" CARNEGIE EUROPE, 2018. 6.

48 Kai-Friederike Oelberman and Friedrich Pukelsheim. "Future European Parliament Elections: Ten Steps Towards Uniform Procedures." 76.

49 Kai-Friederike Oelberman and Friedrich Pukelsheim. "Future European Parliament Elections: Ten Steps Towards Uniform Procedures." 86.

**RECOMMENDATION 1: SAME PARTY, SAME CAMPAIGN**

Pan-European parties should campaign on the same manifesto in every member state. There should be Europe-wide campaigns administered at EU-level and implemented at local level, through the local branch of the party.<sup>50</sup> Campaign and manifesto content is centered around EU-issues, even though it may reflect regional differences in prioritization of issues so long as this does not lead to a departure from the general framework.<sup>51</sup>

**RECOMMENDATION 2 (OPTION ONE): CLOSED-LIST**

The advantages of a closed-list system lie in the strengthening of the party position, but also in that it helps mitigate against the danger of advantaging candidates from larger countries or incentivizing candidates to focus on campaigning in such constituencies. Using a closed-list system avoids a focus on the nationality of the candidates as the electorate has to decide exclusively on basis of their party preferences, which could incentivize voters to research the new pan-European parties instead of using nationality or commonality of the candidates as heuristic. Recommendation 3 will give more insight into how voters could be supported in this process.

**RECOMMENDATION 2 (OPTION TWO): OPEN- LIST**

Open-list systems have the advantage of incentivizing candidates to appeal to a large audience to succeed in the elections.<sup>52</sup> Moreover, studies have indicated that parties might be more interested in promoting their specific portfolios if candidates are allowed to be chosen directly by the electorate.<sup>53</sup> Hix and Hagemann<sup>54</sup> argue that an open ballot system would provide “incentives for MEPs and candidates to raise their profile directly with the citizens” which would increase voter participation in the EP elections, as well as general public awareness. As such, an open-list system could improve the legitimacy of the EP, and thus the EU. Moreover, preserving a link to fellow nationals in the elections might prove useful to bridge the difference between national traditions surrounding elections and the new pan-European party-system.

**RECOMMENDATION 3: SEAT DISTRIBUTION**

50 Pierre Jouvenat. “Transnational Lists: A False Good Idea.”

51 Pierre Jouvenat. “THE FEDERALIST DEBATE Year XXIX, N° 2, Federalizing Political Parties in Europe. Towards a Single Party for Each Political Family.” *Content.Sciendo.Com* 29 No 2, (2016): 19–23.

<https://doi.org/10.1515/tfd-2016-0015>.

52 Kai-Friederike Oelberman and Friedrich Pukelsheim. “Future European Parliament Elections: Ten Steps Towards Uniform Procedures.”

53 Kai-Friederike Oelberman and Friedrich Pukelsheim. “Future European Parliament Elections: Ten Steps Towards Uniform Procedures.” 73.

54 Simon Hix, and Sara Hagemann. “Could Changing the Electoral Rules Fix European Parliament Elections ?” *Politique Européenne* 28 (2), (2009): 37. <https://doi.org/10.3917/poeu.028.0037>. 14.

Since pan-European parties are not tied to any national constituency, seats should be distributed directly proportional to the percentage of votes the party received, regardless of the nationality of the voter. This would significantly simplify the mechanism and make it more intelligible to the electorate.<sup>55</sup>

#### **RECOMMENDATION 4: VOTING ADVICE APPLICATION**

Voting Advice Applications should be established that give voters a good overview over the options they have and that helps them match their preferences to the party that is best suited to represent them in the EP.<sup>56</sup> Such applications could also bridge potential language barriers and are already in place in some countries, such as Germany (Wahl-O-Mat) and the Netherlands (Stemwijzer).

#### **RECOMMENDATION 5: HARMONIZATION OF ELECTIONS**

To harvest the full advantage of pan-European parties in creating a common election experience, the day of the elections should also be harmonized.<sup>57</sup> Willermain<sup>58</sup> further emphasizes the role of a common “election evening” to strengthen the perception of the EP elections as truly European, rather than national.

### **CONCLUSION**

This proposal illustrated the second-order nature of current EP elections and how this leads to a lack of input legitimacy for the EU at large. The root causes of this policy problem are to be found in the shortcomings of the current EP party-system that features an undue focus on national concerns and thus undermines adequate representation of the electorate’s EU policy preferences in the EP. Neither the Spitzenkandidaten system nor the proposed addition of a transnational list provide a solution to the problem faced by the EP, as they suffer, to a certain extent, from a focus on the national, and are unintelligible to the electorate. Establishing a truly EU party-system in which only pan-European parties compete on EU policy matters for seats in the EP will elevate the second-order nature of EP elections to first-order supranational elections that provide enough input legitimacy to the EU.

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57 Kai-Friederike Oelberman and Friedrich Pukelsheim. “Future European Parliament Elections: Ten Steps Towards Uniform Procedures.”

58 Fabian Willermain. “European Elections: From ‘Second-Order’ Elections to ‘First-Order Supranational’ Elections. How Can a ‘First-Order Supranational’ European Election Be Created?”. 5.

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## 3. 2. How NATO Endures: The role of crises in alliance preservation

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### ABSTRACT

The 70th anniversary of NATO came in no certain times for the Alliance. Tensions between the U.S. and Europe emerge on various fronts bringing NATO's survival once again in focus. Yet, NATO is powering through both in terms of its policy scope, membership, and cooperation with external actors. This paradox raises question of how can NATO both be in a state of crisis and continuously transform and grow in scope? Despite extensive analysis of NATO, there is very little research on the significance of the recurring NATO crises. This paper supplants existing theories by paying particular attention to the impact of the crisis narrative on NATO's endurance. Indeed, crises are an integral part of the explanation for NATO's endurance. It is through their routinization that NATO is able to derive ontological security while also encouraging continuous alliance transformation and management.

In 1951 General Eisenhower stated that “if in 10 years, all American troops stationed in Europe for national defense purposes have not been returned to the United States, then this whole project will have failed”.<sup>1</sup> The 2019 marks NATO's 70th anniversary, so by President Eisenhower's proclamation, NATO has failed. Admittedly, NATO's anniversary comes at the time when the organization is facing a specter of internal and external challenges. Many have attributed the intensification of the transatlantic crisis to Trump, due to his administrations' lack of restraint in pulling out of international treaties, resistance to endorsing Article V, and turn towards transactionalism in foreign policy. Since taking power, Trump withdrew from JCPOA and Paris Climate Accords, raising concerns among European partners about the American commitment to many of the international

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<sup>1</sup> Carroll, Eugene, and Pat Schroeder. “It's Time to Consign NATO to History, and Look to Future.” *chicagotribune.com*, September 1, 2018. <https://www.chicagotribune.com/news/ct-xpm-1994-09-02-9409020263-story.html>.

agreements.<sup>2</sup>

Yet, one needs to acknowledge that Trump is not the only leader critical of NATO. President Macron did not spare his words when he characterized NATO as ‘brain dead’ in the light of the “lack of strategic coordination and leadership from the United States”.<sup>3</sup> Despite the harsh rhetoric, NATO continues to increase both in terms of its policy scope, membership, and cooperation with external actors. The U.S. has increased its presence in “Central and Eastern Europe with an increased rotational military presence, additional exercises and training with allies and partners”.<sup>4</sup> North Macedonia just recently became a member, and in July of 2018, NATO and the EU signed a joint declaration at the Brussels Summit that directly responded to the American fears of the European strategic autonomy. The US has been reluctant to voice support for the European military integration fearing unnecessary duplication of NATO’s efforts and leading to the lack of complementarity between the EU and US. Albeit all the pressures, NATO appears to continue to function without major impediments. These recent developments point to the continued willingness of NATO to reform, adjust and adapt to the new conditions despite the tensions present in the rhetoric of leaders on the both sides of the Atlantic.

However, the prevailing discourse surrounding NATO is largely focused on casting NATO as an alliance in crisis, rather than a resilient one. For illustration purposes, one ought to name just a few of the so-called NATO crises in the past seven decades: First and Second Berlin crisis, French withdrawal from NATO’s integrated military command, dissolution of the USSR, war in Afghanistan, Russian annexation of Crimea, Kosovo crisis, etc.. As it is clear from the numerous examples, this is hardly the first time NATO has been characterized as an alliance in crisis. Every major external and internal tension within NATO appears to be labelled as a crisis, resulting in there “scarcely [being] a year when it was not widely said to be in crisis, or at least in disarray” (Cohen 1982, 1). The prominence and recurrence of NATO crisis stands in direct contrast to the prevalent belief that NATO is “the most powerful intergovernmental organization on the planet” (Deni and Rynning 2019, 135). How can an organization, in this case NATO, both be in a state of crisis while continuously transforming and growing in scope? This discrepancy is what I will further refer to as NATO paradox.

This project pays particular attention to the NATO paradox in claiming that cri-

<sup>2</sup> In addition, in an interview with Tucker Carlson for Trump brought into question the U.S. commitment to NATO. See Trump: I’m Not pro-Russia, I Just Want Our Country Safe. YouTube. Fox News, 2018. [https://www.youtube.com/watch?v=MB8etvUSag0&feature=emb\\_title](https://www.youtube.com/watch?v=MB8etvUSag0&feature=emb_title).

<sup>3</sup> For more see “Emmanuel Macron Warns Europe: NATO Is Becoming Brain-Dead.” *The Economist*. *The Economist Newspaper*, November 7, 2019. <https://www.economist.com/europe/2019/11/07/emmanuel-macron-warns-europe-nato-is-becoming-brain-dead>.

<sup>4</sup> See Feickert, McInnis, and Mix (2019).



ses are an integral part of the explanation for NATO's endurance. It is through routinization of crises that NATO is able to derive ontological security while also encouraging continuous alliance transformation and management. This argument is based on the prevalence of two factors. First, with the demise of the Soviet threat, NATO lost its external enemy which had to be replaced by some form of negative externality that will diminish the fear of dissolution and stand against the alliance becoming a victim of uncertainty. By taking advantage of the crisis narrative, NATO was able to "experience oneself as a whole" (Mitzen 2006, 342) and reestablish its ontological security, a sense of what it is, that in turn helped NATO realize sense of agency.

Second, NATO was constructed in a way to encourage intra-member crises as a way of pushing for forward movement in the alliance development. This is visible through the deeply entrenched norms of security consensus and political contestation that allow NATO to continuously rethink ways in which to adapt and develop. Therefore, NATO crises are an integral part of NATO's survival mechanism as they ensure its ontological security and encourage its continuous adaptation.

In order to understand why NATO is thought of as an alliance in a perpetual crisis, one ought to be attentive to discourse surrounding NATO. Therefore, by paying particular attention to the impact of the crisis narrative on NATO, this paper addresses the so-called 'NATO paradox'. The paper proceeds as follows. The first section provides an overview of the alliance theory, specifically focusing on outlining the most prominent theoretical strains within the international relations with the goal of understanding how we conceptualize NATO and its endurance. Second section develops an argument that NATO crises have become a routine in a way NATO operates, and it is through routinization of crises that NATO is able to derive its ontological security. Third section argues that crises are ingrained in NATO's structure and serve as a way to continuously encourage alliance adaptation. Last section concludes by outlining several implications of this research for the field of international relations.

## THEORETICAL APPROACHES TO NATO'S ENDURANCE

Tendency to label NATO as perennially being in crisis comes accompanied with a worrying lack of consensus in literature of what really constitutes a NATO crisis. For the purpose of this project, a NATO crisis will be considered a situation "when one or more of its members are indifferent between (i) leaving the alliance, and (ii) making the exertions needed to repair whatever rifts have developed within it" (Thies 2006, 18). However, this paper does not focus on trying to prove whether a certain event constitutes a crisis in the alliance, rather it draws attention to the prominence of crisis narrative for our understanding of NATO. Each of the prevalent alliance theories attempt to explain why NATO continues to exist, and argu-

ably all of the theories contribute to our understanding of why NATO endures. Notwithstanding, this section shows how none of the prevalent explanations for NATO's survival account for the impact of the crisis discourse that so prominently accompanies NATO. Thus, this section outlines the most common approaches within the field of IR that pertain to NATO's endurance.

### **REALIST APPROACH**

In the world of security dilemma, alliances are just a tool of “states in an anarchic world seek[ing] to balance externally by creating or joining an alliance with one or more other states” (Deni 2019, 164). Realist approach to understanding alliance is based on a belief that states participate in an alliance as a way to balance against a threat. States prefer their autonomy over alliance constraints in the long run, so once the threat is removed the alliance should falter.<sup>5</sup> A common realist prediction was that with the fall of the USSR, NATO will have to diminish or reconstitute itself.<sup>6</sup> Realists are quick to emphasize alliance fluidity, as national priorities change and warrant new approaches in order to maximize state power. Similarly, realists take NATO members as constantly engaging in a cost-benefit analysis weighing between NATO and more affordable and efficient forms of cooperation.<sup>7</sup>

Deni (2019) offers an example of a realist understanding of NATO. Realists attribute NATO's endurance to the its expanding repertoire which continuously makes NATO beneficial to the state's own security. According to Deni, this is particularly visible in the two phases of NATO's evolution. First phase constitutes a period from 1990s to 2014 during which NATO augmented its emphasis on collective defense by adding crisis management and cooperative security among its policy scope. This change was announced in the alliance's Strategic Concept of 1999 and later visible, among other things, in the establishment of the Emerging Security Challenges Division in 2010. The second phase is still ongoing and is reflected in NATO's expansion into non-collective defense activities, while at the same time continuing to emphasize its commitment to Article 5. As a result, NATO embraces the 360-degree approach with the goal of “projecting stability and cooperative security” (Deni 2019, 163). This is especially visible in the Strategic Concept of 2010 which recognizes that “modern security environment contains a broad and evolving set of challenges” which require an all of the above approach (NATO SC 2010). Therefore, NATO's endurance is seen as a function of member states' cost-benefit calculations. As long as NATO continues to evolve to accommodate the rising challenges, allies will continue to stick with NATO.

A question that is warranted by this account is whether NATO is capable, and does it have the capacity to fulfill all the requests from member states? By and large, Deni and other realist scholars help us understand why allies continue to find

<sup>5</sup> For a detailed overview of the neorealist theory look at Walt (1987).

<sup>6</sup> See Mearsheimer (1994-5).

<sup>7</sup> See McCalla (1996).

NATO useful, but they do not advance our understanding of the persistence of NATO crises. The realist approach seems to be right in predicting the seemingly increased attempt (for now mostly rhetorical) of the US to gradually withdraw from NATO as its utility to the US decreases. However, it fails to account for the fact that NATO still functions as a cohesive organization with an expanding policy portfolio. This is especially visible from the evolution of NATO Strategic Concepts between 1999 and 2010 which point to the increased willingness of Allies to coordinate policies especially when it comes to crisis management and cooperative security. We see that “even in the absence of a compelling threat, member states still find [NATO] valuable in numerous ways” (McCalla 1996, 450).

### ORGANIZATIONAL APPROACH

Organizational theory takes NATO to be an organization comprised of bureaucrats with a unique set of interests. In case of NATO those are permanent uniformed and civilian staff from various member states. Research on bureaucracies and organizations points to the fact that NATO employees “attempt to fulfill their own goals” within the organization, they have agency, “much like corporate officials can sometimes have different interests from shareholder” (McCalla 1996, 456). Organizational theory offers a deeper insight into understanding alliances than realist approach, as it shows that alliances are more than just power balancing tool, they are an “organizational entity with key role holders, who pursue their own goals” (McCalla 1996, 456). When applying organizational theory to NATO, one can look at different parts of NATO structure, be that Secretary General, military command or international personnel, who all display some sense of belonging to the organization and interest in the organization’s survival. As a result of their agency, officials are expected to resist admitting change in their environment that might necessitate change in the alliance. They are also expected to persistently place organizational necessity on top of their agenda. Lastly, if they fail in preventing change, then they will make their peace with adaptation, as the fear of uncertainty in the alliance’s survival trumps the uncertainty provided by the alliance adaptation.<sup>8</sup>

One example of the organizational analysis of NATO comes from Johnston (2017) who uses the framework of critical junctures to explain when institutions take new path dependence. Johnston defines critical junctures as a “significant relaxation of the structural constraints on institutional stability” that results with an expanded “range of plausible choices open to powerful political actors” and a more consequential choice of options (Johnston 2017, 3). In doing so, he claims that NATO has agency as an autonomous institution in determining its future. During a critical juncture, NATO employs several mechanisms: convening, agenda-setting, delegating, information-sharing, delaying, moderating, and coopting.

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<sup>8</sup> See McCalla (1992).

Through each of these mechanisms, NATO is able to affect the outcome of adaptation as a result of being an autonomous organization. Therefore, Johnston's argument is based on the idea that NATO has its own interests and agenda that are contributing to its endurance and adaptation.

Organizational theory helps us understand how through pursuing different interests than those of its member states, NATO is able to frequently find itself in crisis. Yet, Johnston's work does not address the question of the role of crises in the alliance management. Surely, organizational theory is able to capture the inner dynamics of NATO as an organization, however it fails to account for the fact that allies retain relatively high degree of sovereignty which also gives them a high degree of control over NATO.<sup>9</sup> In addition, despite the focus on the inner dynamics within the alliance, organizationalists do not explain the persistence of crisis narrative that is accompanied with periodic reorganization and restructuring of NATO.

### INSTITUTIONALIST APPROACH

The institutionalist approach has been more attentive to the historical factors and has sought to explain alliances as open organizations that exert influence on their surroundings. Hence, institutionalists conceptualize alliances as "a broad multi-level and multi-issue relationship among ...member states, based on implicit and explicit norms and rules" (McCalla 1996, 461). The institutionalization of rules decreases the transaction cost for allies by introducing clear guidelines for the behavior of actors in the regime. The institutionalist approach applied to NATO leads to an expectation that NATO will take advantage of the existing norms and procedures in order to deal with the arising challenges, rather than creating new ones. It also expects NATO to be able to modify when necessary and to use its regime to attract other actors "in pursuit of regime goals" (McCalla 1996, 464).

An example of institutionalist take on NATO is given by Hofmann and Yeo (2015) who argue that the normative understanding of practices within the alliance allows NATO to survive through periodic crises. They reject the notion that disagreements within US alliances occur as a consequence of soft balancing against the US, especially as the location of most of the crises is within the alliance and not outside of it. They attribute NATO's endurance to the persistence of norms of political contestation and security consensus that help allies wither through crisis. Examining the role of norms in describing alliance management helps our understanding of "the ability of alliance partners to work out different priorities and interests for the sake of alliance preservation" (Hofmann and Yeo 2015, 380). As a result of the prevalence of the two norms, NATO member states are able to go "forward in their alliance relationships without necessarily attempting to resolve

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<sup>9</sup> See Deni (2019).

disagreements immediately and instead focus[ing] on institutional transformation and adaptation in the long run” (Hofmann and Yeo 2015, 385).

While, Hofmann and Yeo provide a useful account of how norms contribute to our understanding of alliance endurance, they do not answer the question of why, despite strong norms serving as a backbone of NATO, crisis narrative still persists? If the alliance has been such a beneficial tool for the allies, one should start seeing less disagreements among allies as they realize that it is easier to operate within NATO than without it. Despite the fact that Hofmann and Yeo do accept crises as an essential part of alliance dynamics, they do not give sufficient attention to the NATO paradox.

### CONSTRUCTIVIST APPROACH

Constructivist scholars focus on identity as an explanatory force behind alliance endurance. Perhaps the most important work of constructivist scholarship on alliances is Karl Deutsch’s work on the conditions and processes of a long-range or permanent peace within North Atlantic Area, which is accompanied with the theory of security communities. Deutsch defines security communities as “group of people which has become integrated” (Deutsch 1957, 5) with the goal of achieving peaceful change. He further differentiates between two categories of security communities: pluralistic and amalgamations. NATO seems to be fit more into the former category, characterized by retaining legal independence of separate governments. This comes from the fact that sovereignty is preserved to a larger extent, as member countries reach decisions based on consensus, meaning that if there is no common agreement, there will be no obligations for the members states. Therefore, the origins of constructivist work on alliances tells us that states within the pluralistic communities “begin to form a sense of community [and] see their interest intertwined” (Hofmann and Yeo 2015, 381).

Adler and Barnett (1998) take Deutsch’s work a step further by defining the pluralistic security community as a “transnational region comprised of sovereign states whose people maintain dependable expectations of peaceful change” (30). They place identity in the center of our attention. They claim that when members of the community start to build a common identity, share values and establish norms, their initial choices determine future trajectory. Thies further reinforces this point by crediting “ideological unity as the primary feature in NATO’s long life” (Rupp 2010, 651). He puts a specific emphasis on democracy as a prevailing form of government among member states that according to him explains the persistence of long-term cooperation among allies. Thus, tensions should not present anything exceptional in NATO, as there are multiple lines of cleavages and agreements within the alliance.<sup>10</sup>

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<sup>10</sup> See Thies (2009).

Constructivist scholarship offers a way to move away from the “conception of alliance formation and durability based on external threats and institutional features” towards an identity-based approach to the study of alliances (Hofmann and Yeo 2015, 381). What this means in practice is that states care as much about preservation of their value systems and path dependence, as about material, physical security. This leads states to seek ontological security which takes place in between actors as they routinize their relations with each other. State’s agency is closely tied with the stability of state’s understanding of itself, a feeling that they are “secure in who they are, as identities or selves” (Mitzen 2006, 342). Therefore, states derive certainty from their identity in order to be able to “systematically relate ends to means” (Mitzen 2006, 342). In certain cases, this may lead to ontological security-seeking trumping the pursuit of the physical security as “states might actually come to prefer their ongoing, certain conflict to the unsettling condition of deep uncertainty as to other’s and one’s own identity” (Mitzen 2006, 342). In short, ontological security theory helps us understand the impact of the perennial conflicts on the stability and certainty of state’s identity. Constructivists move away from looking at the alliances as a tool to solely provide physical security to states, to understanding the potential of alliances to secure state’s ontological security.<sup>11</sup>

A criticism of a constructivist approach is that they do not offer an explanation for the current trend of democratic decline occurring among NATO allies. Turkey, Poland, and Hungary are showing high degree of democratic decline and movement towards illiberal democracy. The Economist Intelligence Unit’s Democracy Index has degraded their status from full democracies to flawed democracies and hybrid regime.<sup>12</sup> For them alliance formation and endurance are based on a belief that democracies are more eager to cooperate, yet, how do we account for the endurance of an alliance when its members are increasingly undemocratic and start diverging in terms of values and democratic commitment?

In sum, the IR theory provides a solid basis for understanding of NATO endurance. Yet, what needs to be addressed is the tendency of the literature to dismiss the importance of the crisis narrative for NATO. None of the theories explain why we tend to conceptualize NATO as an alliance in crisis. Surely, most of them acknowledge that “discord and crisis are features of alliance politics which, if left unchecked, can lead to” their end (Hofmann and Yeo 2015, 378), but none seem to theorize the impact of the crisis discourse on the alliance. All of these accounts explore different ways through which we can explain NATO’s endurance, but none of them address the perennial uncertainty present in the discourse surrounding NATO that is so well embodied in the NATO paradox. In doing so, they overlook the role that NATO crisis have in continuously encouraging adaptation in the light

<sup>11</sup> Building of work from Mitzen (2006) and Subotic (2016) on ontological security

<sup>12</sup> “The Economist Intelligence Unit.” EIU Democracy Index 2019 - World Democracy Report. Accessed November 10, 2019. <https://www.eiu.com/topic/democracy-index>.

of persistent disagreements, while also ensuring NATO's ontological security.

## CRISES AND ONTOLOGICAL SECURITY

There is so much about NATO that is unique, but what seems to be continuously overlooked is the discourse used to talk about NATO. The focus of NATO scholars has been directed towards understanding NATO's endurance mechanism and disputing the salience of crises in NATO, largely overlooking the importance of the crisis narrative for our understanding of NATO paradox. Political actors are believed to use narratives for strategic social construction, or in other words for manipulation purposes that aim to help them achieve their goals.<sup>13</sup> Claiming that NATO uses its institutional autonomy in order to achieve its political ends goes beyond the scope of this project as this would require a deeper investigation of the specific crises and the reactions of NATO's leadership towards those. Nevertheless, one ought to account for the possibility of the crisis narrative being used as a rallying mechanisms in order to promote specific set of values and solidarity among allies.<sup>14</sup> While also, one needs to consider the effect that the routinization of crises have for NATO's sense of stability and certainty, otherwise absent in periods when the pressures of crises are relaxed. This section focuses on understanding the relationship between crises narrative and NATO's endurance while advancing the argument that crises serve both as a provider of ontological security and a rallying mechanism for NATO.

With the demise of the Soviet threat NATO lost its external enemy, playing into the fears that the alliance will fall victim to uncertainty. Indeed, looking back in history, NATO was first formed in order to counter the threat posed at the time by the Soviet Union, or in the words of the Lord Ismay, NATO's first Secretary General, to "keep the Soviet Union out, the Americans in, and the Germans down".<sup>15</sup> In the aftermath of the Cold War, the utility of the alliance for both Europeans and Americans was widely debated. Yet, what these accounts largely overlooked is that NATO continued to provide a variety of security functions for allies by expanding in its scope, proposing two new strategic concepts, maintaining the integrated military structure, and establishing various training operations across the North-Atlantic area.<sup>16</sup> These efforts point to NATO's willingness and ability to readapt itself in the light of a new security environment. Therefore, despite the lurking fear of dissolution, NATO managed to maintain itself as an organization relevant for the security of allies.

The post-Soviet transition was accompanied by a strong crisis narrative stemming

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13 See Subotic (2016).

14 Following Subotic (2016) who sees narratives as mobilization tools

15 See "Lord Ismay, 1952 - 1957." NATO. Accessed November 20, 2019. [https://www.nato.int/cps/en/natohq/declassified\\_137930.htm](https://www.nato.int/cps/en/natohq/declassified_137930.htm).

16 See Duffield (1995).

from the uncertainty of not having an external enemy.<sup>17</sup> As a consequence, NATO ventured to seek a dual identity: an inward one (focused on collective defence), and an outward one (pursuing milieu goals).<sup>18</sup> What this effectively meant is that the crisis narrative emerged as a way to “bridge between policy change that resolves the physical security challenge, while also preserving...ontological security through providing autobiographical continuity” (Subotic 2016, 611). Specifically, the crisis narrative motivated allies to adapt the alliance in order to ensure both physical and ontological security of NATO. Emphasis on collective defense ensured NATO’s continued attachment to the Washington Treaty and specifically article V. With this move NATO appeared to emphasize the continued importance of the old security agenda. As a response to the fear of differing considerations of what constitutes a threat to alliance and what happens when the allies disagree on how to act, NATO formed an outward identity that allowed states to pursue the disputed milieu goals.<sup>19</sup> Allies were essentially allowed to act within the framework of the coalition of the willing rather than in a concert. Therefore, NATO’s second identity emphasized the importance of the new approach to military action, one that does not necessitate involvement of all member states. Thus, the crisis narrative served as a motivating factor among allies to seek adaptation of the alliance that will ensure its physical security.

The crisis narrative serves NATO as more than just a tool to ensure its physical security. Through the routinization of narrative, NATO is able to derive certainty and stability which results in its ontological security. Mitzen (2006) defines ontological security as “the need to experience oneself as a whole, continuous person in time - as being rather than constantly changing - in order to realize a sense of agency” (342). This paper follows Mitzen’s assumption that “dynamics of ontological security-seeking should be broadly applicable ... to cooperative outcomes such as security communities” (Mitzen 2006, 364). In doing so, crises are considered to be the provider of certainty for NATO. Certainty of one’s own identity is needed in order to be able to pursue one’s own goals, and “actors therefore achieve ontological security especially by routinizing their relations with significant others” (Mitzen 2006, 342). With such an abundance of crisis throughout NATO’s history, they appear to be NATO’s most routinized behavior. The routinization of crisis has the “cognitive function of providing individuals with ways of knowing the world and how to act, giving them a felt certainty that enables purposive choice” (Mitzen 2006, 347). NATO therefore uses the routine of crisis as a way to understand what it really is, which is an alliance that has the ability to constantly adapt.

If the crisis narrative were absent, NATO would find itself in a state of uncertainty as it would need to construct a new conception of self and a new routine that sustains that ideal. What this means is that a crisis within the alliance is not neces-

17 See Mearsheimer (1990); Clarke (1993); Carpenter (1994).

18 See Sperling (2012).

19 Ibid.



sarily a result of uncertainty but rather “the certainty such relationships offer their participants” (Mitzen 2006, 343). Here, the argument is not only that ontological security-seeking explains protracted crisis, but that crises may be a preferred *modus operandi* of NATO, as they provide certainty to NATO’s identity. Therefore, the crisis narrative allows NATO to maintain what Subotic (2006) terms autobiographical continuity, which in the case of NATO is a story that answers to the question of why we cooperate and what is the purpose of our cooperation. Consequently, NATO’s crisis narrative appears to be a function of NATO’s pursuit for reestablishing of its own identity.

## CRISES AND NORMS

Even after NATO reestablished a sense of what it is, disagreements among allies continued. Even though NATO redefined itself in the absence of an external threat and formed a new set of goals, crises continued to occur. Some examples of the major disagreements in the alliance that have marked the post-Cold War period are the Iraq War, War in Afghanistan, Kosovo intervention, Turkey-Cyprus relations. Present dynamics between NATO members illustrate this claim, with both Europeans and Americans pointing to the various reasons why they are not satisfied with the status quo and the ways in which they would like to see it changed. Yet despite the tensions, NATO continues to operate on a regular basis. This section advances the argument that crises among allies are a normal state of affairs in the alliance dynamics as they are deemed to lead to continuous alliance transformation and management.

Indeed, as Sperling (2012) points out “steady state of alliance politics is most accurately described as a stable crisis” (1). There is a need to distance oneself from thinking about crises as being always detrimental, as this hinders our understanding of NATO’s endurance. Hence, one ought to look at the creative potential crisis can bring to an alliance. Notably, this approach does not preclude the fact that if crises are left unchecked for long periods of time the alliance may wither. Rather, it steps away from only considering negative implications of crises as “crises are neither new to the alliance nor have alliance member states failed to resolve or at least mitigate ... developments that instigated alliance discord” (Sperling and Papacosma 2012, 1). Therefore, this section addresses the questions of what enables routinization of crises within NATO and what is the impact of that routine on NATO?

First, the focus is on identifying factors that enable recurring crisis. Following institutionalist approach, this section claims that NATO crises are a result of particular confluence of factors resulting from the choices made when the Alliance was created. Here, I draw from Hofmann and Yeo’s work (2015) on the importance of deeply entrenched norms that encourage crises within the alliance. Two norms

seem to be the key to empowering allies to manage their alliance despite crisis: security consensus and political contestation. Political contestation is reflected in the Article IV of the Washington Treaty:

The Parties will consult together whenever, in the opinion of any of them, the territorial integrity, political independence or security of any of the Parties is threatened.<sup>20</sup>

In effect, Article IV is “agreeing to the possibility of disagreeing” as part of the consultation process (Hofmann and Yeo 2015, 383). Therefore, Washington Treaty encourages opposition in order to motivate member states to renegotiate and readjust the alliance in order to overcome disagreements. Moreover, the norm of security consensus is particularly visible in NATO’s ability to shield itself from the recurring complaints by individual actors. In particular, member states continue to commit and follow NATO guidance when it comes to national military procurement, technological standards and military exercises. This shows that NATO remains important to state’s foreign policy and embodies “a natural extension of a state’s own national security policy” (Hofmann and Yeo 2015, 384). Indeed, crises are integral to NATO as they were thought of as a part of the NATO institutional structure. What this means is that crisis actually carry a positive value for NATO, as they encourage discussion and alliance management. But even more than that, continuous bickering between allies signals NATO’s ability to function in spite of crises which is a strong indication of a mature security relationship.<sup>21</sup> Therefore, rather than inhibiting alliance development, the crisis narrative can be used as a mobilization tool to promote a specific set of ideas and values, and as a tool for alliance transformation and management.<sup>22</sup>

Looking at the present state of NATO, one can hardly say that the relationship between the allies is running smoothly. President Trump continues to press hard on Europeans for failing to meet defense spending targets, with some European countries taking a firm stance against such attacks by refusing to accept the premise that contributions to NATO can be quantifiable solely through the 2% GDP target. Merkel reacted to Trump’s comments by refuting the idea that GDP expenditure is the only indicator that matters by claiming that Germany is the second largest provider of troops to NATO and that Germany also defends interest of the US through their NATO investment.<sup>23</sup> President Macron has recently voiced his concern for NATO in an interview for *The Economist*, taking advantage of the current state of affairs within NATO to advocate for a European alternative to NATO. Therefore, the present state of affairs clearly fits into Thies’ definition of a NATO

<sup>20</sup> See NATO. “The North Atlantic Treaty”

<sup>21</sup> See Hofmann and Yeo (2015).

<sup>22</sup> Thies (2006) claims that crisis narrative inhibits developments in NATO, which is in direct contrast to Hoffman and Yeo (2015) and Subotic’s (2016) work which claims that crisis narrative can be used as a mobilization tool.

<sup>23</sup> See MacAskill (2018)

crisis. That said, this paper argued that crises within NATO encourage alliance adaptation, thus we should expect this theory to be applicable to the present crisis. Indeed, this is the case as both Europe and the U.S. are doing more together than in a long time. This is highlighted in a press release following NATO's Ministerial in Brussels in 2019, in saying that "Europe and North America are doing more together than for many years".<sup>24</sup>

Despite the abrupt and hostile way President Trump voiced his concern for European contributions to NATO, there has been a steady increase in military spending across the board. All allies are expected to reach their military spending target by the agreed deadline of 2024.<sup>25</sup> While President Trump was busy characterizing NATO as obsolete, the U.S. increased its presence of combat-ready battalions to Estonia, Latvia, Lithuania, Poland, and has committed to continue deploying additional troops to the continent as a response to the Russian awakening.<sup>26</sup> In addition to the increase in American troops, there has been an overall increase of NATO troops from member states across the board, now totaling to 18,000 deployed military personnel.<sup>27</sup> Furthermore, in 2018 NATO announced deepening of cooperation with the EU, established two new commands aiming to improve maritime security, opened the European Centre of Excellence for Countering Hybrid Threats and committed toward opening the Cyberspace Operations Centre.

These developments point to role of crises in encouraging allies to engage into difficult conversations on where NATO is heading and to how to ensure satisfaction of all NATO members. The current crisis created a momentum in NATO that called for a rapid adaptation in order to ensure NATO's survival. Hence, NATO took advantage of the calls for change to transform itself and ensure the continued and smooth alliance management.

The analysis of the current crisis, stirred by leaders on the both sides of the Atlantic, shows that despite of hostile rhetoric, NATO persists and continues to operate and adapt itself to new challenges. Consequently, one we take crises to be an integral part of NATO's modus operandi we can see that their role for NATO is in motivating member states to renegotiate and readjust the alliance in order to overcome disagreements and move towards a mature security relationship.

## CONCLUSION

Over the past several decades, alliances have received a lot of attention by international relations scholars. Analyses of NATO have been a large part of the focus

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24 See Nato. 2019. "Foreign Ministers Take Decisions to Adapt NATO, Recognize Space as an Operational Domain."

25 See Kupchan (2019).

26 Ibid.

27 See Scott (2017).

of many scholars who attempted to understand why NATO defies all expectation when it comes to alliance duration. Realists explain NATO survival by engaging in the cost-benefit analysis of NATO's utility to individual state's security. They see NATO different than other alliances, as it has been able to restructure itself and therefore continue to provide benefits to allies. Organizationalists tell us that NATO's survival comes as a result of the interest that the organization and its structures have in keeping itself alive. Institutionalists, on the other hand, hold norms and procedures to be the key to NATO's endurance, claiming that alliance will take advantage of those when facing challenges. Lastly, constructivists tell us that it is a belief in a common identity and shared goals that keeps the alliance going. All of the approaches within the international relations contribute to a better understanding of how NATO endures, yet for all their attention in trying to understand NATO, we still know very little about the significance of the recurring NATO crisis. Therefore, there is a need to address the question of how can NATO both be in a state of crisis and continuously transform and grow in scope?

This paper has focused on offering different lenses through which we can conceptualize NATO's endurance, while also supplanting existing theories by being attentive to the impact of the recurring crisis narrative on NATO. In doing so, it has been argued that crises have become a routine in a way NATO operates, and it is through routinization of crises that NATO is able to derive a sense of what it is. Crises are so frequent that they provide NATO with a feeling of normalcy and stability which in turn enables its agency and allows NATO to continue to operate. Hence, by applying theory of ontological security to NATO one can not only explain the recurrence of NATO crises, but also infer that that crises may be the preferred modus operandi of NATO as they appear to provide a feeling of certainty which is lacking in periods without crises.

Additionally, crises do not only provide NATO with the opportunity to seek ontological security, but they serve as a way to continuously encourage alliance adaptation. Through understanding crises as being an integral part of NATO, this paper showed that the crisis narrative motivates member states to take more proactive approach towards NATO. Deeply entrenched norms encourage debates with the alliance, often leading to a crisis. Yet, it is key to understand that crises can be of non-detrimental nature and, indeed, can serve as a way to encourage alliance management and adaptation as exemplified through the analysis of the current tensions between the U.S. and Europe.

This paper offers a somewhat optimistic take on the state of the transatlantic security cooperation in showing that despite the occasional bickering and less than occasional crises, NATO is able to grow in scope and continue to operate. This research warrants further exploration in NATO's institutional autonomy in order to explore whether NATO is able to self-employ the crisis discourse in order to ensure its survival. This does not warrant complete dismissal of the importance of

the strained state of transatlantic affairs, rather it reminds us that despite the disagreements and sometimes opposing policies, the security relationship between the U.S. and Europe remains resistant to the occasional earthquakes. However, ignoring each other's opinions and failing to engage in dialogue among allies might shake the foundation of the transatlantic relationship and therefore bring NATO into question. For this reason, further analysis of NATO ought to appropriate a holistic approach to understanding NATO's endurance, one that will not prioritize one theory over the other, but rather attempt to put all of them in a dialogue.

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# 3. 3. Legal challenges of a potential interim appeal arbitration arrangement between the EU and other WTO members

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## I. INTRODUCTION

The EU has been a member of the World Trade Organization since its creation on 1 January 1995. Trade disputes instituted between WTO members, including the EU, must be solved by the two-step dispute resolution system of the WTO: (1) firstly, through the establishment of a panel, and (2) in case of lack of satisfaction of the claims of one of the parties, the reference to the Appellate Body. Although panels are still working, the Appellate Body has not been operational since 2019 due to the U.S. administration's refusal to reappoint judges.

Agreements concluded by the EU with third parties, pursuing article 37 TEU, are EU Law and hence must be effective. In consequence, the EU and other 16 Members of the WTO “have agreed to develop a multi-party interim appeal arrangement that will allow the participating WTO members to preserve a functioning and two-step dispute settlement system at the WTO in disputes among them”.<sup>1</sup> This agreement will be open to any WTO Member willing to join it, since the solution to this problem is crucial. The EU has been a party to a total 190 proceedings before the WTO.

As will be further discussed, the implementation of an arbitration arrangement between the EU and other WTO Members poses an issue concerning (1) the Dispute Settlement Body (DSB) exclusive jurisdiction over trade disputes between WTO Members and (2) the compatibility of such mechanisms with the CJEU's definitive interpretation of EU Law. Thus, the definitive content of the interim agreement shall, in all cases, observe the procedural requirements of both the WTO and the EU.

<sup>1</sup> “Trade: EU and 16 WTO Members Agree to Work Together on an Interim Appeal Arbitration Arrangement,” n.d. [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_20\\_113](https://ec.europa.eu/commission/presscorner/detail/en/IP_20_113).

## II. EXCLUSIVITY OF JURISDICTION OF THE WTO

### 2.1. SUITABILITY OF ARTICLE 25(1) DSU AS LEGAL BASIS FOR THE AGREEMENT

Broadly speaking, scholars have understood that the jurisdiction of the WTO's DSB, in light of its governing understanding (the Dispute Settlement Body or 'DSU'), is exclusive and compulsory. The non-observance of such exclusivity has been criticized as forum-shopping.<sup>2</sup>

Contrary to this idea of exclusivity, the European Commission relies on Article 25.1 of the DSU as the legal escape route from the paralyzed appeal system. The aforementioned provision states that "Expeditious arbitration within the WTO as an alternative means of dispute settlement can facilitate the solution of certain disputes that concern issues that are clearly defined by both parties."

However, Article 25.1 has only been used once since the creation of the organization, and for the sole purpose of calculating nullification or impairment of benefits of the European Communities, which served as Complainant in the proceedings.<sup>3</sup> This inevitably means that Article 25.1 has never been used to substantiate larger disputes before an arbitral tribunal, raising the doubt on whether it is a sufficient justification for an appeal. Nevertheless, the Uruguay Round negotiating records reflect that it is for the disputants to decide what constitutes 'certain disputes that concern issues that are clearly defined', not necessarily posing an issue on the extension of the claims to be judged.

While the aforementioned provision has been clearly underused, its applicability has been already explored as an alternative solution to the rising workload of the WTO. Moreover, it has been argued that the existence of Article 25.1 within the DSU implies that arbitration is not contrary to the exclusivity of jurisdiction of the DSB, but is an integral part of the WTO dispute settlement body.<sup>4</sup>

### 2.2. SOLUTIONS TO BE DRAWN FROM PREVIOUS WTO AND ARBITRAL CASE LAW

Regardless of whether Article 25.1 is sufficient or not, the EU and its partners can still rely on other grounds. The exclusivity of the DSU has been previously challenged through several disputes raised before institutions other than the DSB. As

<sup>2</sup> Joost Pauwelyn & Luiz Eduardo Salles "Forum Shopping Before International Tribunals: (Real) Concerns, (Im)possible solutions", *Cornell International Law Journal* 42, no. 1 (n.d).

<sup>3</sup> United States - Section 110(5) of the US Copyright Act - Recourse to arbitration under article of the DSU. [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds160\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds160_e.htm)

<sup>4</sup> Pohl, Jens Hillebrand, *Blueprint for a Plurilateral WTO Arbitration Agreement Under Article 25 of the Dispute Settlement Understanding* (April 29, 2018). *Restoring Trust in Trade: Liber Amicorum in Honour of Peter Van den Bossche*; (2018). <https://ssrn.com/abstract=3170510>

contended by several academics, what was intended to be set down in Article 1.1 of the DSU is that rules and procedures of the Understanding shall apply to disputes regarding covered agreements, regardless of the entertaining organism.

For instance, in the Mexico-Soft Drinks case, a controversy within the fold of NAFTA - which is a Regional Trade Agreement under Article XXIV of the GATT - Mexico turned firstly to the International Centre for Settlement of Investment Disputes (ICSID), and later to the DSB in order to resolve the dispute. In this case, the WTO did not challenge the previous reference to the ICSID since the Additional Facilities allowed for “all proceedings of the Consolidation Tribunal... to be governed by the ICSID Additional Facility Arbitration Rules, as modified by the procedural requirements of NAFTA Chapter 11”.<sup>5</sup> It follows that the content of the interim agreement must respect the procedural requirements enshrined in the DSU.

### **2.3. HOW IS IT RELEVANT FOR THE PARTIES TO CHOOSE BETWEEN ARTICLE 25.1 OR ANOTHER LEGAL JUSTIFICATION?**

According to Article 25.2 of the DSU, the resort to arbitration is voluntary and “shall be subject to mutual agreement of the parties which shall agree on the procedures to be followed.” In line with the US-Section 110.5 Copyright case, this provision opts for freedom of procedure, with “no limitations for selecting arbitrators, evidence submitted, hearings, and other relevant matters”.<sup>6</sup> The interim agreement’s goal is precisely to render the voluntary jurisdiction of arbitral tribunals compulsory for its Parties and to preserve the enforceability of the procedure.

Although it has been argued that Article 25 would not cover all currently pending disputes (especially those involving Canada and the U.S.),<sup>7</sup> neither would a solution parallel to previous arbitral cases. Nevertheless, the alleged procedural flexibility offered by Article 25 - as opposed to the fix procedure to be followed as interpreted in the Mexico-Soft Drinks case - is more likely to entice more WTO Members to sign the arrangement.

## **III. COMPATIBILITY WITH EU PRIMARY LAW**

Following the previous remarks, it is to be understood that nothing in the final

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5 International Center for Settlement of Investment Disputes. *Archer Daniels Midland Company & Tate & Lyle Ingredients Americas, inc. v. The United Mexican States*, para. 19, p. 6 [https://www.italaw.com/sites/default/files/case-documents/ita0037\\_0.pdf](https://www.italaw.com/sites/default/files/case-documents/ita0037_0.pdf)

6 “Can Article 25 Arbitration Serve as Temporary Alternative to WTO Dispute Settlement Process?” <http://arbitrationblog.kluwerarbitration.com/2019/01/05/can-article-25-arbitration-serve-as-a-temporary-alternative-to-wto-dispute-settlement-process/>

7 Pauwelyn, J. (2019). *WTO Dispute Settlement Post 2019: What to Expect?* *Journal of International Economic Law*, 2019, 22, 297–321.

agreement shall undermine national courts and CJEU's power over the interpretation of EU Law. This issue has been extensively analyzed some of the Court's landmark judgments regarding extra-EU judicial and arbitral bodies.

The Court's position depends on whether the Parties to a dispute are both EU Member States or not, rather than on the nature of the dispute settlement body. This differentiation can be clearly distinguished in AG Bot's Opinion on the Investment Court System created by the Comprehensive and Economic Trade Agreement (CETA),<sup>8</sup> who explicitly stated that the Investor-State Dispute Settlement (ISDS) in this case was not comparable to Achmea. As exposed by AG Bot, Achmea "concerned (...) an agreement between Member States. The question of the compatibility, with EU law, of the creation or preservation of an investment tribunal by means of such an agreement must be distinguished from the question of the compatibility, with EU law, of the creation of such a tribunal by means of an agreement between the Union and a non-Member State"<sup>9</sup>, being the latter the case of the interim appeal arbitration arrangement.

Moreover, it must not be forgotten that, as it has been underscored in other judgments,<sup>10</sup> the interpretation of EU Law is to be shared between the national courts of EU Member States and the CJEU. As a matter of fact, in the free trade agreement with Singapore, the Court found that "The regime governing dispute settlement between investors and States also falls within a competence shared between the EU and the Member States. Such a regime, which removes disputes from the jurisdiction of the courts of the Member States, cannot be established without the Member States" consent.<sup>11</sup>

### 3.1. OVERLAP OF JURISDICTION

Regarding intra-EU disputes, the CJEU has exclusive jurisdiction as it is stated in Article 344 of the Treaty on the Functioning of the European Union (TFEU).<sup>12</sup> Moreover, this exclusive jurisdiction has been explicitly accepted in the cases of international agreements concluded by the EU, including in the contained dispute settlement mechanisms.<sup>13</sup> Taking all this into account, it is clear that no disputes between Member States could be solved by the WTO DSM, a reality that is even

8 "Opinion 1/17 of the court" <http://curia.europa.eu/juris/document/document.jsf?text=&docid=213502&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=4976548>

9 *Supra*, para 127.

10 Judgment of 6 March 2018, Case C-284/16 Achmea, paras 36, 55 and 56. Judgment of 25 July 2018, Case C-216/18 PPU Minister for Justice and Equality, in particular paras 48 to 55.

11 "The Free Trade Agreement with Singapore Cannot, in Its Current Form, Be Concluded by the EU Alone," May 16, 2017. <https://curia.europa.eu/jcms/upload/docs/application/pdf/2017-05/cp170052en.pdf>.

12 Case 1/91, Robert Wieschemann, as trustee in bankruptcy of SchiffswerftGermersheim GmbH, of Kaiserslautern v. Commission of the European Communities, [1991] ECR I-6079, para. 35

13 Judgment of 30 May 2006, Case 459/03 Commission of the European Communities v. Ireland.

more distinct after the Treaty of Lisbon entered into force.<sup>14</sup>

### 3.2. COMPATIBILITY OF AGREEMENTS

The legal order of the European Union entitles the Member States, the European Parliament, the Council or the Commission to request the opinion of the Court of Justice on the compatibility with the Treaties of any agreement envisaged.<sup>15</sup> The purpose of this figure is to avoid all the possible vicissitudes that a hypothetical legal challenge to the compatibility or otherwise of an agreement with the Treaties might face.<sup>16</sup> Should the judicial decision be to declare the agreement incompatible with the EU Treaties, the consequences, both ad intra and ad extra, would be considerable and could even be prejudicial to third countries.<sup>17</sup>

The aim of this section is to analyze under what circumstances the creation of a dispute settlement mechanism in the light of an international agreement would not infringe the exclusive jurisdiction of the Court of Justice of the European Union.

#### 3.2.1. OPINION OF THE COURT 1/09

To understand this issue, it should be borne in mind that all the Member States of the Union are party to the European Patent Convention, signed in Munich on 5 October 1973. This Convention regulates the way in which patents are granted only in the territory of its Member States, although the regulation of each patent depends on the national law of the States which the holder of the patent has designated.<sup>18</sup>

The European Council started negotiations on a future Community patent, which would result in a unitary procedure for granting European patents. However, the procedure for granting national patents would remain different in all the Member States, since such procedure is governed by national law. In addition, the agreement would create a European and Community Patent Court, with the proper functional division of the bodies making up the jurisdictional systems, including an appeal chamber.

In the present case, the Council of the European Union requested the Court of Justice to rule on whether a court other than the Court of Justice of the European Union could perform functions previously performed by the Court of Justice. The question posed was ‘Is the envisaged agreement creating a Unified Patent Litiga-

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14 Ibid., Arts 3, 207. Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community, OJ 2007 C 306.

15 Article 218(11) TFEU.

16 In this regard, see also Opinion of the Court 1/91, which does not accept the creation of a Special Court for the European Economic Area, for the same reason as rejected in Opinions of the Court 1/76 of 26 April 1977 and 1/09 of 8 March 2011.

17 Opinion of the Court 3/94, para 17.

18 Opinion of the Court 1/09, para 3.

tion System (currently named European and Community Patents Court) compatible with the provisions of the Treaty establishing the European Community<sup>19</sup>.

The Court, referring to settled case-law, recalled that the founding treaties create a new legal order, which differs significantly from those that have been created to date by ordinary international treaties. Through adoption of EU treaties, Member States have limited their rights of sovereignty, subjecting themselves and their nationals to EU law. Moreover, as Article 19 of the TEU states, it is the Court of Justice and the national courts that guarantee respect for this legal system and for the Union's judicial system.<sup>20</sup>

It should be made clear from the outset that the establishment of a court as a result of an international agreement should not be considered *ab initio* incompatible with Union law, since “the competence of the Union in international relations and its capacity to conclude international agreements necessarily entails the power to be bound by the decisions of a court or tribunal established or designated by such an agreement, as regards the interpretation and application of its provisions”.<sup>21</sup> Nonetheless, the Court considered that the international tribunal envisaged had among its competences those of interpreting and applying not only provisions of the international agreement itself, but also of subsequent regulations and directives on patents, intellectual property; thus EU law.

Therefore, because of the possibility of interpreting and applying European Union law, the unified dispute resolution system in question was incompatible with EU law.<sup>22</sup>

### 3.2.2. OPINION 1/17

However, Advocate General Bot, in Opinion 1/17 on the CETA, concluded that the creation of an investor-state dispute resolution mechanism was compatible with Union law. The mechanism in question contained the creation of a permanent tribunal to hear disputes brought by an investor against a State following the aforementioned agreement.

The Court of Justice has stressed that “in order to ensure that the specific characteristics and the autonomy of that legal order are preserved, the Treaties have established a judicial system intended to ensure consistency and uniformity in

<sup>19</sup> Opinion of the Court 1/09, para 1.

<sup>20</sup> Opinion of the Court 1/09, para 66.

<sup>21</sup> Opinion of the Court 1/09 paragraph 74 (see opinion 1/91, cited above, paras 40 and 70)

<sup>22</sup> On this point, see Opinion of the Court 1/76, in which the Court of Justice rejects the establishment of a special court composed of six judges from that institution and a Swiss judge, on the grounds that there might be conflicts of jurisdiction

the interpretation of EU law”.<sup>23</sup> In Advocate General Bots, view, it is irrelevant the Court’s consideration of whether or not that agreement can have direct effect is unnecessary, since “whilst forming an integral part of the EU legal order when it enters into force, the agreement envisaged may not be relied on directly in its own right. Neither the courts of the European Union nor the courts or tribunals of the Member States may therefore apply that agreement directly in the disputes which are brought before them. There are therefore two co-existing legal systems, interference between which has been deliberately limited.”<sup>24</sup>

This coexistence should in no way be deemed as an exception to the fact that the Agreement (CETA) must respect EU law.<sup>25</sup> The Court has been presented the opportunity to state this several times. Furthermore, as already stated, the existence of a court established in the light of an international agreement should not be understood as incompatible with Union law per se. This does not prevent such an international agreement from having to meet the essential requirements for the preservation of competences and protection from jeopardizing the autonomy of the legal system.<sup>26</sup> Nor would it be permissible for the Court of Justice to impose on the Union a specific interpretation of the rules of law which it has itself established,<sup>27</sup> since the Court of Justice has exclusive jurisdiction in the definitive interpretation of EU law.<sup>28</sup>

In a pedagogical and synthetic way, the Advocate General affirms in paragraph 69 of his opinion that “As the Court stated in Opinion 1/09, it has given opinions in favor of the establishment, by means of international agreements, of judicial systems designed, in essence, to resolve disputes on the interpretation or application of the actual provisions of the international agreements concerned, and which did not affect the powers of the courts and tribunals of Member States in relation to the interpretation and application of EU law, or the power, or indeed the obligation, of those courts and tribunals to request a preliminary ruling from the Court and the power of the Court to reply. By contrast, the Court opposed the establishment of an international court called upon to interpret and apply not only the provisions of the agreement which established it but also other instruments of EU law, and which might be called upon to determine a dispute pending before it in the light of the fundamental rights and general principles of EU law, or even to examine the validity of an act of the European Union”.

Although it may be obvious, it is worth underlining the fact that the possibility for the European Union to conclude such international agreements is linked in a

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23 Opinion of the Court 2/13, paragraph 174.

24 Opinion of Advocate General Bot, 1/17, para 63.

25 Judgment of 27 February 2018, Case 266/16 Western Sahara Campaign, para 46.

26 Opinion of the Court 2/13, para 183 and cited settled case law.

27 Opinion of the Court 1/00, para 13 and cited settled case law.

28 Opinion of the Court 2/13, para 246.

considerable way to the protection of investors from third States in an appropriate way. Legal certainty is crucial for investment, and only if the European Union can protect both its investors and those who intend to invest on its territory can the European Union remain a global economic actor.

The legal system of the third state cannot be considered fundamental in deciding whether or not the creation of a mechanism for the settlement of disputes is justified. The rationale for this relies on the inexistence of provisions of EU Treaties affirming that this should be considered as a crucial element. The purpose of these clauses that established a mechanism to resolve disputes is that they can be incorporated into any agreement, including those in which not all parties enjoy the same systems of legal certainty.<sup>29</sup> The Advocate General does not believe that these mechanisms would be contrary to the judicial system of the Union or its Member States, since “by introducing such a mechanism in its bilateral investment relations, the Union is seeking to respond to a call for neutrality and specialization in investor-state dispute settlement which, it should be noted, will also benefit European investors when they operate in a third State”.<sup>30</sup>

### 3.3. INTERNATIONAL AGREEMENTS AND EU LAW

The Union has its own legal personality as proclaimed in Article 47 TEU, which enables it to enter into international commitments, demonstrating its nature as an actor in the international community, in which it can be given both rights and obligations after assuming commitments under international law. International agreements will therefore bind both the institutions and the Member States.<sup>31</sup> However, due to the political and legal nature of international relations, the jurisdiction of the Court of Justice of the European Union is certainly limited in this respect.<sup>32</sup>

The relationship between international law and EU law must be studied as a peculiar one, since some factors are unique or are hardly present in other international organizations. As Ziegler indicates, the Court of Justice of the European Union has a constitutional rapprochement, very similar to that between public international law and national legal systems. Furthermore, because the Union itself is an international organization, the Union’s interpretation of international law will have an impact on the relationship of its Member States with this branch of law.<sup>33</sup>

As Sarmiento Ramírez-Escudero affirms, Article 218.11 TFEU states, even if only

29 Opinion 1/17, para 86.

30 Sarmiento Ramírez-Escudero, *El Derecho de la Unión Europea*, p. 238

31 Article 216 (2) TFEU.

32 Craig and De Búrca, *EU Law, text, cases and materials* Sixth Edition, Oxford, 2015. p.355.

33 Ziegler, K.S. (2016). *The relationship between EU law and international law. A Companion to European Union Law and International Law*, p. 42-61.



tacitly, that international agreements shall have a certain status in the European hierarchy of norms.<sup>34</sup> This conclusion is possible, since from this article it announces the power to request the Court of Justice for an opinion “on the compatibility with the Treaties of any agreement envisaged”, following that “in the event of a negative opinion from the Court of Justice, the agreement envisaged may not enter into force, unless it is amended or the Treaties are revised”. Moreover, the Court of Justice is required to examine the validity of an act of the Union in the light of the rules of international law, since any discrepancy between the act and that legal system could render the former invalid.<sup>35</sup>

In the case of *International Fruit and Others*, the Court of Justice clearly defined the conditions under which, in cases where a Community act does not comply with international law, the act of the European institutions must be declared invalid. For an act of the Union to be invalid because of a discrepancy with a provision of international law, that provision must also be binding on the ‘Community’. The eighth paragraph also states that such invalidity must be capable of giving individuals the right to invoke it before the courts. This paragraph may result in equating direct effect with review of the legality of Union acts, although in the *Nakajima* case the Court of Justice did make the distinction between these two issues.<sup>36</sup>

### 3.3.1. THE PROVISIONS OF THE WTO AND THE EU

The binding nature of the agreements concluded by the Union has already been appreciated, but it is still worth asking what its value within the legal system is.

Various positions have been taken on this issue. Some consider that, since they are international agreements, they should only be binding on those who have signed them, without being automatically applicable. Another position considers that since they are part of EU law, because of the fact that they have been signed by the Union, they have direct effect and could be invoked by citizens. The immediate applicability of the provisions of an international agreement signed by the European Union has been considered in the literature to be lacking in political and strategic issues, where the criteria followed in *Van Genden Loos* are insufficient.<sup>37</sup>

The WTO is an international organization of which the Member States of the European Union and the European Union itself are members. The Member States are therefore represented at the WTO in two ways.

As this essay is trying to demonstrate, international agreements have always been

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34 Sarmiento Ramírez-Escudero. *El Derecho de la Unión Europea*, p. 238.

35 Judgment of 12 December 1972, Cases C-21-24/72 *International Fruit Company and others*, para 6.

36 Judgment of 7 May 1991, Case- 69/89 *Nakajima v Council*, paras 28 y 29.

37 Craig, and De Búrca. “EU Law, Text, Cases and Materials” Sixth Edition, Oxford, 2015.p.362.

a subject of study in Union law, which leads inexorably to the fact that the relations between the European Union and the acts issued by other international organizations must be analyzed.

### 3.3.2. CASES 21-24/72 INTERNATIONAL FRUIT COMPANY

The origins of the WTO are found in the General Agreement on Tariffs and Trade, the provisions of which have been referred to the Court of Justice on several occasions in the form of preliminary rulings, one of the best known cases being the above-mentioned C-21-24/72 International Fruit Company. In this case, it is stated that the then-European Economic Community was involved as an interlocutor in the tariff negotiations and as part of the agreements of all kinds, and that the Community has assumed powers previously exercised by the Member States. Furthermore, it must be borne in mind that the provisions of the GATT, as an international agreement signed by the European Union and its Member States, are binding on the European Union as expressed in the case law. That is why the Court of Justice has declared that, “in order to assess the scope of the GATT in the Community legal order, must specify the spirit, the system and the letter of the General Agreement”.<sup>38</sup>

Nonetheless, in the present case, following a detailed examination of the provisions relating to the GATT, the Court considered that the citizens are not entitled to refer certain matters to the Court because of the great flexibility of its provisions. The ultimate aim of this consideration, as stated in its preamble, is respect for the principle of negotiations undertaken “on the basis of reciprocity and mutual advantage”, more specifically those relating to derogations in situations of force majeure and the resolution of disputes between the parties to that Agreement.<sup>39</sup> It therefore follows that the agreements signed by the Union, whose provisions are extensive, will hardly give the citizens of the Member States the opportunity, precisely and unconditionally, to go to court to challenge the legality of the EU acts.<sup>40</sup>

In addition to its ruling in *International Fruit and Others*, the Court of Justice has held in *Germany v Council* that it is for the Court of Justice to review the legality of Union acts in relation to GATT rules only if the Union has sought to comply with an obligation under the GATT or if one of its acts expressly refers to specific provisions of the GATT.<sup>41</sup> As will be discussed in subsequent cases, the Court of Justice has gone so far as to make it clear that, in principle, the World Trade Organization agreements are not to be understood as falling within the rules in respect of which

38 Judgment of 5 October 1994, Case C-280/93 *Germany v Commission*, para 105.

39 Judgment of 12 December 1972, Cases C-21-24/72 *International Fruit Company and others*, para 21.

40 Judgment of 5 October 1994, Case C-280/93 *Germany v Council*, para 112 and judgment of 1 March 2005, Case C-377/02 *Van Parys* para 39.

41 Judgment of 5 October 1994, Case C-280/93 *Germany v Council*, para 111

the Court of Justice reviews the legality of acts of the European institutions.<sup>42</sup> The Nakajima principle cannot be granted, i.e. it does not have direct effect nor do citizens have the right to invoke it before the Court of Justice to have it examined for compatibility with EU Law.<sup>43</sup>

### 3.3.3. CASE 351/04 IKEA

In Ikea, the dominant role of the European institutions in taking trade defense measures is emphasized, where they have a wide discretion due to the complexity of the economic, political and legal situations to be examined. This allows them to calculate the dumping margin, as well as the assessment of the existence of damage, with judicial activity being limited to “ascertaining whether the rules of procedure have been complied with, whether the facts taken into consideration in making the choice in question are materially correct, whether there has been a manifest error in the assessment of those facts or whether there has been no misuse of powers”.<sup>44</sup>

For those reasons, it could be considered that the Court of Justice has the power, as regards anti-dumping, only to investigate whether the institutions have complied with the procedural rules, that is to say, whether they have complied with the ‘administrative procedures’ which the European Union has imposed on them in its legal order. Thus, the Court must examine whether the determination of the constructed value for the product causes injury, understood as economic injury to the EU industry. This ruling is extremely relevant, since, in the end, it accepts a wide margin of action for the European institutions when implementing the WTO agreements.

The reasoning in this case may be subject to different positions, all of which are based on law. Possibly the most correct is that which maintains that, since the signing of international agreements is a decision of strictly political content, although it must be made respecting both the channels and the competences set out in the Treaties, it should not be controlled jurisdictionally as such. This view implies that although the international agreements signed by the European Union must be subject to judicial control, since it is a community of law, the political decision to negotiate or even sign them must be beyond judicial control, unless it interferes with the competences of the Member States.

### 3.3.4. CASE 149/96 PORTUGAL V COUNCIL

In the present case Portugal invoked the violation of certain WTO rules and princi-

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42 Judgment of 23 November 1999, Case C-149/96 Portugal v Council, para 47.

43 Judgment of 1 March 2005, Case C-377/02 Van Parysparas 40 and 41.

44 Judgment of 27 September 2007, Case C-351/04, Ikea para 40; judgment of 4 October 1983, Case C-191/82 Fediel, para 26 and judgment of 7 May 1987, Case C-255/84, Nachi Fujikoshi, para 21.

ples as well as fundamental rules and principles of the European Union. The Court referred to *Kupferberg*, where it held that although the European institutions can decide when concluding an agreement what effects it will have in their Member States, when they do not make any provision in this respect, both the courts of the Member States and the Court of Justice itself can settle disputes arising from the agreements.<sup>45</sup>

Thus, the Portuguese Government considered that the WTO agreements contained significant differences from the provisions of the GATT of 1947, but the Court considered that the system resulting from those agreements reserved a large role for negotiation by the parties.<sup>46</sup> It considered that if State courts were required to refrain from applying domestic legal rules that were incompatible with those agreements, those same States would be deprived of the possibility of obtaining the effects that they had hoped to obtain in the negotiations of those agreements.<sup>47</sup> Moreover, the successor to the GATT continues to be guided by the principle that negotiations will be guided by the search for reciprocity and mutual advantage, as required by the GATT of 1947. Reciprocity is not altered when the courts of one of the parties decide that some of its provisions are directly applicable while the courts of another of the contracting parties do not consider it to be so.<sup>48</sup> This is why a clear distinction must be made between the agreements reached in the WTO and those that can be obtained from negotiations between the Union and third countries, where, as in any type of agreement or contract, international or otherwise, asymmetries can be established.<sup>49</sup>

It is precisely in that regard that the Court made its most novel ruling in paragraph 45, stating that,

“However, the lack of reciprocity in that regard on the part of the Community’s trading partners, in relation to the WTO agreements which are based on ‘reciprocal and mutually advantageous arrangements’ and which must ipso facto be distinguished from agreements concluded by the Community, referred to in paragraph 42 of the present judgment, may lead to disuniform application of the WTO rules”. As we commented in the *Ikea*, the bodies of the European institutions have broad powers to regulate certain aspects in the application of the WTO agreements, and if the Community judge were to have the power to harmonize the rules of those agreements with the rules of the European legal system, it would be tantamount to taking away those broad powers from the Community’s executive and legislative bodies.<sup>50</sup>

45 Judgment of 26 October 1982, Case C-104/81 *Kuperberg*, para 17.

46 Judgment of 23 November 1999, Case C-149/96 *Portugal v Council*, para 36.

47 Judgment of 23 November 1999, Case C-149/96 *Portugal v Council*, para 40.

48 Judgment of 23 November 1999, Case C-149/96 *Portugal v Council*, para 44.

49 Judgment of 23 November 1999, Case C-149/96 *Portugal v Council*, para 42.

50 Judgment of 23 November 1999, Case C-149/96 *Portugal v Council*, para 47.

### 3.3.5. C-457/18 SLOVENIA V CROATIA

In one of the latest cases before the CJEU concerning arbitration agreements, the European Court dealt with a dispute between Slovenia and Croatia regarding the determination of the common border between the two Member States.<sup>51</sup> Since the merits of the case do not rely on legal instruments to which the EU is a Party, nor the establishment of borders between member states is a competence of the Union, the Court found it had no jurisdiction over the matter, calling upon both Parties to solve the dispute through arbitration as was initially foreseen.

As a matter of fact, the dispute had already been solved before its referral to the CJEU, with an existing arbitral award, which has not been recognized by the Republic of Croatia.<sup>52</sup> As exposed in the judgment, “the arbitration award was made by an international tribunal established under a bilateral arbitration agreement governed by international law, the subject matter of which does not fall within the areas of EU competence referred to in Articles 3 to 6 TFEU and to which the European Union is not a party”<sup>53</sup>, in contrast to the WTO Treaties, to which the European Union is a Party.

### 3.4. ARTICLE 267 OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION

This article allows national courts or tribunals of a Member State to submit preliminary rulings to the Court of Justice of the European Union. Following Article 31 of the Vienna Convention on the Law of Treaties (VCLT), a treaty shall be interpreted in good faith following its ordinary meaning, therefore arbitral tribunals are not authorized to submit references for preliminary rulings to the Court. However, two recent preliminary rulings of the Court of Justice of the European Union have recognized certain arbitral tribunals as ‘court[s] or tribunal[s] of a Member State’.

It is settled case-law that, “in order to determine whether a body making a reference is a court or tribunal for the purposes of Article 267 TFEU, [...] the Court takes account of a number of factors, such as whether the body is established by law, whether it is permanent, whether its jurisdiction is compulsory, whether its procedure is adversarial, whether it applies rules of law and whether it is independent”.<sup>54</sup>

Arbitral tribunals cannot be directly considered as a “tribunal of a Member State”, therefore those tribunals are not allowed in the terms of Article 267 of the TFEU to submit preliminary rulings to the Court. Nevertheless, investment tribunals do

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51 Judgment of 31 January 2020, Case C-457/18Slovenia v Croatia.

52 Judgment of 31 January 2020, Case C-457/18Slovenia v Croatia, para 101.

53 Judgment of 31 January 2020, Case C-457/18Slovenia v Croatia, para 102.

54 Judgment of 31 January 2013, Case C-394/11 , Belov, para 38.

satisfy all the requirements established by case law, as stated in the Merck Canada and Ascendi case, in which the Court interpreted the specifications of permanence and obligatory jurisdiction broadly.<sup>55</sup>

Even though this is not applicable to the arbitration arrangement that has been established between the EU and other WTO Members, it is revealing how the EU is far from completely abandoning arbitral tribunals but evolving its relationship with them.

#### IV. CONCLUSIONS

Following the case law presented and the potential issues that could arise from the interim arbitration arrangement, it can be stated that such agreement has, at least, the potential to abide by the already existing rules of both the WTO and the EU.

On one hand, the WTO Dispute Settlement Body allows for arbitration, regardless of its legal basis being Article 25.1 or simply 1.1 of the DSU. However, the lack of existing case law on Article 25.1 and the lack of a clear interpretation of the exclusivity and compulsoriness of the DSB's jurisdiction is still a risk for both the EU and other WTO Members. Furthermore, from a practical perspective, the voluntary nature of the interim agreement will not solve the refusal of the U.S. to solve its multilateral trade disputes in accordance with WTO procedural requirements.

On the other hand, the possibility for the EU to conclude international agreements and the recognition of the CJEU of the possibility to be bound by the decisions of a court or tribunal established or designated by such agreements broadly addresses the issue of compliance of the interim agreement with EU law. However, the case law of the CJEU is constantly changing so as to adapt to a multilateral trade environment. In order to remain a global economic actor, especially in the heart of the WTO, the European Union must be especially careful, for its part, to negotiate the agreement in a way absolutely in line with its internal requirements.

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<sup>55</sup> Judgment of 12 June 2014, Case C-377/13 Ascendi, para 24.

# Security

## 4. 1. Exposed Outpost Russian Threats to Baltic Security and Transatlantic Responses

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### INTRODUCTION

Tucked in a corner of northeast Europe, the Baltic states of Estonia, Latvia, and Lithuania do not, on first glance, seem like critical linchpins of European security. With only four percent of the total EU land area and a population of only 6 million among the three of them<sup>1</sup>, to an outsider, they might appear as just a few of Europe's many nations.

However, over the span of just 13 years, these nations transitioned from forming a part of the Soviet Union to full-fledged members of both the EU and NATO in 2004. Today, Estonia has the most number of startups per capita in the world, Latvia is ambitious to recapitulate its success in 2000s, when it was the fastest growing economy in the EU, and Vilnius, the capital of Lithuania, is the second largest FinTech hub in the EU.<sup>2</sup>

Even though the economic picture in these three Eurozone members has been rosy – and the Baltic Tigers' remarkable progress in living standards is often envied by other former Soviet dominions that are not part of the EU - the region is cripplingly haunted by serious security threats. And the heavy military activity in the region, which was successfully demilitarized after the fall of the Iron Curtain,

1 "Baltic states | History, Map, People, Languages, & Facts ...." 27 Mar. 2020, <https://www.britannica.com/place/Baltic-states>.

2 "Why Have the Baltic Tigers Been So Successful?." <https://ideas.repec.org/a/ces/ifofo/v16y-2016i04p03-08.html>.

is not an omen of an easy future.

The annexation of Crimea by Russia and the ongoing conflict in eastern Ukraine has undoubtedly raised fears around the Baltic Sea. The prospects of a military incursion to sovereign Baltic-Nordic countries by a resurgent Russia warranted enough of caution even in neutral Sweden and Finland to sign bilateral defense cooperation agreements with the US in 2016.<sup>3</sup>

Time proved these concerns substantial as Russia engaged in various violations of the Baltic and Nordic air- and maritime-space while beefing up military presence along its Western border and in its Baltic exclave, Kaliningrad, at unprecedented levels.<sup>4</sup> This steady arms build-up is partly matched by the Enhanced Forward Presence (EFP), which is NATO's largest continual military deployment in continental Europe since the dissolution of Yugoslavia, operating four battalion battle groups stationed in Estonia, Latvia, Lithuania and Poland (Figure 1).<sup>5</sup> Worryingly, this mutual rearming seems unlikely to end soon.

With its unique history and proximity to Russia, the Baltics is the EU's imminent litmus test for security and conflict-preparedness. The purpose of this article is, therefore, to examine the full breadth of the potential Russian threat to Baltic security and its implications for NATO and the EU: what roles do and can these organizations play together and separately.

The paper will begin by looking at the security situation from the lens of a conventional war, thereafter, turning to other potential means of Russian activity, namely hybrid warfare and soft power. Lessons from Ukraine will be analyzed to the extent that they can be applied to the Baltic states. Finally, the article will examine the role that the EU can and should serve in conjunction with NATO.

We hope that this granular level discussion serves to bolster the overarching context of the issue at hand: how Europe should reconfigure the way it handles its military needs as a union of regional security disparities, and what would that imply for the EU's global power projection and transatlantic partnerships.

Figure 1: EFP is NATO's biggest reinforcement in decades, which stationed battle-groups from 23 of the 30 NATO member countries in 4 Baltic states as part of the collective defense article of the Alliance

3 "Chilly winds across northern Europe." [https://www.iss.europa.eu/sites/default/files/EUISSFiles/Brief\\_34\\_Baltic.pdf](https://www.iss.europa.eu/sites/default/files/EUISSFiles/Brief_34_Baltic.pdf).

4 "Russia Deploys Tanks to Kaliningrad Exclave | Warsaw Institute." 28 Jan. 2019, <https://warsawinstitute.org/russia-deploys-tanks-kaliningrad-exclave/>.

5 "North Atlantic Treaty Organization - NATO." [https://www.nato.int/nato\\_static\\_fl2014/assets/pdf/pdf\\_2019\\_04/20190402\\_1904-factsheet\\_efp\\_en.pdf](https://www.nato.int/nato_static_fl2014/assets/pdf/pdf_2019_04/20190402_1904-factsheet_efp_en.pdf).





Figure 1: EPP is NATO’s biggest reinforcement in decades, which stationed battle-groups from 23 of the 30 NATO member countries in 4 Baltic states as part of the collective defense article of the Alliance.<sup>6</sup>

## I. THE CONVENTIONAL WAR: THE IN-CASE SCENARIO

In the age of nuclear deterrence, possibilities of an on the ground war among superpowers might seem miniscule. However, the fictional what-if scenario of a conventional war in the Baltics is not a paranoia gone astray either. The long-simmering non-military conflicts that are economic, sociocultural or geopolitical in nature eventually, and even reluctantly, might necessitate military involvement in the Baltics.

Even though military confrontations in the Baltic are not very likely to be at the scale of a full-blown conventional war, it is impossible to rule out the possibility that Russia, USA or the EU might have to employ some essential capabilities of conventional warfare to start, prevent or end conflicts in the region.

From a practical perspective, too, a global nuclear standoff is not highly probable to emerge out of a sudden regional conflict – it would be the last resort. Then, why not deterrence should encompass increased conventional warfare readiness? Under certain circumstances, it might make much more pragmatic sense to focus on conventional preparedness, not nuclear, to prevent regional conflicts growing in scale. This section is hence intended to instill a sense of proactive calm by exploring the relevance, and the immediacy, of conventional deterrence to the case of the Baltic.

<sup>6</sup> “Allied Land Command - Home.” [https://www.nato.int/cps/en/natohq/topics\\_136388.htm](https://www.nato.int/cps/en/natohq/topics_136388.htm).

To judge the case for a coordinated, enhanced conventional deterrence mechanism in the Baltic, we have to estimate how likely the pending and potential threat is and would be. This can be informed by the current disequilibrium in conventional capabilities. Therefore, we will begin with a look at the capabilities of both sides in the informative but unlikely event of a fully committed conventional war, and the strategy in which both sides are likely to use them.

### 1.1. RUSSIAN MILITARY STRATEGY AND CAPABILITIES: THE REALITY

Russia's emphasis on both its own power and its regional preeminence creates a distinct military doctrine and strategic approach that is important to understand. This is defined by the idea of simultaneously countering the massed forces of NATO while retaining the simultaneous capacity to engage in local military actions.

The Russian Federation's relatively new central military doctrine clearly lays the foundation for this national military strategy. Two main points emphasize the re-defined strategic focus of Russia. First, throughout the document, Russia's "great power" status is stressed, including the global responsibilities of such a power. The implicit challenge is to the United States, the European Union, and even perhaps China. Russia is confident in its capacity to act as a superpower in all realms, including military.<sup>7</sup>

While, previously, Russia did not overtly declare its equivalence to such powers, there seems now to be no impediment to the assumption of a greater global role, especially after the non-conclusive response to Russian military muscle flexing in Ukraine. Its current military involvement in the proxy Syrian war also manifests Russia as an increasingly active, and aggressive, regional military power in pursuit of global projection.

Second, and more concerningly, the doctrine expresses a strong commitment to retaining a preeminent military influence in former Soviet republics. Russian intervention in Crimea and Eastern Ukraine has illustrated the application of this theory, with Russian forces engaging in a variety of operations aimed at securing Russian influence. Recent activities such as the 2017 ZAPAD exercises with Belarus also concretizes this strong Russian tendency towards military projection into the former Soviet dominions.<sup>8</sup>

These two main points, engaging as a superpower and maintaining authority over neighbors, unsurprisingly lead to the practical capacities stressed by the military

7 "The Military Doctrine of the Russian Federation – Theatrum ...." <https://theatrum-belli.com/the-military-doctrine-of-the-russian-federation/>.

8 "ZAPAD 2017 and Euro-Atlantic security - NATO Review." 14 Dec. 2017, <https://www.nato.int/docu/review/articles/2017/12/14/zapad-2017-and-euro-atlantic-security/index.html>.

itself. For example, one stated capacity is the ability to fight two “local wars” while simultaneously defeating and countering aerial aggression, which is by default expected to originate from Western nations.<sup>9</sup> Therefore, it is not purely theoretical to imagine this exact scenario occurring in the Baltic states, with Russian ground forces securing various objectives while NATO air attacks are deflected.

In order to accomplish these goals, the Russian military has undergone a comprehensive reform and a phase of restructuring.<sup>10</sup> The overall aim of this restructuring has been to create a modern, well-trained military able to facilitate the accomplishment of Russia’s diverse foreign policy goals. While the majority of troops are not as well-trained or equipped, the demonstrated capabilities of those completely modernized units are representative of the military that Russia is rapidly creating. Speed of deployment and the countering of local enemies are prioritized with the overall goal of regional superiority at points of conflict.

As such, the aim of the Russian military is not to match the NATO and EU man-for-man or tank-for-tank, but rather to create a force able to carry out various objectives with sufficient speed and precision so as to render the West’s numerical and technological advantages effectively null. This is called the asymmetry doctrine. The inherent operating assumption of Russian military policy, therefore, acknowledges that opposing forces will be considerably superior (as in the case of engaging with NATO).<sup>11</sup>

The doctrine addresses this deficiency in one-to-one military capabilities either through the rapid action or through cyber, electronic, and hybrid warfare techniques. For example, the alleged uses of non-military personnel (as, to an extent, in Crimea) provide a new role that avoids the necessity of direct confrontation with other “great powers,” despite the military-might rhetoric supporting such potential conflict.

However, military posturing, a remnant of the Cold War, remains a key facet of military strategy. While statements about nuclear weapons and tank divisions may be brushed off by Western observers, to Russian commanders such rhetoric represents a key assertion of global power and a restoration of military prestige.<sup>12</sup>

Russia’s military might not seem yet to be fully ready to execute the myriad missions proposed for it by the aggressive foreign policy of the strongman Vladimir

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9 “Mission and Objectives of the Russian Armed Forces.” <http://eng.mil.ru/en/mission/tasks.htm>.

10 “Russia’s ‘New’ Tools for Confronting the West: Continuity ...” <https://www.chathamhouse.org/publication/russias-new-tools-confronting-west>.

11 “The Gerasimov Doctrine - POLITICO Magazine.” <https://www.politico.com/magazine/story/2017/09/05/gerasimov-doctrine-russia-foreign-policy-215538>.

12 “THE FUTURE RUSSIAN MILITARY - RAND Corporation.” p.7-17 [https://www.rand.org/content/dam/rand/pubs/research\\_reports/RR3000/RR3099/RAND\\_RR3099.pdf](https://www.rand.org/content/dam/rand/pubs/research_reports/RR3000/RR3099/RAND_RR3099.pdf).

Putin and his government. However, the steps taken towards this readiness and the operational capabilities displayed thus far reveal a more modern military with a clear strategic purpose that should raise some alarm bells, especially in the Baltics.

In this context, Russia's military is structured into regional divisions, with the Western Military District encompassing the Baltic area. This District comprises the most powerful Russian regional formation, with three armies, two fleets, and numerous additional ground and air assets within the area. The accumulation of troops in the region, coupled with the elite status of many of the formations, make the Western Military District a prime staging ground for large-scale conventional military operations against nearly any foe.<sup>13</sup>

Not only is the area strong in military resources, but the strategic environment in the Baltic is also highly conducive to Russian interests. This is partly why Russia has increased its conventional military capabilities around the Baltic states, on top of countering NATO's preeminence. Belarus is closely allied with Russia and would likely present very little, if any, opposition to a potential Russian offensive action. In fact, some areas within Belarus may be used as staging grounds for such actions. Furthermore, the exclave of Kaliningrad enhances Russia's offensive and defensive capabilities in the region.<sup>14</sup>

Kaliningrad has recently been home to ostentatious displays of military power, but beyond this rhetorical position it occupies a key role in Russian military strategy. Precision strike systems, including nuclear-capable Iskander-M missiles, make Kaliningrad a bastion with the ability to strike capitals and key points across the Baltic Region.<sup>15</sup> The presence of the Baltic Fleet, substantial air defense resources, and an army corps in the enclave also create defensive and offensive value for Russia. This fleet has received two KALIBR-equipped vessels, enabling greater offensive capacity while helping protect supply lines between St. Petersburg (Western Military District HQ) and Kaliningrad's naval, army, and air bases.<sup>16</sup>

The exclave is also designated an anti-access/area denial (A<sub>2</sub>/AD) zone. This means that the area is designed to counter and prevent aerial assaults while striking back with its own cruise missiles. Electronic warfare, integrated air defense systems, strategic air operations, and precision strike capabilities all contribute to

13 "Russia's Western Military District, Northern Fleet on ...." <https://tass.com/russia/782905>.

14 "Putin expects Belarus to boycott ports of Baltic States ...." <https://belarusdigest.com/story/putin-wants-belarus-to-boycott-baltic-states-ports/>.

15 "Russia deploys Iskander nuclear-capable missiles to ...." <https://www.reuters.com/article/us-russia-nato-missiles/russia-deploys-iskander-nuclear-capable-missiles-to-kaliningrad-ria-idUSKBN1FP21Y>.

16 "Russia Military Power: Building a Military to Support ...." 13 Jul. 2017, p.68 <http://swemgovdocs.blogs.wm.edu/2017/07/13/russia-military-power-building-military-support-great-power-aspirations/>.

this mission. This is particularly worrisome for the Baltic states, whose only hope of resisting a Russian intrusion and/or invasion would be the prompt and decisive intervention by NATO and EU forces (Figure 2). With Kaliningrad executing precision strikes and clearing the skies and the armies of the Western Military District rushing into the region, NATO and the EU would be hard-pressed to effectively counter Russian aggression in the Baltic, much less protect the Baltic states and prevent the region from falling in the first place.<sup>17 18</sup>

To put all this into play, the ZAPAD 2017 exercises present a useful and consequential case study of the Russian military approach in the Baltic region. These exercises simulated asymmetric and conventional strategies for dealing with a small (but likely NATO-integrated) enemy in the Baltic region.<sup>19</sup> As such, they were both an extension of the regional focus employed by Russia in other parts of Eastern Europe and a fulfillment of the broad idea of “great power confrontation.” In the exercises, Russia, with the help of Belarusian forces, used a limited number of troops to complete a conventional attack against a strong but relatively small theoretical enemy. Kaliningrad functioned as an A2/AD area, eliminating potential aerial threats and engaging in offensive electronic and information warfare capacities.<sup>20</sup>

These exercises, therefore, demonstrate several key points that should guide the assessment of the security environment in the Baltic:

- i) Russia has the capacity to effectively accomplish a regional objective with modern, advanced conventional military forces.
- ii) Belarus and Kaliningrad present strong strategic advantages for Russia in the Baltic region and can be used in a variety of ways to secure Russian military goals.
- iii) NATO must be prepared to decisively counter such aggression in a manner that goes beyond simple brigade-level deployments (as later will be discussed).

ZAPAD 2017 showed that Russia’s military is nearly ready to fulfil its newly defined mission. The Baltic states, irrespective of current NATO or EU support, has a reason to be worried about the conventional military menace modern Russia poses to their region.

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17 “Russian A2/AD capability overrated - FOI.” 04 Mar. 2019, <https://www.foi.se/en/foi/news-and-pressroom/news/2019-03-04-russian-a2-ad-capability-overrated.html>.

18 “Defence industries in Russia and China - EUISS Homepage.” p.30-38 [https://www.iss.europa.eu/sites/default/files/EUISSFiles/Report\\_38\\_Defence-industries-in-Russia-and-China.pdf](https://www.iss.europa.eu/sites/default/files/EUISSFiles/Report_38_Defence-industries-in-Russia-and-China.pdf).

19 “Five Things to Know About the Zapad-2017 Military Exercise ....” <https://www.chathamhouse.org/expert/comment/five-things-know-about-zapad-2017-military-exercise>.

20 “(PDF) David vs. Goliath: Kaliningrad Oblast as Russia’s A2 ....” [https://www.researchgate.net/publication/335311902\\_David\\_vs\\_Goliath\\_Kaliningrad\\_Oblast\\_as\\_Russia's\\_A2AD\\_'Bubble'](https://www.researchgate.net/publication/335311902_David_vs_Goliath_Kaliningrad_Oblast_as_Russia's_A2AD_'Bubble').

## S-400 land-based air-defense missiles

Range: 250 miles

● NATO member ○ Missile range



Source: Washington Post research

CHRIS ALCANTARA/THE WASHINGTON POST

Figure 2: The reach of the state-of-art air defense system Russia has deployed in Kaliningrad.<sup>21</sup>

### 1.2. NATO FOR THE BALTICS, AND LIMITED OPTIONS

There has been recent questioning of NATO's taken-for-granted role in Eurasia. The incumbent US president Donald Trump challenged if NATO was obsolete given the end of the Cold War - until he later reminded himself of the anti-terrorism and nuclear deterrence roles the alliance came to play in the twenty first century.<sup>22</sup> However, the isolationist attitude of the US further catalyzed the European leaders to speed up their work on Common Security and Defense Policy (CSDP), the European quasi-alternative to NATO, or the seeds of what would-be the European Army, that is yet at its infancy.<sup>23</sup>

This divergence of the international consensus on NATO was, in fact, triggered

21 "These maps show how Russia has Europe spooked - The ..." 23 Nov. 2016, <https://www.washingtonpost.com/news/worldviews/wp/2016/11/23/these-maps-show-how-russia-has-europe-spooked/>.

22 "Trump says Nato 'no longer obsolete' - BBC News." 12 Apr. 2017, <https://www.bbc.com/news/world-us-canada-39585029>.

23 "Europe Ups The Ante On Defense - Forbes." 15 Jan. 2020, <https://www.forbes.com/sites/jason-wiseman/2020/01/15/europe-ups-the-ante-on-defence/>.

long before the arrival of Trump administration. Not all joint NATO-EU members agreed with the US and NATO's approach to critical security questions like those raised by the wars in Afghanistan, Iraq and Syria in the past. These schisms about the collective defense dictum of NATO, and its American-centric legitimacy, had been growing when the conflicts in Ukraine and Crimea started.<sup>24</sup>

The pending questions about the obsolescence or never-arriving fundamental restructuring of NATO's rhetoric perhaps caused more harm than benefit to the security of the Baltics. It is because the asymmetric nature of regional security threats within the EU, and hence the need for NATO capabilities, was eclipsed by the heavily politicized discussions of the wavering spirit of transatlantic military cooperation. It didn't pay due attention to the fact that in the absence of an equally strong, and unconditional, European protection, NATO has not been a choice, but a necessity for the Baltic states.

While the rest of EU and the US are questioning the status quo about NATO, or the joint future that lies ahead of them, the Baltics is a region that has been increasingly more in need of NATO. For better or worse, this highlights the regional nature of the issue at hand: the trilemma of Russia, EU, NATO that is pushing the Baltic states into a state of a rather obligatory polycentricism:

-Due to their energy dependence on Russia and cultural connections of their Russian minorities, Baltic states cannot totally alienate Russia nor prevent its minimal influence.

-The same EU that helped create a new Baltic Dream for these three nations with the economic opportunities it presented, however, is also, to a degree, leaving them more vulnerable due both to the Brussels' self-absorbed policies that put external affairs at the backburner, and the union's franco-german-dominated agenda that does not extend wished-for protection and coverage to members in the periphery.

The concept of polycentricism has been mostly discussed in the context of Western Balkans, where decades-long international isolation acted as a breeding ground of Russian, Chinese, American, Turkish and European influence in the region.<sup>25</sup> It is no surprise that Montenegro and the Republic of North Macedonia viewed their much-celebrated NATO memberships in 2017 and 2020, respectively, as the portal of entry to the world (geo)politics.<sup>26</sup> For them, engaging with NATO first and foremost was an opportune tool to shape their external politics – and less about gaining immediate conventional deterrence capabilities.

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24 "THE EU AND NATO." p. 5-13 <https://www.iss.europa.eu/sites/default/files/EUISSFiles/EU%20and%20NATO.pdf>.

25 "THE EASTERN PARTNERSHIP A DECADE ON." p.7-28 [https://www.iss.europa.eu/sites/default/files/EUISSFiles/cp153\\_EaP.pdf](https://www.iss.europa.eu/sites/default/files/EUISSFiles/cp153_EaP.pdf).

26 "NATO - Topic: Enlargement." [https://www.nato.int/cps/ru/natolive/topics\\_49212.htm](https://www.nato.int/cps/ru/natolive/topics_49212.htm).

In contrast, in the case of the Baltics, the need for NATO stems from an inherently domestic dynamic, namely the dangerous blend of an endogenous conventional threat and the shortcomings of European politics averting Russia's economic, and hence political, soft power on the region's internal affairs. Despite the different dynamics in the Baltics and Balkans, NATO is still of relevance to the convergent, polycentric needs of these two regions – however outdated it might seem otherwise in other parts of Europe.

It might appear that the EU is trying to be more independent of the US in external affairs, and the US domestic policy is trying to be more independent of the cold-war rhetoric of NATO, but the Baltics, as well as Western Balkans, need these three agents working together in some capacity to create themselves a formula of versatility. For now, NATO thus seems like to be the most obvious practical answer that is accessible to the Baltics.

### 1.3. OVERALL NATO MILITARY CAPACITY

Since the end of the Cold War, NATO's focus has gradually shifted from countering massive conventional aggression to taking part in low-intensity and diverse operations around the globe.<sup>27</sup> However, the inclusion of the Baltic States, all former territories of the USSR and all comprised of Russian ethnic minorities and all three directly bordering Russia, into the alliance and the recent Russian annexation of Crimea again raised the problem of NATO's ability to counter a Russian conventional invasion.

We will evaluate the ability of this evolving alliance to defend the Baltic States from three perspectives: overall NATO military strength in Europe, the immediate military capacity available to the Baltic States, and the ability for NATO to rapidly reinforce the Baltic States to stop the Russian invasion. As such, this analysis of the in-case scenario of a conventional warfare should be used to inform conflict prevention through preparedness, not hostility.

NATO has drastically reduced in size since the Cold War. However, NATO remains undoubtedly the most powerful military alliance in the world. In comparison to Russia, NATO enjoys advantages in armed forces (5:1), defense budget (18:1), population (6:1), and GDP (20:1).<sup>28</sup> These advantages are heightened by the

27 "NATO defies "brain death" - The Economist." <https://www.economist.com/international/2020/02/10/nato-defies-brain-death>.

28 "If Russia Started a War in the Baltics, NATO Would Lose ...." <https://foreignpolicy.com/2016/02/03/if-russia-started-a-war-in-the-baltics-nato-would-lose-quickly/>.



weakening of the Russian economy in recent years.<sup>29</sup>

With regard to airpower, the NATO enjoys an immense advantage in terms of both quality and quantity. Its leading member, the United States, possesses 13,762 military aircrafts, and the United Kingdom, France, Germany, Poland, Denmark, and Norway possess a total of 3,514 military aircrafts. Russia, on the other hand, possesses only 3,794, some of which are in Russia's Far East.<sup>30</sup>

Hence, it is evident that NATO enjoys a significant overall advantage over Russia, and if its primary members are willing to commit, then a protracted conventional war between the NATO and Russia over the Baltic states would likely result in a NATO victory. A full-scale conventional war, however, would prove extremely costly to both sides.

Furthermore, geographically speaking, any NATO attempt to regain the Baltic States by a counter-offensive would either have to be conducted on the Russian exclave of Kaliningrad, or their force would have to proceed through the "Suwalki Gap", a 65 miles wide corridor between Belarus and Kaliningrad that connects the Baltic States to Poland, under Russian fire.<sup>31</sup> The former could easily escalate the war even further, while the latter would imply heavy casualties.<sup>32</sup>

Therefore, in light also of the asymmetry doctrine explained earlier, it is unlikely that Russia would wage a large-scale all-out war against NATO; rather, it is most probable that in the event of an intrusion on these three geographically exposed members of NATO, Russian forces would try to rely on the speed of their operation to secure control over the Baltic States before the bulk of the NATO forces can react to it.<sup>33</sup>

However, a failure to prevent the Baltic states from falling would probably force NATO to make the choice of entering a full-scale war with Russia, if such a choice had not already been made. Therefore, NATO's strength in the Baltics is worth examining.

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29 "Does Russia have the financial means for its military ...." 21 Oct. 2016, <https://www.nato.int/docu/review/articles/2016/10/21/does-russia-have-the-financial-means-for-its-military-ambitions/index.html>.

30 "Aircraft Strength by Country (2020) - Global Firepower." <https://www.globalfirepower.com/aircraft-total.asp>.

31 "The Suwalki Gap & Lithuanian – Polish Cooperation – Finabel." 30 Apr. 2019, <https://finabel.org/the-suwalki-gap-lithuanian-polish-cooperation/>.

32 "Meet the New Fulda Gap – Foreign Policy." 29 Sept. 2015, <https://foreignpolicy.com/2015/09/29/fulda-gap-nato-russia-putin-us-army/>.

33 "Don't Believe the Russian Hype – Foreign Policy." 07 Mar. 2019, <https://foreignpolicy.com/2019/03/07/dont-believe-the-russian-hype-a2-ad-missiles-sweden-kaliningrad-baltic-states-annexation-nato/>.

#### 1.4. THE IMMEDIATE MILITARY STRENGTH AVAILABLE TO THE BALTIC STATES TO COUNTER POSSIBLE RUSSIAN AGGRESSIONS

In stark contrast to the overall military advantage that NATO enjoys over Russia, the immediate forces available in the Baltic States are vastly inferior to the Russian forces that could be used to infringe on them.

Latvian forces comprise 1,250 troops and 3 tanks for training; Lithuanian forces comprise of 3,200 combat troops; Estonian forces comprise of 5,300 combat troops. None of the countries possess a single jet fighter between them.<sup>34</sup>

Due to the increased Russian activities in Ukraine, as part of the EPP, NATO deployed a 800 troop British-led unit to Estonia, a 1,200 troop Canadian-led unit to Latvia, and a 1,200 troop German-led unit to Lithuania, with 4,000 U.S.-led troops going to Poland in 2017.<sup>35</sup> These troops are equipped with 250 tanks (M1A2), infantry fighting vehicles (M2/M3 Bradley) and self-propelled howitzers (M1093 Paladin).<sup>36</sup>

In terms of airpower, the US Air Forces in Europe-Air Force Africa is equipped with 217 aircrafts, which could be deployed immediately to the Baltic States.<sup>37</sup> In times of need, the US would also be able to rapidly deploy further airpower to Europe from the US and other air bases around the globe.

However, even after these further deployments, the defense of the Baltic States is still inadequate to hold off a possible Russian attack, due to the lack of heavy-armored units compared to the fully armored Russian divisions in Kaliningrad and its Western borders. The Russian advantage over NATO in heavy armor, artillery and surface-to-surface missiles is significant.

In 2015, the RAND Corporation, a global policy think tank, concluded that 3, instead of 1, armored brigades would be needed to significantly slow down the Russian advances, which could reach Tallinn and Riga, the capitals of Estonia and Latvia respectively, in 36-60 hours. It also points out that the most effective way to deploy the lightly armed quick-reaction forces is to have them dug-in in the capitals of Tallinn and Riga, which would negate the Russian armored and artillery

34 "How do we protect the Baltic States? - Telegraph." 19 Feb. 2015, <https://www.telegraph.co.uk/news/worldnews/europe/russia/11423416/How-do-we-protect-the-Baltic-States.html>.

35 "The map that shows how many Nato troops are deployed along Russia's border" - The Independent." <https://www.independent.co.uk/news/world/europe/russia-nato-border-forces-map-where-are-they-positioned-a7562391.html>.

36 "Contemporary Deterrence – Insights and Lessons from EPP" 28 Jan. 2019, <https://icds.ee/contemporary-deterrence-insights-and-lessons-from-enhanced-forward-presence/>.

37 "U.S. Air Forces in Europe-Air Forces Africa > U.S. Air ...." 16 Jul. 2015, <https://www.af.mil/About-Us/Fact-Sheets/Display/Article/609838/united-states-air-force-in-europe/>.

advantage but implies heavy civilian casualties and economic damages.<sup>38</sup> Such a pessimistic view was also openly adopted by U.S. Lt-General Hodges in 2016.<sup>39</sup> Therefore, in light of these inadequate but improved NATO deployments to the Baltic States, NATO's ability to preemptively reinforce the Baltic States is vital.

### 1.5. THE ABILITY OF NATO TO REINFORCE THE BALTIC STATES

In 2014, learning from the Ukrainian Crisis that NATO forces were still too slow to react to emergencies, NATO established a Very High Readiness Joint Task Force (VJTF). It comprises 5,000 ground troops, whose leading elements can be deployed within 48 hours, with the rest being deployed within 5-7 days. The NATO Response Force (NRF) was also strengthened, increasing in number from 13,000 to 40,000 troops.<sup>40</sup> Both units are comprised of naval, land, aerial and logistics components, allowing them to quickly attain a high level of combat effectiveness.<sup>41</sup> Command and logistics structures have also been improved to support the operation of these units.

In addition, according to a research by the Center for Complex Operations under the US Department of Defense, many NATO members maintain other rapid response units (such as the EU-based British-led Joint Expeditionary Forces), which would bring the total number of quick-reaction units to approximately 50,000 troops, mainly airborne and marine infantry units.<sup>42</sup> But even so, it would still take approximately 90 days for the NATO forces to outnumber Russian forces in the Baltic States.<sup>43</sup>

However, most of these conclusions are still based on the assumption that the Russian anti-access/area-denial (A2/AD) capacity based on their missile systems in Kaliningrad could be neutralized or suppressed. Otherwise, any large-scale reinforcements, whether through airlift, by ship, or on land would be extremely dangerous. In fact, without eliminating such a threat, no effective defense could be mounted in the first place.<sup>44</sup>

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38 "Reinforcing Deterrence on NATO's Eastern Flank ... - RAND." [https://www.rand.org/pubs/research\\_reports/RR1253.html](https://www.rand.org/pubs/research_reports/RR1253.html).

39 "Nato can't protect Baltics from Russia, says US general." 23 Jun. 2016, <https://www.telegraph.co.uk/news/2016/06/23/nato-cant-protect-baltics-from-russia-says-us-general/>.

40 "Publication – Center for Security Studies | ETH Zurich." <https://css.ethz.ch/content/special-interest/gess/cis/center-for-securities-studies/en/services/digital-library/publications/publication.html/189415>.

41 "Readiness Action Plan - nato.int." <https://www.nato.int/cps/en/natohq/119353.htm>.

42 "Civil-military cooperation in response to a complex emergency", Chapter 9 [https://www.researchgate.net/publication/35878869\\_Civil-military\\_cooperation\\_in\\_response\\_to\\_a\\_complex\\_emergency\\_just\\_another\\_drill](https://www.researchgate.net/publication/35878869_Civil-military_cooperation_in_response_to_a_complex_emergency_just_another_drill).

43 "For Russia, Trump's Stance On NATO Could Be The Gift That Keeps on Giving" <https://nationalinterest.org/blog/buzz/russia-trumps-stance-nato-could-be-gift-keeps-giving-125606>.

44 "Russia's military: the weak links | European Union Institute for Security Studies" <https://www.iss.europa.eu/content/russia%E2%80%99s-military-weak-links>.

Therefore, the deployment of the majority of the reinforcements would still be too slow to significantly affect the possible Russian invasion of the Baltic States, with the exception of the leading, lightly armed units, which would easily be outgunned by Russian armor.

### 1.6. EMERGENT CONVENTIONAL DETERRENCE STRATEGY

On the whole, the key to the defense of the Baltic States is to convert the overall NATO advantage over Russia into one which is felt on the regional level, to create conventional deterrence in the Baltic States. In order to achieve that, the forces deployed in Poland and the Baltic States need to be enhanced significantly with heavy armor units.

NATO would also have to be able to quickly neutralize the Kaliningrad A2/AD ability in order to mount a successful defense and deliver reinforcements. Considering the still too slow deployment speed of quick-reaction units compared with the expected time that the Russian forces would take to seize the Baltic States, quick decision and prior intelligence would be vital for these forces to be deployed before the conflict begins.

The leaders of NATO members would also have to be resolute in countering any Russian aggression and even face the risk of resulting in high civilian casualties by defending the major cities. Only when these conditions are met, would the NATO forces really serve as a military deterrence to possible Russian aggressions on the Baltic States. To achieve all of this, before all, unanimity and clarity of purpose in transatlantic military partnership is required.

## II. HYBRID WARFARE: THE MORE LIKELY SCENARIO

Having examined the capabilities of both sides for a conventional war, it is useful to look at other, and probably more likely, means of Russian aggression that would dangerously blur the line between peace and war in the Baltics – the hybrid warfare. General Valery Gerasimov, Chief of the General Staff of the Armed Forces of Russia, who is considered to be at the helm of Russia’s hybrid war tactics, calls it a form of “modern war”.<sup>45</sup> In his own words:

“The very ‘rules of war’ have changed...The focus of applied methods of conflict has altered the direction of the broad use of political, economic, informational, humanitarian, and other non-military measures – applied in coordination with the

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45 “The ‘Gerasimov Doctrine’ and Russian Non-Linear War “ 06 Jul. 2014, <https://inmoscowshadows.wordpress.com/2014/07/06/the-gerasimov-doctrine-and-russian-non-linear-war/>.

protest potential of the population”.<sup>46</sup>

The fundamental nature of hybrid threats is predicated on the incorporation of a full range of different modes of warfare: efficient military and information campaigns. During war, these include “conventional capabilities, irregular tactics and formations, terrorist acts including indiscriminate violence and coercion, and criminal disorder”.<sup>47</sup> And in the peacetime, it might combine coercive and corrupt economic soft power with deception and disinformation campaigns to create support for potential military interference.

Even though the European circles started to incorporate the concept of hybridity into their harder security conversations only after they faced the far-reaching extent of Russian tactics in Crimea and the Donbass region of Ukraine in 2014, and later, to a lesser extent, in Western Balkans, non-state actors such as Chechen separatists or Hezbollah were long known for their effective hybrid strategies.<sup>48</sup>

Gerasimov spoke of this non-linear warfare doctrine in 2013 as a prediction of military theory, but Russia has indeed adopted it as a military practice. This mode of war has a striking resemblance to the concept of hybrid warfare Russia used in their subsequent actions in 2014 in Ukraine, giving us a valuable precedent to draw parallels to the case of the Baltics.

### **2.1. LESSONS FROM UKRAINE: EUROPE REALIZING THE NEW RUSSIAN STRATEGY**

To understand how the Russian Federation could potentially threaten the Baltic states using hybrid warfare, we must first understand its methods and previous applications, most notably in Ukraine in 2014.

In November of 2010, newly elected Ukrainian President Viktor Yanukovich withdrew from negotiations seeking stronger economic ties with the European Union. In response to this pro-Kremlin move, protests erupted in the Freedom Square of central Kiev.<sup>49</sup> After a month of violent clashes and the deaths of over 100 protesters, Yanukovich was finally ousted on the 22nd of February. Then, pro-Russian fighters stormed and occupied government buildings in the capital of Crimea within a week, a fraudulent referendum was held on March 16th, and Russian

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<sup>46</sup> “Strategy in war and peace : a critical introduction” p.37

<https://www.worldcat.org/title/strategy-in-war-and-peace-a-critical-introduction/oclc/979416931>.

<sup>47</sup> G. Hoffman, U.S. Marine Corps Reserve (Ret.), *Conflict in the 21st Century: The Rise of Hybrid Wars* (Arlington, Va.: Potomac Institute For Policy Studies, 2007), p.8.

<sup>48</sup> “EAST NEWS/SIPA Hybrid tactics: neither new nor only Russian.” [https://www.iss.europa.eu/sites/default/files/EUISSFiles/Alert\\_4\\_hybrid\\_warfare.pdf](https://www.iss.europa.eu/sites/default/files/EUISSFiles/Alert_4_hybrid_warfare.pdf).

<sup>49</sup> “EU-Ukraine relations - factsheet - European External Action Service” [https://eeas.europa.eu/headquarters/headquarters-homepage\\_en/4081/%20EU-Ukraine%20relations%20-%20factsheet](https://eeas.europa.eu/headquarters/headquarters-homepage_en/4081/%20EU-Ukraine%20relations%20-%20factsheet).

President Vladimir Putin signed a bill to formally annex Crimea to the Russian Federation two days later.<sup>50</sup>

Leading to the annexation, the Kremlin first pursued an information war in an attempt to shape the narrative and tactical framing of events. These actions included “accusations that the Maidan movement was composed of fascists, and that the post-Yanukovich government presented a direct threat to the rights of Russian compatriots living in Ukraine”.<sup>51</sup> The Kremlin’s information campaign mainly acted as a persuasion and emboldening agent on the Russian-speaking and pro-Russia groups in Ukraine.

Kiev was initially reluctant to suppress these separatists and their sympathizers, which allowed the “little green men” – Russian soldiers who wore unmarked green uniforms – to operate under the guise of separatists.<sup>52</sup> This allowed for enough delay of action by Kiev for the Russia to complete the invasion and annexation of Crimea before the Ukrainian government could create an effective response.<sup>53</sup>

The Russian government was able to effectively arm and facilitate the use of local separatists, some of which it radicalized. High-powered systems like the Buk surface-to-air missile system, which shot down Malaysia Airlines flight 17 in July of 2014, and the T-72B3 main battle tank, along with shoulder launched surface to air missiles, rocket launchers, anti-tank guided missiles and land mines was supplied to Ukrainian separatists.<sup>54</sup> Approximately 14,400 Russian troops were supporting over 29,000 separatists in the Donbas region of Ukraine, with an additional 29,000 Russian troops stationed in Crimea and anywhere from 55,000-90,000 Russian troops stationed on the Ukrainian-Russian border.<sup>55</sup>

All of this defines Russia’s hybrid warfare strategy: near perfect coordination. Asymmetric and informational warfare is not a particularly new or unique strategy, but the application of the full spectrum of tools in conjunction with each other is highly effective and threatening. Hybrid warfare in-effect destabilized the Ukrainian government, as has led to increasingly serious fears that Baltic nations

50 “What’s happening in Ukraine? Newsround guide - BBC.” <https://www.bbc.co.uk/news-round/26257865>.

51 Danieri, Paul, Robert Kravchuk, and Taras Kuzio. “Nation Building and National Identity.” *Politics and Society in Ukraine*, 2018, 45–70. <https://doi.org/10.4324/9780429498169-3>.

52 “How, Why, and When Russia Will Deploy Little Green Men “ 09 Mar. 2016, <https://www.fpri.org/article/2016/03/how-why-and-when-russia-will-deploy-little-green-men-and-why-the-us-cannot/>.

53 “Hybrid tactics: Russia and the West - EUISS Homepage.” [https://www.iss.europa.eu/sites/default/files/EUISSFiles/Alert\\_46\\_Hybrid\\_Russia.pdf](https://www.iss.europa.eu/sites/default/files/EUISSFiles/Alert_46_Hybrid_Russia.pdf).

54 “Ukrainian Flight 752: Tor M1 SA-15 missile system one of the best Iran has” <https://www.businessinsider.com/ukrainian-flight-752-tor-m1-sa15-one-of-iran-best-2020-1>.

55 “How many Russians are fighting in Ukraine? - BBC News.” 10 Mar. 2015, <https://www.bbc.com/news/world-europe-31794523>.

like Lithuania, Estonia, and Latvia may be the next targets of the Kremlin's strategy at a lesser extent. The effectiveness of Russian's coordination does not just explain their success in manipulating and controlling the conflict in Crimea, but moreover informs that hybrid war, as it was conducted in Ukraine in 2014, may become the model and military practice for future Russian conflicts.<sup>56</sup>

## 2.2. BALTIC-RUSSIAN MINORITY: THE POTENTIAL TARGET OF HYBRID WARFARE TACTICS

As we have seen, a large portion of Russian hybrid warfare in Ukraine involved the use of pro-Russian separatists: as troops on the ground, targets and agents of radical information campaigns, and justification for actions taken. Therefore, the state of Russian minorities in the Baltic states has an effect on the external validity of the Ukrainian precedent to a potential Baltic conflict.

Whether in Lithuania (6%), Estonia (24%), or Latvia (37%), the large Russian minority in the Baltic States has been portrayed as dissatisfied with the status quo and outraged at its historical mistreatment by post-Soviet Baltic governments by Russia. However, as we will see, for a diverse set of reasons, the ethnic Russian minority in the Baltic states are not Putin's "compatriots"; rather, they are generally first citizens of their respective countries. Thus, the Baltic States are not in the same precarious situation as Ukraine, but if serious efforts at integration are not made soon, that could very well change.<sup>57</sup>

The Russian minority's presence in the Baltic States began in earnest with their annexation by the Soviet Union immediately before WWII. In the post-war period, russification programs were begun. After Stalin's death and the subsequent end of the industrialization/russification program, the wave of emigration ended, and the Russian populace began to integrate into the local populace. This state of affairs would continue until the dissolution of the USSR in 1991.<sup>58</sup>

The relationship between the Russian minority and the Baltic States took a dramatic downhill plunge directly after the dissolution of the USSR. In Estonia and Latvia, the new governments reinstated pre-Soviet citizenship laws, effectively depriving the large Russian minority populace of citizenship.<sup>59</sup> In order to become citizens, they would have to pass a test which always included knowledge of the

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56 "Hybrid Warfare in the Baltics: Threats and Potential Responses - RAND Corporation." [https://www.rand.org/content/dam/rand/pubs/research\\_reports/RR1500/RR1577/RAND\\_RR1577.pdf](https://www.rand.org/content/dam/rand/pubs/research_reports/RR1500/RR1577/RAND_RR1577.pdf).

57 "Disquiet in Baltics over sympathies of Russian speakers" Reuters, 23 Mar. 2014, <https://www.reuters.com/article/us-ukraine-crisis-russia-insight-idUSBREA2K07S20140323>.

58 "Estonica.org - Russification period." [http://www.estonica.org/en/History/1850-1914\\_National\\_awakening/Russification\\_period/](http://www.estonica.org/en/History/1850-1914_National_awakening/Russification_period/).

59 "Democratic Transition and Linguistic Minorities in Estonia and Latvia." European Parliament [http://www.europarl.europa.eu/RegData/etudes/IDAN/2018/604952/IPOL\\_IDA\(2018\)604952\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2018/604952/IPOL_IDA(2018)604952_EN.pdf).

local language and sometimes included history of the nation, knowledge of the constitution, and the taking of a pledge of loyalty to the state. Making matters even more difficult for the Russian minority population, the Estonian and Latvian governments forbade dual citizenship, forcing the Russian populace to make the difficult choice between undergoing the long process of naturalization, moving to Russia, or becoming trapped in a grey area of no citizenship.<sup>60</sup>

Due to Russian and international pressure, Estonia and Latvia softened the difficulty of these tests, but even that did not go far enough to incentivize the naturalization process. A substantial minority in both Latvia (11%) and Estonia (approximately 7%) of the populace are stateless, and the overwhelming majority are ethnically Russian. While efforts have been made to simplify the naturalization process, the language fluency requirement is still perceived by the Russian populace and Russia as discriminatory and they have desired for it to be changed.<sup>61</sup>

### 2.3. THE RUSSIAN MINORITY: IDENTITY POLITICS AND INTEGRATION

The Russian minority population in the Baltic States is a powerful political pressure group. In the 2014 Latvian Election, the Social Democratic Party “Harmony”, a pro-Russian party overwhelmingly supported by the Russian minority populace, won 23.1% of the vote to become the single largest party, though a centrist coalition formed the government with 58% of the vote, promising strident Russia-skeptic measures. While the centrist coalition did emerge victorious, it is important to not discount the potential political influence of the Russian minority.<sup>62</sup>

Given the relatively segmented nature of parliamentary politics, the voting cohesion of the Russian minority represents a powerful force with political potential. In Estonia, the Centre party, the pro-Russian party, was heading the coalition government until 2019.<sup>63</sup> In Lithuania, due to the low size of the Russian populace and better historical treatment of that populace, the prominent pro-Russian party, the Lithuanian Russian Union, has failed to gather much support in the country (around 1000 members out of the approximately 176,000 Russian populace). The failure of the Lithuanian Russian Union to rally Russian minority support offers a potential path forward for the security conscious Estonian and Latvian govern-

60 “What does the future hold for non-citizens of the Baltic States” Aljazeera, 20 Mar. 2018, <http://stream.aljazeera.com/story/201803201729-0025607>.

61 “Ethnic Russians in the Baltics - Stratfor.” 21 May. 2014, <https://worldview.stratfor.com/article/ethnic-russians-baltics>.

62 “The governing parties survived Latvia’s election, but the issue of the country’s Russian-speaking minority remains centre-stage - EUROPP” <https://blogs.lse.ac.uk/europpblog/2014/10/08/the-governing-parties-survived-latvias-election-but-the-issue-of-the-countrys-russian-speaking-minority-remains-centre-stage/>.

63 “Estonia election: opposition party wins but far-right support doubles” The Guardian, 04 Mar. 2019, <https://www.theguardian.com/world/2019/mar/03/estonia-election-centrist-parties-far-right>.



ments.<sup>64</sup>

To protect their security, the Baltic States must work to integrate the Russian minority, but that does not mean they necessarily have to assimilate them. The Russian populace should still be proud of their rather troubled heritage, but the Estonian and Latvian governments could take it as a principal to work to create an atmosphere where they are equally proud to call themselves Estonian or Latvian. Perhaps most importantly, the Baltic States must work to disabuse the Russian minority populace of the notion that they are second class citizens. Whether that be through easing citizenship requirements or providing more economic opportunities, institutional protection should work to ensure both present and future generations of the Russian minority do not feel threatened enough to seek the protection of Moscow.

#### 2.4. RUSSIAN, BUT NOT COMPATRIOT

The Baltic States are far more likely to withstand Hybrid Warfare tactics than Ukraine. Principally, that is because of the absence of a significant “fifth column” like there was in Crimea and the Donbass Region.<sup>65</sup> While the population of the Russian minority may be greater in the Baltic States, the youth generally view themselves as Estonian, Latvian, or Lithuanian rather than Russian in a national sense.<sup>66</sup> On surface, the Baltic Dream created under EU membership seems to have worked better than the Ukrainian Dream did for the youth.

However, while the youth with Russian heritage may not consider themselves to be compatriots or supporters of Russia, the older generation is different. For example, during the Crimean Crisis, a poll<sup>67</sup> about which side bears responsibility for the crisis showed that among Baltic Russians, 68% in Estonia and 67% in Latvia place the blame for the crisis on the Ukrainian government. In comparison, 68% of those of Latvian Ethnicity and 78% of Estonian Ethnicity blame Russia for the crisis. This split reflects the increasingly polarized opinions of Russia in the Baltic States and represent a worrying figure for Baltic Security as a target of potential non-conventional strategies by Russia.<sup>68</sup>

While the majority of ethnic Russians in the Baltic states hold pro-Russian opin-

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64 “Stirring the pot - Lithuanian politics - The Economist.” <https://www.economist.com/europe/2015/03/03/stirring-the-pot>.

65 “Russia’s Fifth Column - Time.” 04 Dec. 2014, <https://time.com/3617671/russia-fifth-column/>.

66 Krebber, Victoria, 2012, “Identity Questions in the Baltic States” University of Twente, [http://essay.utwente.nl/62066/1/BSc\\_V\\_Krebber.pdf](http://essay.utwente.nl/62066/1/BSc_V_Krebber.pdf).

67 “Views on role of Russia in the Baltics, and the Soviet Union” 10 May, 2017, <https://www.pewforum.org/2017/05/10/views-on-role-of-russia-in-the-region-and-the-soviet-union/>

68 Lada, Agnieszka, “Estonians, Latvians and their Russian-speaking minorities”, Institute of Public Affairs, [https://www.bertelsmannstiftung.de/fileadmin/files/BSt/Publikationen/GrauePublikationen/EZ\\_Policy\\_Brief\\_Study\\_All\\_quiet\\_in\\_the\\_Baltics\\_2015\\_EN.pdf](https://www.bertelsmannstiftung.de/fileadmin/files/BSt/Publikationen/GrauePublikationen/EZ_Policy_Brief_Study_All_quiet_in_the_Baltics_2015_EN.pdf).

ions in external affairs and largely get their information from Russian sources, economic reasons might be preventing them from supporting Russia directly interfering with their resident countries. The differences in pensions in the Baltic states (approximately 370 euros per month) and in Russia (approximately 100 euros per month) incentivize the older generations while the benefits of EU membership (including significantly improved standards of living and visa free travel) incentivize the younger generations.<sup>69</sup>

Therefore, the increased economic benefits of the Baltic countries, as well as membership in the EU, ensure that the Baltic states, practically speaking, are not nearly as susceptible to Russian propaganda, even if the population is larger and significantly hold pro-Russian opinions in foreign affairs. In order to maintain security, thus, the Baltic States must strengthen relations with the EU and pursue greater and more equitable economic prosperity so that the Russian minority could divert Russian information campaigns during a potential hybrid warfare.

### Ethnic Russians more likely than others in their countries to favor strong Russia

*% of ethnic Russians and others in each country who ...*

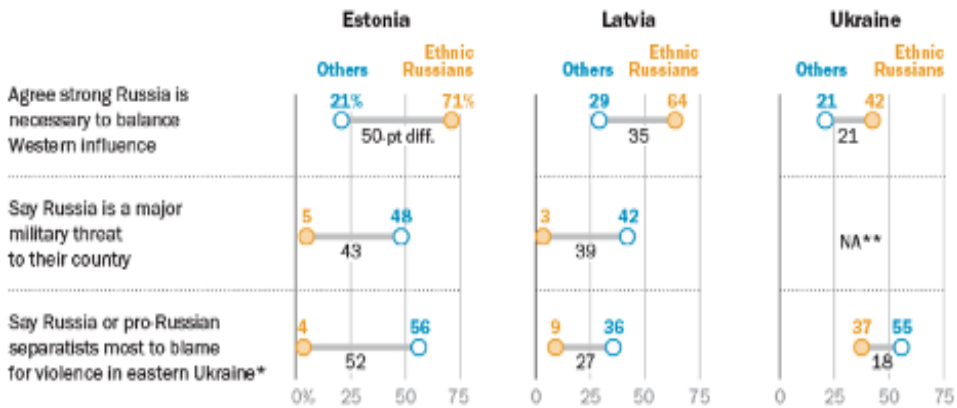


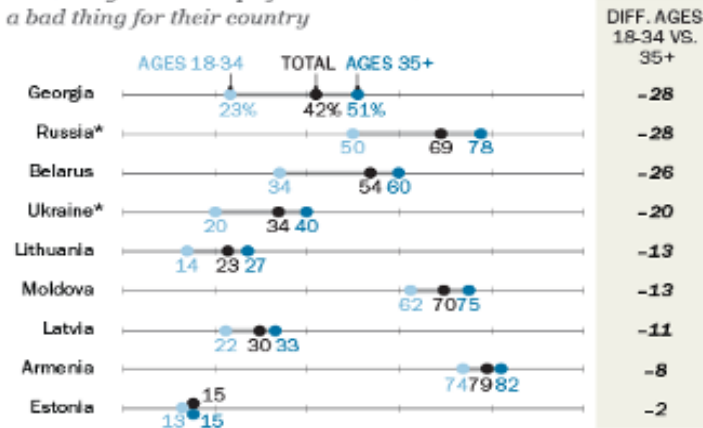
Figure 3: Ethnic Russian minorities Estonia and Latvia have strong geopolitical favor towards Russia (age and income of respondents was not accounted for)<sup>70</sup>

69 “Baltic Russians Aren’t Pawns in Strategic Game.” The Moscow Times, 26 Oct. 2015, <https://www.themoscowtimes.com/2015/10/26/baltic-russians-arent-pawns-in-strategic-game-a50487>.

70 “Ethnic Russians in some former Soviet republics feel a close connection to Russia - Pew Research Center.” 24 Jul. 2017, <https://www.pewresearch.org/fact-tank/2017/07/24/ethnic-russians-in-some-former-soviet-republics-feel-a-close-connection-to-russia/>.

### Older people more likely than younger people to say dissolution of the Soviet Union was a bad thing

% who say the breakup of the Soviet Union was a bad thing for their country



\* Data for Ukraine and Russia are from Pew Research Center’s 2015 Global Attitudes survey.

Note: Statistically significant differences are highlighted in bold.

Source: Survey conducted June 2015-July 2016 in 18 countries.

See Methodology for details.

“Religious Belief and National Belonging in Central and Eastern Europe”

PEW RESEARCH CENTER

Figure 4: Younger generations in Latvia and Lithuania have less of a “nostalgia” towards the Soviet Union than the older ones, whereas in Estonia, the age gap was not prominent (note that Estonian participants have the lowest overall nostalgia among the other surveyed country’s citizens)<sup>71</sup>

### III. SOFT POWER: EXPERIENCE ON THE GROUND

Having addressed the threats posed by both conventional and hybrid warfare, we will now examine another potential security threat to the Baltics: economic soft power.

Though frequently overshadowed by rapid, brute military action, Russia has and continues to rely on what is known as “soft power” to attain its geopolitical goals. Soft Power refers to “the ability of a country to persuade others to do what it wants without force or coercion”.<sup>72</sup> Russia has long exploited Ukraine’s near-total de-

71 “In Russia, nostalgia for USSR and positive feelings about Stalin” 29 Jun. 2017, <https://www.pewresearch.org/fact-tank/2017/06/29/in-russia-nostalgia-for-soviet-union-and-positive-feelings-about-stalin/>.

72 “Soft Power: The Means to Success in World Politics “  
<https://www.foreignaffairs.com/reviews/capsule-review/2004-05-01/soft-power-means-success-world-politics>.

pendence on its gas exports—cutting off supplies as recently as June of 2014<sup>73</sup>—but the Kremlin has also attempted to influence its neighbor’s political decisions more subtly.

As a kind of reward for Yanukovych’s warming of relations with Russia, the state natural gas company Gazprom slashed the price of exports to Ukraine by a third, while raising them back by 80% after his removal and the election of pro-Western President Petro Poroshenko.<sup>74</sup> Although Russia has not intentionally disrupted gas exports to extort EU member states, Europe’s reliance on Russian gas nonetheless presents very real problems for its sovereignty and energy security.

Currently, North Sea gas deposits enable limited production in Europe, while additional natural gas is imported from the Middle East and North Africa—these sources mostly satisfy the demands of Western Europe. However, this also has been a historical weakness. As of 2012, seven EU Member states—Bulgaria, Slovakia, the Czech Republic, Lithuania, Latvia, Estonia, and Finland—imported 100% of their natural gas from Russia. Greece, Austria, and Poland imported between 60% and 90% of their gas from Russia, while even countries like Germany and Italy saw about a third of their gas imports come from Russia.<sup>75</sup>

The geopolitical risks brought on by these dependencies are only compounded by the lack of infrastructure to support Europe’s energy needs in the event of service disruptions from Russia. Presently, Europe simply lacks Liquefied Natural Gas (LNG) terminals and alternative pipelines to match the capacity of the Yamal (Belarus), Brotherhood (Ukraine), and Nord Stream (Baltic Sea) pipelines which supply virtually all of Russia’s gas exports into Europe and which are controlled indirectly by Russia. Moreover, many have questioned the ramifications for European solidarity that the Nord Stream project and its expansion present. It would allow Russia to cut off exports to the Baltic States and Central European countries like the Czech Republic, Hungary, Poland, and Slovakia without affecting supplies to Western Europe—a potential energy security catastrophe that the project may exacerbate.<sup>76</sup>

In 2017, after the immediate clashes in Crimea, Russia supplied around 30% of total European gas imports, a very limited drop from its high of 32.4% in 2013. Nonetheless, Poland, Finland, and the Baltic states have taken steps to reduce their dependence on Russian gas imports through the development of new LNG

73 “Heading for (another) Ukraine-Russia gas fight? - Brookings.” 30 Aug. 2019, <https://www.brookings.edu/blog/order-from-chaos/2019/08/30/heading-for-another-ukraine-russia-gas-fight/>.

74 “Russia’s gas fight with Ukraine - BBC News.” 31 Oct. 2014, <https://www.bbc.com/news/world-europe-29521564>.

75 “EU imports of energy products - recent developments” <https://ec.europa.eu/eurostat/statistics-explained/pdfscache/46126.pdf>.

76 “Nord Stream 2 - Rationale.” <https://www.nord-stream2.com/>.

terminals on the Baltic Coast.<sup>77</sup> Lithuania built its Klaipeda LNG SRU Terminal in 2014 and was soon followed by the Swinoujscie LNG Terminal in northwestern Poland. Finland's Tornio Manga LNG Terminal opened in 2018, while Latvia and Estonia plan to build their own within a few years. These specialized ports allow for the delivery and long-term storage of liquefied natural gas, while enabling its import through any tanker small enough to pass through the Great Belt Route, an international waterway in the Danish Straits.<sup>78</sup>

Thus far, significant progress in ensuring energy independence in the Baltic region has been made. Qatargas agreed to double LNG exports to Poland in 2018, and the Swinoujscie Terminal is expected to satisfy half of Poland's expected gas demands. Czechia and Ukraine have also expressed interest in importing liquefied natural gas from outside of Russia through Poland. Meanwhile, Croatia hopes to bolster its pipeline network into Central-Eastern Europe, allowing exports from its own Adria LNG Terminal in Krk.<sup>79</sup> By enabling alternative energy sources for the Baltic region, these developments may also provide an economic weapon against Russia, whose steep reliance on the export of natural resources provides a significant economic and geopolitical weakness.

Curbing European and Baltic dependence on Russian natural gas, and more importantly building the infrastructure to enable imports from alternative sources, offer an effective way to curb Russian soft power in the region. As we have argued, the current dependent relationship offers the potential for Russian coercion in the event of a crisis. The inability to address these problems to this point may at least partially explain the ineffectiveness of economic sanctions on Russia. It is no surprise that European diplomats have shown immense caution in putting sanctions on Russia.<sup>80</sup> Given that Russia has already show a willingness to cut exports amidst political disputes, it is entirely possible that such retaliation may quite literally leave EU countries out in the cold.<sup>81</sup>

#### IV. THE ROLE OF THE EU IN BALTIC (IN)SECURITY

Having examined various potential Russian security threats to the Baltic states, namely conventional war, hybrid war, and economic soft power, it is worth focus-

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77 "From where do we import energy and how dependent are we?" Eurostat <https://ec.europa.eu/eurostat/cache/infographs/energy/bloc-2c.html>.

78 "European LNG projects target supply security." 27 Aug. 2019, <https://www.petroleum-economist.com/articles/midstream-downstream/lng/2019/european-lng-projects-target-supply-security>.

79 "Who really needs the Krk LNG Terminal? View | Euronews." <https://www.euronews.com/2019/03/25/who-really-needs-the-krk-lng-terminal-view>.

80 "Can Iran Reduce EU Dependence on Russian Gas? | Middle East Policy Council" <https://mepc.org/journal/can-iran-reduce-eu-dependence-russian-gas>.

81 "Russia can no longer be considered a 'strategic partner'" <https://www.europarl.europa.eu/news/en/press-room/20190307IPR30737/russia-can-no-longer-be-considered-a-strategic-partner-say-meps>.

ing in on the role that the EU plays and could play.

The union historically outsourced the coordination and mobilization of the military capabilities for conventional deterrence to NATO, and at times of conflict or war, such as the Kosovo or Syria War, could not show a centralized response for peace intervention, be military or strategic.<sup>82</sup>

For regional conflict prevention, the EU primarily relies on its member states' individual capabilities. This is consequential for the exposed EU members in the periphery as the conventional threats they face are too big for the size of their population, economies and military capabilities to be handled individually. Therefore, NATO, not the EU, has been the chief guarantor of Baltic security.

This is in contrast with the clear impetus for increased European security cooperation in the Nordic-Baltic region. Virtually all of these countries have experienced airspace violations and many have been the target of Russian wargame simulations – voicing, in turn, calls for enhanced European defense.<sup>83</sup> In 2014, Russian jets armed with live missiles simulated an attack on the Danish island of Bornholm while 90,000 of the country's political and journalistic elites were visiting for an annual meeting. Sweden spent time in 2014 dealing with probable Russian submarine activity in its waters.<sup>84</sup>

These EU countries have correspondingly shown fears of a resurgent Russia. Yet, their calls could not materialize a fundamental restructuring in how the EU thinks about common defense, even though 75% of EU citizens surveyed in 2017 were in favor of common security and defense, aka the European Army (Figure 5). As a result, potential membership in NATO has grown in popularity in Sweden and Finland in recent years - although such a move is still not the policies of those governments and integration would take a considerable time even if it were.<sup>85</sup>

To judge the inaction of the EU on the military front, three megatrends about the EU's evolving process of centralization must be considered:

-The EU's enlargement into the central, eastern and Baltic European countries that were previously under the sphere of influence of the Soviet Russia came in

82 "Syria's crisis: a litmus paper for the EU | European Public Affairs" <https://www.europeanpublicaffairs.eu/syrias-crisis-a-litmus-paper-for-the-eu/>.

83 "Russian Violations of Airspace Seen as Unwelcome Test by the West" New York Times, 07 Oct. 2015, <https://www.nytimes.com/2015/10/07/world/europe/russian-violations-of-airspace-seen-as-unwelcome-test-by-the-west.html>.

84 "Russia delivers nuclear threat to Denmark - The Local." 21 Mar. 2015, <https://www.thelocal.dk/20150321/russia-threatens-denmark-with-nuclear-attack>.

85 "Finland and NATO: So Close, Yet So Far – ICDS." 22 Apr. 2019, <https://icds.ee/finland-and-nato-so-close-yet-so-far/>.

waves of 2004 and 2007.<sup>86</sup> This relatively recent, and rapid, expansion occurred without the Union having a centralized authority over its fiscal and military policy, which are two areas highly relevant to the regional security challenges faced by the Baltic states.<sup>87</sup>

-Treaties have marked the boundary of the EU's central, supra-national authority. The most recent, and maybe ambitious, of all is the Treaty of Lisbon, effective after December 2009. Its institutional impetus for the creation of common foreign, security and defense policies have bolstered the legitimacy of CSDP<sup>88</sup>; however, fell short of providing anything like NATO's collective defense guarantee to the Baltic states nor resolved questions regarding the interoperability of NATO military capabilities with the EU's nascent defense union and budget.

-Leading figures of the EU have increasingly been divided among their drive for extending the influence of the EU beyond its borders.<sup>89</sup> The hesitant and unanimity-prioritizing EU is unsure, if not hand-tied, about how much regional and international power it wants, or needs, to exert against other superpowers. Therefore, the EU's decentralized approach to external affairs limits how much traction the Baltic states could gain over Russia by using the tools of EU institutions (except for the economic sanctions, the effectiveness of which on Russia is contested).

It is true that Russian military intrusions in Ukraine changed the European security debate fundamentally, but in practice, it catalyzed decisive action only in Union's central policy for counterterrorism or peacekeeping, not in collective defense.<sup>90</sup> The three megatrends, and the institutional limitations of which that are rather self-inflicted, do not leave the EU with other options than harm reduction in the Baltics unless the union makes its mind about a centralized, European defense and security policy.

That being said, there is an important role that the EU can play to help deter the hybrid warfare and economic soft power of Russia: reducing the dependence on and potential influence of Russia in the Baltics.

As we have argued, the effectiveness of hybrid warfare in Ukraine was in large part based on the existence of dissatisfied local Russian minorities, which were sensitized enough to be mobilized by the elements of hybrid warfare. Russian

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86 "EU ENLARGEMENT FACTSHEET." [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/publication/factsheet\\_en.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/publication/factsheet_en.pdf).

87 "EU Strategy for the Baltic Sea Region - Regional Policy" European Commission [https://ec.europa.eu/regional\\_policy/en/policy/cooperation/macro-regional-strategies/baltic-sea/](https://ec.europa.eu/regional_policy/en/policy/cooperation/macro-regional-strategies/baltic-sea/).

88 "The Lisbon Treaty's provisions on CFSP/CSDP - State of Implementation", European Parliament [https://www.europarl.europa.eu/RegData/etudes/IDAN/2015/570446/EXPO\\_IDA\(2015\)570446\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/IDAN/2015/570446/EXPO_IDA(2015)570446_EN.pdf).

89 "Macron, Europe's wannabe president – POLITICO." <https://www.politico.eu/article/emmanuel-macron-europe-president-china-trade/>.

90 "Hybrid tactics: Russia and the West - EUISS Homepage." [https://www.iss.europa.eu/sites/default/files/EUISSFiles/Alert\\_46\\_Hybrid\\_Russia.pdf](https://www.iss.europa.eu/sites/default/files/EUISSFiles/Alert_46_Hybrid_Russia.pdf).

minorities in the Baltic states are less vulnerable to such action in large part due to the economic and social pull which the EU exerts on them. Merely by providing a stable and economically prosperous alternative to Russia, the EU goes a long way towards Baltic security. However, this protection is not bullet-proof. The EU can encourage Baltic governments to take proactive steps to ensure that their Russian minority populations do not feel politically dissatisfied, such as by facilitating the resolution of the decade-long citizenship issue.

Regarding the threat of economic soft power, the EU would do well to take the threat posed by the dependency of the Baltic states on the Russian Nord Stream pipeline more urgently. As we have shown, this pipeline allows Russia to exert specific economic influence on the Baltic states. By encouraging the ongoing construction of liquefied natural gas terminals in these countries through funding support, the EU could help limit the effects of Russian economic soft power.



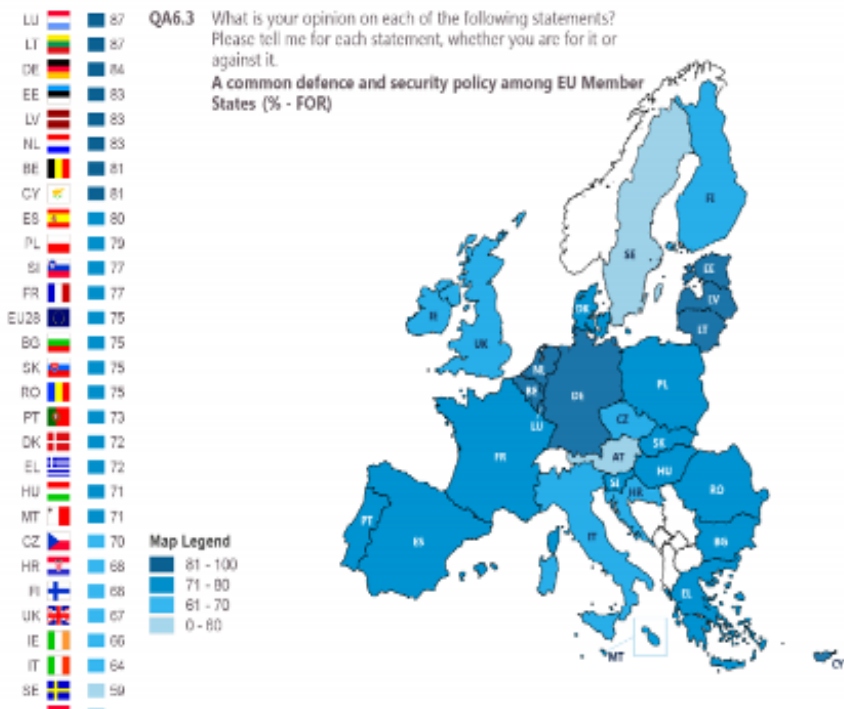
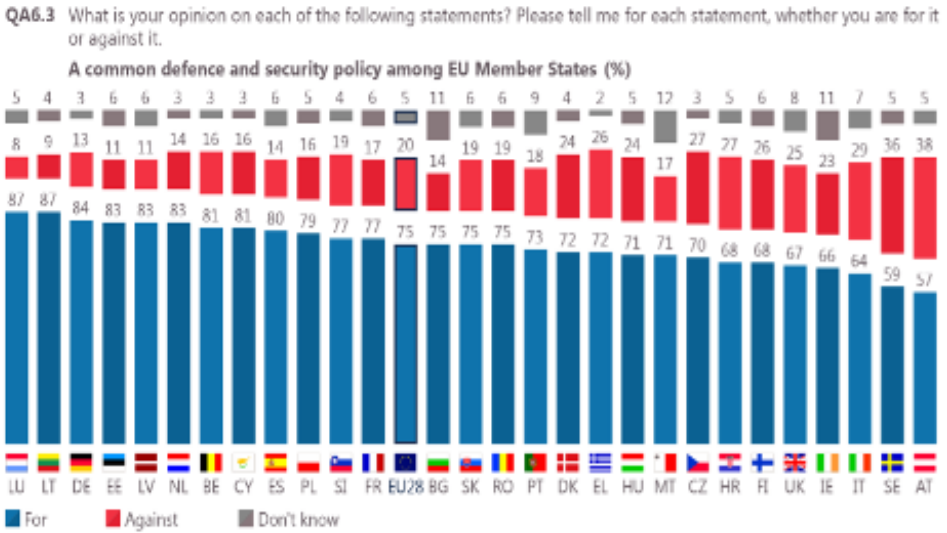


Figure 5: 75% of surveyed EU citizens were for the European Army, and in all member states, the simple majority was in favor. Note that of the six countries with the lowest support to the common European Defense, the UK has since left the EU, and Finland, Ireland, Sweden and Austria are politically neutral, or non-

aligned, countries.<sup>91</sup>

## V. A CONCLUSION: TRANSATLANTIC IMPLICATIONS

This piece sought to create a comprehensive view of the Russian threat to Baltic security. Our examination of Russian conventional war capabilities indicate that current NATO forces would likely be unable to prevent a rapid Russian takeover of the Baltic states, which would put NATO in an extremely unfavorable position. However, the potential negative consequences (political, economic, and military) of a conventional war in the Baltic make it relatively unlikely that Russia would choose to invade or directly intrude in the Baltic states.

While one cannot discount the possibility of a rapid incursion into the Baltic states, alternative security threats to the Baltic are more substantial. One of these alternative security threats is hybrid warfare. Because of the pull of the EU, the Russian minority populations of these countries are less supportive of Russian interference than those of Ukraine were. However, this support is not set in stone. It is dependent on prosperity and favorable EU policy.

That the security threats to the Baltic states are less applicable than they were in Ukraine does not mean that they should not be taken seriously, or that measures should not be taken to improve the situation. NATO must focus on increasing military capabilities in the Baltic to a level at least able to adequately delay a sudden Russian advance, while the EU can facilitate other forms of security cooperation with non-NATO members, specifically Sweden and Finland.

Traditionally, NATO has considered defense in conventional military terms. Nonetheless, a failure to properly respond to other threats we have outlined, such as hybrid warfare and soft power, could also have dangerous consequences for the effectiveness of NATO's deterrence programs. Proactive steps from NATO, the EU, and the United States against the wide range of Russian threats to the Baltic states are thus needed to maintain European security and order.

This can, for instance, partly be achieved by the unambiguous extension of NATO's collective defense article to certain aspects of hybrid warfare. Principles of collective deterrence, nuclear or conventional, should not leave the joint NATO-EU members confused about whether and how to act against the hybrid nature of threats they might face – which could increase the likelihood and impact of possible Russian intrusion in the Baltics.

Doing so, both the US and the EU should handle the current isolationist tenden-

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<sup>91</sup> Special Eurobarometer 461, *Designing Europe's future: Security and Defense*, April 2017, European Commission.

cies in transatlantic military partnerships constructively with a clear-headed strategy. Questions about duplication, overcapacity or interoperability of CSDP with NATO could be answered without political manipulation. To this end, the joint EU-NATO members in the Baltic can act as mediators and partners that have a skin in the game. Russian aggression has helped Ukraine implement reforms that coordinate with the EU. Similarly, fears of Russian intrusion in the Baltics can be channeled positively to catalyze the overdue implementation of NATO-EU cooperation reforms in a fast and practical manner.

In this process, the likely polycentric maneuvers of the Baltic states should not be interpreted as a breach of faith, but rather as a pragmatic urgency the negative effects of which are collectively worked to be reduced. In the meanwhile, to create a more diverse and objective agenda, both parties can explore ways to strengthen the strategic security cooperation among the so-called Nordic-Baltic-Poland 9 (NBP9) countries – which includes joint NATO and EU members (Estonia, Latvia, Lithuania, Poland, Denmark), NATO members that are not part of the EU (Iceland, Norway) and the non-NATO members that are in the EU (Finland, Sweden).

Furthermore, the US can draw inspiration from the systems approach of the Eastern Partnership (EaP) of the EU (comprising Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine). Following the Russo-Georgian war in 2008, for instance, EaP has engaged in economic, governmental and sociocultural projects in Georgia to buffer the rising tensions between the US and Russia in the region.<sup>92</sup> The successful non-military aspects of EaP's peacebuilding strategy could be incorporated into NATO's presence in the Baltics so as to dampen the effects of Russia's retaliatory information campaigns in the region.

Another guiding feature of EaP engagements have been continuity and sustainability. For instance, even after Armenia favored the Russian dominated Eurasian Economic Union (EAEU) over its European alternative, EaP did not discontinue its engagement in the region.<sup>93</sup> In the likely event of a transient rise of pro-Russian political parties in the Baltic states, NATO presence in the region should not be tied to transactional demands in national politics or stepped up disproportionate only to send short-lived political notes to Moscow. The continued stability and credibility of the political processes in the Baltics will be essential to counter the Russian soft power in the long term.

There could be alternative forms of military cooperation than the NATO's current state which responds to the current calls for greater mutual autonomy to both sides of the Atlantic. However, what would be detrimental is the scraping of the

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92 "THE EASTERN PARTNERSHIP A DECADE ON." Chapter 4 [https://www.iss.europa.eu/sites/default/files/EUISSFiles/cp153\\_EaP.pdf](https://www.iss.europa.eu/sites/default/files/EUISSFiles/cp153_EaP.pdf).

93 "THE EASTERN PARTNERSHIP A DECADE ON." Chapter 6 [https://www.iss.europa.eu/sites/default/files/EUISSFiles/cp153\\_EaP.pdf](https://www.iss.europa.eu/sites/default/files/EUISSFiles/cp153_EaP.pdf).

key transatlantic partnerships, which, in the Baltics, is currently mediated through NATO. Evolving challenges to the EU might necessitate new answers. Be it in a future of increased cooperation or redefined relationship with the USA, the security question in the Baltics is unlikely to disappear anytime soon, thus must be the transatlantic partnerships.

A word of overarching caution, however, to both the EU and NATO in recalibrating the future of their military partnership over the Baltics is the limitation of regional politics. Lumping three Baltic countries together in policies might give rise to as much danger as benefit. Estonia might feel more Nordic than Baltic in some aspects of its national policies, and Lithuania, free from the internal pressures of a sizeable Russian minority like in Latvia, might be more eager to stand off with Russia – in addition to almost double the voting power in the European Council it has than Estonia and Latvia each do (7 vs 4) due to slight population advantage.<sup>94</sup>

Regardless, searching for an answer, it is imperative not to forget that a failure to meet the challenges and needs of Baltic security would be disastrous for the current European and international order. That failure could take many forms, but any one of them could destroy faith in the relevance of the EU, NATO, and the United States as guarantors of stability and security in the region and beyond. Clearly, the implications of such failure would have far-reaching global significance and are too grandiose not to be trivialized by the perceived unlikelihood of a conventional clash with the Russian Federation.

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94 “Voting calculator - Consilium - Europa.” <https://www.consilium.europa.eu/en/council-eu/voting-system/voting-calculator/>.

## 4. 2. Geopolitical Tensions in the Eastern Mediterranean

### Accounting for the regional power balance and natural resources

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#### ABSTRACT

The Eastern Mediterranean region has been at the epicentre of multiple geopolitical conflicts between the states in the area. This article offers a critical analysis of the geopolitical trends in the Eastern Mediterranean focusing on the actions of different states in the region how they're leveraging their foreign policy decisions accordingly. By analyzing the interdependent relationship between regional actors, we seek to understand and explain the motivations behind their foreign policy decisions. Throughout this paper, we interpret these actions through the neorealist approach to investigate how it manifests itself within the decision-making process of regional actors and how it turns this shape their foreign policy decisions along the way.

*Keywords: Eastern Mediterranean, Eastern Mediterranean Pipeline, Energy Politics, Geopolitics, Libya, Natural Gas, Neorealist Foreign Policy, Regional Power, Russia, Turkey.*

#### ABBREVIATIONS

A2AD: Anti-Access and Area Denial.

CFG: Cubic Feet of Gas.

East-Med: Eastern Mediterranean.

EEZ: Exclusive Economic Zone.

EU: European Union.

NATO: North Atlantic Treaty Organization.

TRNC: Turkish Republic of Northern Cyprus.

UNCLOS: United Nations Convention on the Law of the Sea.

RoC: Republic of Cyprus.

## I. INTRODUCTION

The East-Med is becoming the forefront of a geopolitical conflict that could spill over into many facets of international relations (Elbassoussy, 2018). The nature of this struggle is dynamic; it is challenging existing partnerships with an unprecedented level of strain while also forging new, unexpected bonds between non-traditional partners (Ibish, 2020). Both of these trends pressure the status quo and threaten to have long-standing repercussions on the region as a whole (Ourlu, 2017). Central to these tensions are the recent discoveries of vast offshore reserves of natural gas (Lakkotrypīs, 2019). These resources have spurred actors in the region into a chaotic frenzy, whereby each actor visibly prefers to formulate their policy at the expense of their neighbors (Ourlu, 2017). All are vying for control of these resources in a race towards energy security and, more specifically, on who controls the natural gas supply to Europe.

Energy Geopolitical experts such as Agnia Grigas (2017) argue that the EU is one of the most lucrative gas markets in the world in terms of demand volume and price. Moreover, it is a market desperately searching for accessible suppliers to diversify its portfolio away from Russian dominance (Ruble, 2017). The EU is a seller's market, and the gas discoveries in the East-Med are essential for the Union to reach energy security (Ibid.). Therefore, the newly discovered gas fields off the coast of Cyprus, Israel, and Egypt will benefit whoever controls them. The issue of control is vitally important because those who control the routes control access to the resources (Grigas, 2017). This dynamic has triggered geopolitical competition and devolved into a power struggle that unfolds across the region in which states are utilizing whatever means they have to expand on their spheres of influence.

However, the prospect of mutual peace, security, and cooperation is not off the table, as many important actors have expressed a desire to develop the natural gas reserves collaboratively. Both former American Vice President Joe Biden and former Turkish Energy Minister Taner Yıldız acknowledged energy cooperation in the East-Med could secure peace and prosperity for the region (Demiryol, 2018). Yet, if we apply a realist foreign policy analysis to the real and tangible actions of states in the East-Med, we would find that states are mostly choosing the alternative (Ibid.). This is reminiscent of John Mearsheimer's (2007) theory that competing states will always seek to have control over the balance of power. That they will continuously compete against each other, even if this is at the expense of other friendly states (Ibid.). Mearsheimer argues that this path is taken solely to pursue their national interests (Ibid.).

With the neorealist school of thought in mind, we will take stock of some of the key actors in the area. In doing so we will analyse what they define their interests as

and how they interact with other actors in pursuit of these interests. First, we will investigate how the Republic of Turkey has positioned itself in relation to the EU and Syria. Secondly, we will proceed to define Russia's interests in the region and how it has positioned itself as the major powerbroker of the area. Thirdly, we will transition to the natural gas discoveries and how the geographical delineations of the Island of Cyprus have turned resource exploration into displays of force. Lastly, we will address how all of this comes together in Turkey's Memorandum of Understanding with Libya. Ultimately, we investigate how actors in an interdependent region can choose to either use their interdependence to prosper together or use it as tools to obstruct one another.

## II. TURKEY'S DEVELOPMENT INTO A HOSTILE REGIONAL POWER IN THE EAST-MED

While distinguishing between global hierarchies of power, Nolte (2010) illustrated that the re-gional powers occupy a complicated position in international relations, primarily because they are certainly not superpowers with global ambitions and projection capabilities (Ibid). However, they have a formidable power base that gives them tremendous strength in regulating nearby activity and territory, which presents them an unignorable presence within their area (Ibid) The Republic of Turkey, is in such a position and authors such as Gürzel (2014) argue that Turkey's role as a regional power extends globally, especially in how it interacts with emerging states. Much of this is owed to Turkey's geographical endowment as the Republic occupies the inter-section between Europe and Asia (Blank, 1993). Being a natural bridge between continents holds tremendous strategic advantages that can be the source of a wide variety of cooperative endeavours (Ibid).

An example of this is shown when Turkey sought to consolidate regional cooperation; the AKP exclaimed that Turkey would constructively work towards a policy of "Zero problems with neighbours" (ROTMoFA, 2011). However, while many states claim good faith and shake hands on a diplomatic stage, their actions display a more raw intention of expansion, especially when confronted with critical security and prosperity dilemmas (Albert, 2008). Turkey, under the current leadership, has displayed similar behaviour and an eagerness to reassert themselves as the regional decision-maker (Gürzel, 2014). It is in this sentiment that Turkey has moved away from this zero-conflict policy in favour of a more realist approach that will leverage virtually any tool at its disposal (Adamson, 2019; Askerov, 2017). While other sections will add more contextual depth to this, this chapter will develop theoretical concepts that will carry throughout the paper, and it will also analyse how Turkey has rebalanced its regional role through seemingly diplomatic actions towards its neighbours. Through this, we can see how Turkey is asserting itself not only as a regional power but as the gatekeeper of the Eastern Mediterranean.

In the context of structural realism, countries pursue their interests in an anarchical international system wherein states clamour for self-interest (Waltz, 2000). The East-Med region is a geopo-litical hotspot where the context fits because the interests of many other states converge. When these interests are expressed there, Turkey risks being exposed to pressure from multiple an-gles. This is the reason why the country has traditionally made use of its involvement in multi-lateral dis-courses and organisations to maintain leverage, alternating demeanour and conces-sions to its regional partners as situations evolve (Bengio & Truman, 2009). Whereas states conduct themselves on an international level following interna-tional structures -such as interna-tional law- these structures and norms of inter-actions are equally constructed by state actors with the capabilities and strategic prowess to mould their environment to their benefit.

An example of Turkey conducting such realist politics is the evolution of its migra-tion pact with the EU. This pact secured Turkey a significant package containing financial aid and relaxed mi-gration regulations for Turkish citizens (European Commission, 2015; European Council, 2016). This migration pact was contingent on Turkey harbouring refugees flowing towards Eu-rope from the violent conflicts in the Middle East (Ghanem, 2016). Turkey has since fueled the already dire refu-gee tragedy by launching its on camping into northern Syria (McKernanm, 2019; BBC, 2019) while simultaneously retracting itself from the migration pact, and opening up the migrant stream to Greece (Baczynska, 2020). By simultaneously engaging in the Syrian war zone and unilaterally disbanding the migration pact, Ankara has pulled the EU further into the conflict, while seemingly seeking sup-port from the EU by applying pressure for more finan-cial support and visa con-cessions for its citizens (Ibid.). Turkey stands to gain from this by seiz-ing control over their southern and south-eastern borders now that the Islamic State has lost ter-ritorial control in the region, especially in light of their historic tensions with the now militarily mobilised Kurdish Democratic Union Party (PYK) (Park, 2016).

Turkey does not shy away from disgruntling neighbouring states regardless of how reliant it might be on their resources, communication or political coopera-tion. A historically and continu-ally relevant presence of Turkish diaspora in Eu-rope (Adamson, 2018), as well as its ongoing accession talks, did not deter Ankara from taking impactful decisions that damage relations with the EU, realising that their intertwining interests will always accommodate necessary coopera-tion. This realisation of cooperative necessity is also present in its relationship with Rus-sia. As can be seen later in the paper, Russia is a dominant political and military heavyweight in the East-Med region, securing territorial control as well as energy guarantees from the Assad re-gime in return for its support. It can be argued that Russia holds extensive influence within Tur-key's envisioned area of regional control. Meanwhile, Turkey's strategic control over the Bos-phorus straits is critical for Russian military and supply navy to reach the Syrian coast, and in response to rising military tensions between Russian and Turkish military in the region, Tur-



key threatens to cut off Russian access (Yilmaz & Mehmetoglu, 2016; MEM, 2020).

These examples go to show that Turkey's aggravation of relations can be sustained if one can identify and exploit a dependency to maintain leverage and diplomatic weight (Caporaso, 1978). It is exactly this understanding of the irremovable interdependence between nations that accommodates the realist conduct of Turkey in a contemporary East-Med region. This is not a passive reality. In pursuit of its goal of establishing itself as a regional power, Turkey actively seeks to establish itself as a regional power by examining how it can use its existing influence to garner more (Gürzel, 2014). Arguably the most prominent potential for creating external dependency is its geographical placement between the oil and gas abundant Middle East and a Europe with high energy consumption and no personal resources to support this demand (Yilmaz-Bozkus, 2019). As outlined extensively in later chapters, Turkey is seeking to become an essential energy hub of the Eastern Mediterranean. Heightening infrastructural capabilities of gas transfer and storage as well as securing essential agreements with energy producing states, Turkey is looking to become a significant player in the global energy market (Yilmaz-Bozkus, 2019).

### III. ENERGY CHESS: RUSSIA'S META-STRATEGY IN THE EASTERN MEDITERRANEAN

Even as the United States seemingly celebrates its departure from Syria, there is another power ready to take its place (Specia, 2019), one that has had the territory marked as a pawn in their long-term strategy since well before 2012 (Nopens, 2013). The systematic pursuit of geostrategic penetration has allowed Russia to refortify its position and ability to secure its objectives. The reshuffling of north-eastern Syria has only reinforced Russia's role as a critical player in the East-Med region (Hubbard, Troianovski, Gall, & Kinglsey, 2019), and President Vladimir Putin is proving to be both a highly valuable and reliable friend.

Why is this so? As Glenn H. Synder explains, "states accumulate power in many ways; the most prominent methods are by armament, territorial aggrandisement, and alliance formation" (1984, p. 461). Moscow's relationship with Damascus is a source of Russian power that has a long history of close ties, from the independence of Syria to the current protection of Basher Al-Assad (Borshchevskaya & Eljarh, 2017). However, it is speculated that Russia has been planning to capitalise on these ties to recover influence in the Mediterranean (Nopens, 2013). Without a doubt, the US withdrawal grants Russia this opportunity to secure privileged access to Syria, and thereby to the East-Med region.

Russia's realpolitik approach to Eurasia and its tendency to extort states with its energy exports is well documented (Korteweg, 2018; Grigas, 2017). Russia has done so to "gain economic benefits; to maintain, increase and exert its political in-

fluence and [...] to exert political pressure on end-consumers” (Korteweg, 2018, p. 4). From Ukraine in Europe to Azerbaijan, Turkmenistan and Iran in Central Asia, there is no shortage of examples to illustrate this method (Grigas, 2017). With all cases indicating that the weaponisation of energy supply is one of Russia’s most formidable tools in foreign policy (Ibid.). Yet, this tool has its drawbacks. While it has fortified Russia’s meta-strategy in the area surrounding the East-Med, it has also developed a toxic dependency on the EU that requires them to pay a high price for Russian gas (Korteweg, 2018).

Therefore, we cannot talk about Russia’s interests in the East-Med without considering their primary national interest, which is the increase in world energy prices (Trachtenberg, 2019). Considering that, in 2018 the energy sector accounted for 65% of Russia’s total exports (World Bank, 2019) and almost 60% of total GDP (Shemetov, 2019) Russia’s position is not surprising. These figures represent that the Kremlin’s very existence depends on high energy prices (Ibid). In which case, it is not surprising that –similar to security issues–Russia has also monopolised contracts with Al-Assad regarding the Syrian energy sector and infrastructure (Esber, 2019), which includes all contracts to explore and develop Syria’s offshore natural gas resources (Ibid.). These contracts are crucial to understanding the broader strategy at play because, in the absence of any other bidders, Russia took all the oil and gas contracts as part of its quid pro in exchange of support for the Syrian regime (Shaoul, 2020). This follows a similar trend from 2013, when Russia signed agreements with Palestine to explore the EEZ off the Gaza strip and when they signed long-term gas purchasing contracts with Israeli companies (Kara-giannis, 2016). Accordingly, these actions display a pattern of Russia, believing that the acquisition of natural gas infrastructure and resources in the East-Med is central to their interests.

These acquisitions need to be defended by a sound security strategy. The Syrian port of Tartus is an essential facility in this regard. Not only is it one of Russia’s only ports in the world, but it is also situated at a strategic place in the East-Med (Koffman & Rojansky, 2018). Although this port has not always been essential to Russia (Harmer, 2012), it has recently seen a USD500 million investment and 49-year lease agreement, which has reshaped its purpose (Koffman & Rojansky, 2018). This coincides with other security measures in Syria, such as the extension of Russia’s A2AD umbrella of S400s and S300s systems across the East-Med and Southern Caucasus (Middle East Monitor, 2020). While these measures have empowered Al-Assad’s reclamation of Syria (Ibid), they also serve other purposes. Koffman & Rojansky (2018) explain that these measures position Russia to lead the reconstruction of Syria and its energy infrastructure.

Beyond that, since the Syrian crisis began, Russia has intended to apply naval pressure in the East-Med through more than just Tartus (Marketos, 2018). An example of this occurred in 2014 when the RoC signed an agreement with Russia on the

access of Russian naval forces to the Limassol port (Black, 2019). An agreement that strengthened Russian naval presence in the region but also complicated Moscow – Ankara relations. However, recent geopolitical developments in the RoC has left its relationship with Russia uncertain, especially after the 2019 6th Trilateral summit between Israel, Greece and the RoC where the East-Med pipeline was negotiated and signed by the three leaders (Papadimitriou, 2020), which subsequently diversified the gas routes and sources available to the EU (see Annex 3), otherwise decreasing dependency on Russian gas (OP-ED, 2020). Nonetheless, from a neorealist perspective, we can see that states can set aside their ideological considerations for the sake of their national security. In particular, if we look at Turkey reactionary agreement with Libya over their exclusive economic zones (EEZ) after the project was proposed. An arrangement that outright ignores the existence of the Greek island of Crete, making the project ‘unfeasible’ (Ibid).

Although, recently, Russia has allied with Turkey to negotiate, the future of Syria and their new Turk Stream pipeline. Moscow strategically weights its pros and cons and has maintained a high strategic dialogue with most of the supporting countries of the East-Med pipeline (like Saudi Arabia, UAE and of course Cyprus). This is because as previously discussed, Russia has secured its position, not only with Syria under its wing but also with the advantage of having the TurkStream pipeline almost complete (Atlas, 2020). Therefore, Russia’s role should not be overlooked in the East-Med as “it is the dominant source of oil and gas for Turkey and most of Europe, a position it can use to its advantage and will try hard to protect (Tastan & Kutschka, 2019, p. 2)”. In this sense, Russia’s strategies and interests in the Mediterranean conflict have been put forward to ensure that Europe will keep buying Russian gas. To do this, Russia has proposed pipelines through Turkey while buying out competitors, and resources like it did in Damascus (Shaoul, 2020). Finally, even if the Al-Assad regime failed, Vladimir Putin’s recent moves in the region show that he could retain its influence in the Alawite entities that are situated strategically along the coastline of the Mediterranean (Nopens, 2013), therefore enforcing its pipeline diplomacy and winning at the energy chess game.

#### IV. TURKEY’S TRANSITION FROM ENERGY HUB TO ENERGY HAWK

Since the Israeli discovery of natural gas off its coast in 2009, the East-Med has begun to experience a “Gas Renaissance” (Lakkotrypis, 2019). With an estimated 227 trillion CFG in off-shore reserves (USGS, 2010), the region could quickly become a pivotal gas supply in international politics (Shama, 2019). This has drawn the attention of every stakeholder in the area for two primary reasons. On the one hand, its proximity to the EU enables access to the world’s most lucrative market for gas<sup>1</sup>. On the other hand, it also offers a critical alternative for these actors to

<sup>1</sup> The EU is the largest market for imported natural gas in the world, and access to this market is highly coveted by natural gas suppliers, who regularly compete to sell gas to EU Member States for a premium (Grigas, 2017).

reach national energy security targets. Both of these reasons are notably crucial for the Republic of Turkey, who is one of the most energy-dependent states in the area and the self-proclaimed ‘Trans-European Energy Corridor’ (Tekin & Williams, 2011).

Understanding Turkey’s dependency and posturing as an ‘Energy Hub’ is crucial to analysing the tensions these discoveries have caused. With no domestic sources, Turkey must import 98% of its gas consumption (Biresselioglu, 2016), 58% of which comes from Russia (Yesevi & Tiftikcigil, 2015) on an extortionate Take or Pay contract<sup>2</sup> (Rzayeva, 2018). Balat (2010) refers to the reliance on imports and Moscow as the primary obstacle for Turkish energy security. Even with new pipelines transiting through Turkey, domestic alternatives are still essential to their energy strategy (Ibid.). Securing a discovery in the East-Med would offset Turkey’s complete import dependence and increase its energy systems resilience to Russian supply shocks (Biresselioglu, 2019). Moreover, East-Med gas transiting through Turkey would be a strategic asset. New gas supply would introduce a market competitor and undermine Russia’s hegemonic position over the EU’s gas market (Tastan & Kutschka, 2019). Doing so would target the Achilles heel of the Russian economy and hamstring their meta energy geostrategy for all of Eurasia.

These factors place East-Med gas as a vital interest in Turkish foreign policy (Biresselioglu, 2016). However, so far, the Turkish EEZ contains no discoveries (see Annex 2), and the country’s antagonistic behavior has resulted in exclusion from the gas boom and its infrastructure projects (Tastan & Kutschka, 2019). This threatens Turkey’s role as an energy hub, which has prompted the adoption of a proactive stance to secure these resources. Turkey has conveniently recapitulated the Cyprus question<sup>3</sup> (Daily Sabah, 2019) as grounds to legitimate access to the gas fields discovered off the islands’ southern coast – causing a diplomatic row with the EU and some of its NATO allies (Johnson, 2019). Understandably, these fields contain hundreds of billions CFG (Daily Sabah, 2019) and they reside in maritime zones that feature overlapping claims (see Annex 2) of countries that have a complex ethnopolitical history.

On one hand, the Greek Republic of Cyprus (RoC) has been accused of excluding Turkey and the TRNC from the equation (ROTMFA, 2020). The RoC has taken steps to block Turkey from joining the Eastern Mediterranean Gas Forum and delineated EEZ’s without their consultation (Shama, 2019). In doing so, the RoC has divided the area south of the island into zones and auctioned exploration licenses to international companies (Koukakis, 2019). This remains problematic because the TRNC contests the zoning under UNCLOS. On the other hand, Turkey appears

2 In Take or Pay systems, the contract defines a set volume. Considering that Turkey’s imports from Gazprom declined by 35.3% in 2019, the country will pay for a significant amount for unconsumed gas (Ahval News, 2020).

3 The unresolved ethno-linguistic division between Greek and Turkish speaking Cypriots.

to be opportunistic, hawkish, and hypocritical. Positioning itself as the guarantor for the TRNC and using their cause to legitimize intervention. Under the pretense of protecting the TRNC's interests, Turkey deployed its navy to intercept drilling vessels intended to develop discoveries made in Calypso (Paraskova, 2018; Koukakis, 2019). Turkey has simultaneously sent drilling platforms under naval escort (see Annex 1) to begin exploration in zones that are equally disputable (Johnson, 2019). The Council of the EU (2020) has implemented sanctions against Turkey for this activity, referring to UNCLOS and the need for Cyprus, Greece, and Turkey to resolve their marine boundaries. However, Turkey occupies a geographically dominant position that will prioritize its 'Energy-Hub' strategy over diplomacy (Tastan & Kutshka, 2019). This reflects a rational interest-based decision-making foreign policy as preferred to a value-based idealism - thus exemplifying the neorealist turn in Turkish foreign policy outlined by Usluer (2016). Usluer (2016) argues that the failed coup attempt of 2015 pushed Turkey to adopt a rational and operational approach to their policy – particularly towards their neighbors. The gas conflict in the East-Med reflects this observation, yet what about the unintended implications of this egoistic shift?

The dispute over the East-Med Pipeline (see Annex 3) is the best case to see the impacts unfold. The proposed pipeline would connect the discoveries made by Israel and the RoC to Italy via the Greek Archipelago to interconnect with Southern Europe (Psaropoulos, 2020). Otherwise, bypassing Turkey. While this pipeline would be more economical if it utilized Turkey's existing pipeline infrastructure (ROTMFA, 2020), Turkey's uncompromising stance on accessing the regions gas has undermined intentions to collaborate (Tastan & Kutschka, 2019). Turkey's continuous antagonism of Greece, Israel, and the RoC has turned these region's gas from a solution to the 'Cyprus Problem' to a means of Turkish self-isolation (Karagiannis, 2016). Turkey's actions have pushed these three countries closer together, relaunching their relations (Ibid.). For these three, the East-Med Pipeline represents a way to circumvent Turkey's political influence and channel economic investment towards their own countries. Demiryol (2018) argues that Turkey's East-Med strategy is an example of a state prioritizing security over prosperity, which resulted in escalated political tensions and missed economic gains. Accurate as this may be true, Turkey may simply be too large of a regional power to ignore, and their exclusion -deserving or not- may only further devolve the situation. While those supporting the Greek-Israeli-RoC position have valid contentions, Turkey's geographical area and military capabilities are formidable to overcome. Furthermore, the Turkish state has repeatedly indicated that they will not tolerate exclusion from gas developments in the region, and they are committed to reinforcing this with militaristic displays. Seemingly, Turkey's role as an 'Energy Hub' appears to have transitioned to Energy Hawk, and Turkish President Recep Erdogan has found an unlikely ally to help him realize this by redrawing the East-Med's maritime borders.

## V. HOW REALIST FOREIGN POLICY MANIFESTS IN THE EASTERN MEDITERRANEAN

On April 4th, 2019, General Haftar's forces launched their operation to overthrow the UN-backed Government of National Accord (GNA) and seize control of Tripoli (Wintour, 2019). The conflict has been further exacerbated by the array of foreign powers who are eager to launch competing interventions that seek influence and control over the country. The reason behind this, however, is not a humanitarian one, but one that considers the advancement of national interests of the many geopolitical powers involved in the East-Med region (Al-Awsat, 2020). Libya, as a result, has been serving as a battleground for multiple ideological, political and economically driven conflicts in which states are trying to leverage the ensuing conflicts to increase their sphere of influence through the country. This assertion is especially applicable to Turkey, which has been reorienting its foreign policy interests from Syria towards Libya, as the latter presents better opportunities to exacerbate their interests in the East-Med (Seufert, 2019).

As previously highlighted, under the provisions of UNCLOS, Turkey has a high degree of questionability to their claims for any of the discovered Gas reserves of the Cypriot shores. These reserves are definitively within the Cypriot EEZ, which risks undermining Turkey's hegemonic position in the East-Med. As a result, by exploiting the ensuing conflict in Libya, Recep Tayyip Erdogan is seeking to leverage Turkey's geographical disposition to unbundle the plans for the East-Med Pipeline (Demiryol, 2018). On November 27th, 2019, the Turkish government and the UN-backed GNA signed a Memorandum of Understanding (MoU) that established a maritime delineation agreement between the two parties, which seeks to redefine and redraw the maritime borders of the Mediterranean (Barkey, 2019). The agreement came as a compromise between the two parties, with Turkey offering a robust military backing to the GNA forces in return for their support for a new maritime boundary line between the two countries (see Annex 4).

Actions such as this follow a pattern whereby Turkey actively searches for ways to legitimate its maritime claims in the Eastern Mediterranean (Chrysopoulos, 2019). Following a somewhat distorted interpretation of UNCLOS, Turkey has asserted that the maximal extension of its continental shelf holds precedence over the EEZ claims of neighbouring island states and archipelagos (Ibid.). The new maritime line not only does that, but it also voids Cyprus's claims for any natural resource discoveries within its continental shelves. Furthermore, it comes at the expense of the Greek EEZ, specifically the island of Crete, to which the Turkish-Libyan MoU gives Turkey the right to conduct explorative and drilling operations off the South-East coast of the island (Seufert, 2020). This treatment of islands is quite ironic and hypocritical because, as the previous section illustrates, Turkey fully defends the claims of the TRNC to be legitimate but inherently denies the same legitimacy

to other parties.

Beyond displaying Turkey's double standard, the agreement has also triggered a wave of diplomatic incidents across the East-Med region, with Greece opting to immediately expel its Libyan Ambassador in the process (Maltezou & Kambas, 2019). Going further, the Greek Foreign Minister referred to the MoU as "A blatant violation of International Law" and "A legally invalid document" (Ibid.). A month later, the same Foreign Minister met with General Haftar to request a cease-fire in the country and request his support in opposition to the recently signed MoU (Ibid.). Prime Minister Kyriakos Mitsotakis followed the Foreign Ministers' actions by indicating that Greece would not recognize nor support any Libyan government that will not nullify the existing Turkish-Libyan maritime deal (Kritikou, 2020). Consequently, this pushed Greece to expedite the construction of the EastMed subsea pipeline to serve as a clear rejection of the MoU. However, Turkey retaliated, saying that it will block any plans to transfer Natural Gas to Europe without its inclusion (Koutantou, 2020). While this illustrates Turkey as an 'Energy Hawk,' it also produced a stalemate and exacerbated tensions.

However, Turkey's geopolitical conflicts in Libya do not only include Greece, for the United Arab Emirates (UAE), has delivered vocal opposition towards Turkish involvement in Libya (Lacher, 2019). General Haftar's forces have been continuously strengthened by the UAE, which supports their claims to legitimacy (Ibid). This has systematically increased the weapon stockpile of Haftar's forces, even going as far as using their fighter jets to establish air superiority over Haftar's opponents (Lacher, 2019). The UAE's foreign policy in Libya is directly related to its hegemonic strategic efforts in the Middle East in which they oppose Turkey. Thus, Libya has been serving as the battlefield for a proxy war against Ankara (Bar'el, 2019). The reason being, as Professor Marinone (2020) explains, "Abu Dhabi and Riyadh perceive potentially Turkish-backed movements as a possible 'fifth column' and a potentially destabilizing internal threat." Another significant aspect concerns who gets control of the port infrastructures in the country, as Abu Dhabi considers them crucial economic and maritime trade assets in the Mediterranean (Ibid). As a result, both the UAE and Turkey have been violating the UN's imposed arms embargo in Libya to gain military superiority on the ground, further fueling tension and bloodshed in the country (Millett, 2020).

If the geopolitical rows in Libya are a testament of anything in the East-Med, it is that realist foreign policy is the dominant approach as it visibly drives the decision-making process of the actors involved in the area, regardless of the international and regional obligations. The argument that Turkey's ideological goals are the only driver for their foreign policy falls flat. Multiple sections of this paper corroborate this, concluding that Turkey is taking radical measures to ensure that its national security goals are accomplished, even at the risk of causing diplomatic rows with its neighbors, some of which are supposed NATO allies (Kösebalaban,

2011). The same applies to Greece, who backed Haftar's forces, against the EU's recommendations, in re-turn for pursuing its national interests (Marinone, 2020). Similarly, Riyadh and Abu Dhabi continue to fuel and engage in the Libyan civil war even if this entails protecting their national and foreign policy interests while disrupting their opponents at the same time (Ibid). The aggressive foreign policy positions are undertaken by all of these actors align directly with Mearsheimer's offensive realism because these states appear never to be satisfied with the status quo (Snyder, 2002). They are inherently prone to deploy offensive tactics to expand their sphere of influence even if this comes at the expense of their allies (Ibid). Thus, perpetuating a cycle of conflict on the ground that creates a tenuous stalemate at the level of states.

## VI. CONCLUSION

In examining the geopolitical trends and developments in the Eastern Mediterranean, we can conclude that individual economic prosperity is the primary driver of the foreign policy decisions in the region. States pursue this through pressuring one another in virtually every strategic channel available to them vying to control maritime access and energy procurement. One strategy seen throughout the chapters, is how regional powers seek to leverage the existing interdependence in the East-Med as a way to continue aggressive diplomatic actions. They do so with the hopes that this will enable them to establish themselves as key political players in the region. Another strategy is displayed by Russia, who's current actions in the East-Med follow the same trends of their usual foreign policy decisions. Whereby they seek to increase other state's dependence on the Russian state—in this case, relying on Moscow's energy market so that Russian gas would be indispensable to the negotiation of any political decisions around the Eastern Mediterranean.

Turkey's decision to prioritize its national security interests over long term economic stability has the same goal Russia. Ankara is refusing to be excluded from the decision making process on energy policy in the East-Med. Thus explaining Ankara's predatory, hawkish actions in the Eastern Mediterranean, specifically about Libya and how they are capitalizing on war-torn countries fractured political institutions so that they may strengthen their own. The odd man in this equation, however, is Libya, which has become a proxy war battlefield in which states are trying to use the ensuing civil war in the country to further their own political Agenda. However, as the country remains torn in between two political factions, one that supports the UN-recognized GNA, and another that supports Haftar's forces, different states are at an impasse in terms of whom they should support.

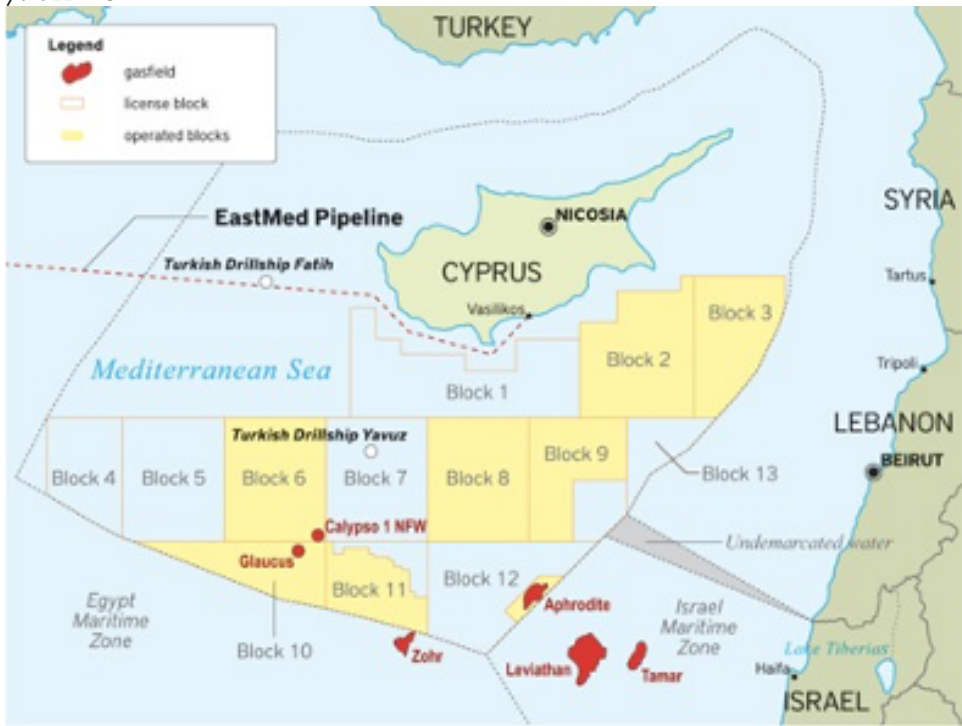
However, as most neorealist scholars would tell us, states are mostly concerned with maintaining and expanding their own political and territorial interests, even if this comes at the expense of other states (Telhami, 2002). In his book "From



Wealth to Power,” Fareed Zakaria (1999) asserts that in terms of their foreign policy interests, states are always looking to maximizing their spheres of influence as opposed to their power. This assertion comes from the idea that as states are presented with more opportunities to increase their resource reserves -mainly natural gas in the case of the East-Med- their expansionist ambitions are what drive their foreign policy decisions (Zakaria, 1999, P.19-20). In examining the regional maritime security in the Eastern Mediterranean, Rubin and Eiran (2019) concluded in their analysis that the lack of a “shared identity and value system” between regional member states, is what is preventing them from being able to set successful guidelines in terms of sustainable region-building mechanisms. The lack of a regional or international institution, coupled with the scramble of natural resources, shows no positive indications that these geopolitical conflicts are coming to an end shortly (Rubin, Eiran, 2019, 17-18). The questions of who will emerge as the winner of the Eastern Mediterranean geopolitical conflicts thus remains unanswered. The premise being if there will be at the end of it all winners and losers from both sides or if all regional powers will be able to compromise and seek mutual benefit in the region.

## VII. ANNEXES

### 7.I. Annex I



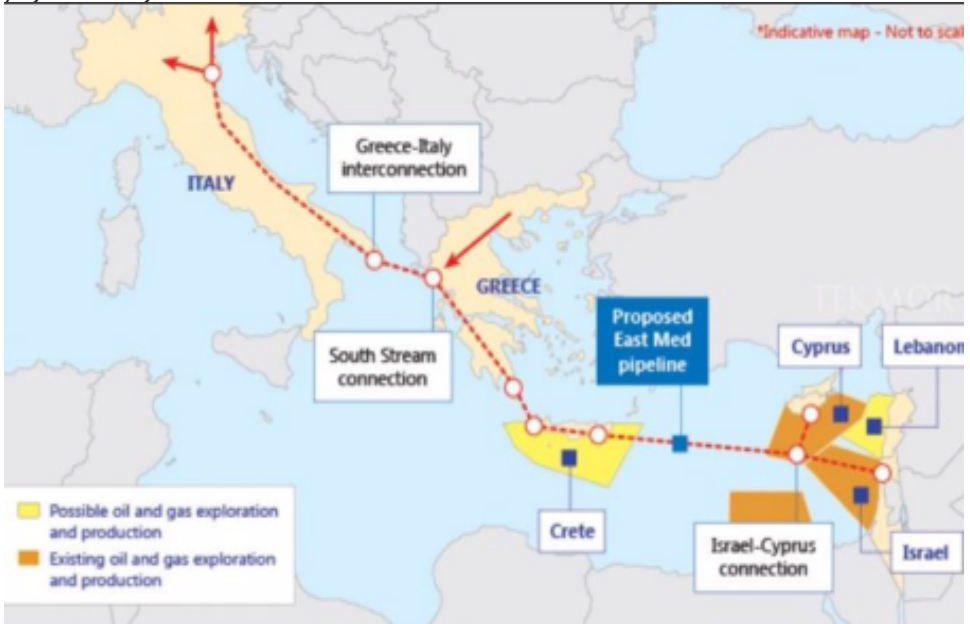
Refer to: Butt, 2019.

7.2. Annex 2



Refer to: Southfront, 2019.

### 7.3. Annex 3



Refer to: Greek City Times, 2020.

### 7.4. Annex 4



Refer to: Bakeer, 2019.

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# Climate

## 5. 1. Lessons on climate change resilience

### How coastal European cities have prepared for heat and water stress

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#### INTRODUCTION

It is becoming increasingly clear that making cities climate change resilient is no longer just an important task to undertake at some point in the far future. It is an urgent and pressing need now, which cities must prioritize if they wish to maintain their social, infrastructural, and economic integrity. We adopt Leichenko's<sup>1</sup> definition, that climate urban resilience "generally refers to the ability of a city or urban system to withstand a wide array of shocks and stresses" and encompasses both adaptation and mitigation.

Many large European cities, including London and Paris, have comprehensive plans in place to deal with periodic floods, water shortages, and extreme heat, but many smaller cities may be less well equipped to deal with these events. This paper will examine larger cities' climate resilience strategies, as well as those of mid-sized, low-lying coastal cities in Europe, and synthesise the most effective measures used by the city councils of these areas. We analyse two subsets of climate change resilience measures: the effectiveness of these cities' water stress and heat stress strategies. Where possible for both, we examine why these mea-

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<sup>1</sup> Leichenko, Climate Change and Urban Resilience. 164-168.

asures worked and how they are financed. In addition, we consider the relationship between these climate dangers and tourism in the chosen cities, including what steps they have taken to protect the industry in the face of such risks.

We used the following criteria to evaluate these policies, when possible, as ‘effective’: cost-effectiveness, the number of residents affected, transferability of the strategy across cities, the level of innovation, political palatability, and time taken to execute the strategy. As part of its synthesis, this paper also considers the possible ways the EU can encourage effective city council climate resilience planning. We conclude that across the 10 cities we examine, there are a number of innovative and extremely valuable policies or future schemes, which should serve as a lesson to other cities with similar environments. However, rigorous evaluation of the schemes is lacking, and overall, more investment is needed. We finish with limitations and propose directions for further research.

## LITERATURE REVIEW

In the next 50 years, assuming radical measures to address global warming are not taken, it is likely the European continent is heading towards huge climatic and water use changes. Risks of heavy flooding will increase significantly - particularly in Sweden, Finland and Northern Russia - and droughts will rise markedly, especially in Portugal, Spain, Western France, and Italy.<sup>2</sup> In the same timeframe, mean rainfall will increase, risks of storm surges will soar, and urban environments will be impacted, including damage to aging infrastructure and reduced natural drainage. But uncertainties in discerning the precise impacts make water stress mitigation a difficult task, due to model-dependent projections of climate change and lack of data in calculating flood probabilities. Planners can no longer rely on traditional risk prediction tools for decision-making, such as expected utility analysis, and must avoid maladaptation (ranging from inaction all the way to over-adaptation). Policymakers worldwide are recommended therefore to consider ‘no-regrets’ options such as well-maintained drainage, and should also focus on flexible options in future planning, like built-in options to adjust adaptation measures as necessary.<sup>3</sup> However, it remains difficult to conduct an accurate cost-benefit analysis for such planning measures due to the unpredictability of climate change effects. In the UK, for example, measures are robust, but also arguable over-expensive, such as flood insurance.<sup>4</sup>

The European Union has made some attempts at pursuing a unified response to looming water stresses. The three most relevant instruments in place are: the Water Framework Directive, the Water Scarcity and Drought Strategy, and the Flood

<sup>2</sup> Lehner, *Estimating the Impact of Global Change on Flood and Drought Risks in Europe: A Continental, Integrated Analysis*, 273–299.

<sup>3</sup> Ranger et al., *Adaptation in the UK: a decision-making process*, 1-17.

<sup>4</sup> *Ibid*, 1-64.

Directive. The latter addresses flooding risks most overtly, with a common framework for understanding hazards, encouraging transborder cooperation and for aiming at impact reduction in three broad stages: these include a preliminary and full flood risk assessment, followed by 'Flood Risk Management Plans'.<sup>5</sup> Despite steps taken towards transboundary river basin management, the legal framework is still weak,<sup>6</sup> and in some cases, existing risk management traditions have trumped new harmonisation measures.<sup>7</sup>

Similarly, heat stress is predicted to have significant impacts on European cities. By the 2050s, it will contribute to weaker wheat yield, especially in Northern Europe.<sup>8</sup> By the 2070s, increased heat stress will be a serious issue for all European countries. Southern Europe is set to be the most heavily impacted, while social risks and vulnerability will be greatest in Germany, France, and Central European states, due to ageing populations and higher percentages of older citizens living alone.<sup>9</sup> The most commonly studied heat stress phenomena are Urban Heat Islands (UHI). These are localised – usually metropolitan - areas, which are much warmer than surrounding rural areas, often caused by low vegetation evapotranspiration, dark surfaces on surrounding infrastructure, and anthropogenic heating from sources such as cars and local power generation.<sup>10</sup> Current – and proposed – effective heat stress mitigation measures from across the world include significant increases to local vegetation, through 'green roofs' or other means.<sup>11</sup> Higher albedo (a measure of how much sunlight is reflected by surfaces) has also seen success in the US through light-coloured pavements,<sup>12</sup> for example, and which in some cities such as Stuttgart, may prove more effective than additional vegetation.<sup>13</sup>

The EU's heat stress mitigation policies have been limited so far. Under the Seventh Framework, the EU's Research and Innovation programme which ran from 2007-13, the Research Technological Development and Demonstration (under Grant Agreement No. 282834) gave some limited attention to climate change resilient city planning and climate neutral infrastructure, and greening infrastruc-

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5 European Commission, Flood risk management, 1.

6 Keessen, Adaptation to Climate Change in European Water Law and Policy, 38-50.

7 Priest, The European Union approach to flood risk management and improving societal resilience: lessons from the implementation of the Floods Directive in six European countries, 1-16.

8 Semenov, Modelling predicts that heat stress, not drought, will increase vulnerability of wheat in Europe, 1-5.

9 Lung, A multi-hazard regional level impact assessment for Europe combining indicators of climatic and non-climatic change, 522-536.

10 Taha, Urban Climates and Heat Islands; Albedo, Evapotranspiration, and Anthropogenic Heat, 1-18.

11 Zinzi, Cool and green roofs: An energy and comfort comparison between passive cooling and mitigation urban heat island techniques for residential buildings in the Mediterranean region, 66-76.

12 Environmental Protection Agency, Cool Pavement Report, 14.

13 Joachim Fallmann, Mitigation of urban heat stress – a modelling case study for the area of Stuttgart, 202-216.

ture. At a sub-regional, non-EU level, a Central European initiative also saw the implementation of pilot projects spanning 8 cities in the region, promoting more green spaces, increasing albedo, and shading, as well offering web tools and guidelines to the relevant stakeholders.<sup>14</sup>

Established methods for assessing climate vulnerability informed our criteria for effective climate resilience measures. Schneider et al.<sup>15</sup> recommended that the following criteria be referred to determine climate vulnerability: magnitude of impacts (scale and intensity); timing of impacts; persistence and reversibility of impacts; likelihood (estimates of uncertainty) of impacts and vulnerabilities; potential for adaptation; and distributional aspects of impacts and vulnerabilities across regions and population groups. From these 6 criteria, this paper derived appropriate criteria for climate resilience, through which we measure effectiveness, when possible: (a) cost effectiveness, (b) time taken to execute the strategy, (c) political palatability, (d) probability of intervention success, (e) transferability of the strategy across cities, and (f) number of residents affected.

## RESEARCH METHODOLOGY

In order to assess the effectiveness of select EU cities' (plus London) climate resilience plans in dealing with heat and water stress, this paper adopted a case study approach, sourcing for the existing resilience plans of EU cities. Deriving a comparable subset of these cities which, ex-ante, had similar manifestations of heat and water stress, increases the applicability of this paper to EU cities that are seeking to adopt the best practices of other cities. This paper focused on low-lying, coastal EU cities with hot summers, as well as London. Research was narrowed to cities that were less than 100 metres above sea level and near a large water body, and experienced average temperatures of 20 degrees and above in July. The 10 cities selected, Athens, Bologna, Dublin, Hamburg, London, Sevilla, Paris, Thessaloniki, Valencia, and Vienna, had an average elevation of 52 metres and a daily average July temperature of 26 degrees Celsius.

Climate resilience papers by city councils were used to identify the various strategies across the cities. To gain a concrete understanding of whether these strategies were effective from the perspective of the city council (an internal evaluation), we reached out to the head of the city council of these respective cities. Of the nine cities contacted, five responded, and two agreed to an interview. The interviews lasted around 25 minutes and supplement our analysis of the nine secondary papers sourced from the city council's website. These strategies were then evaluated

14 Lall, Scoping Study for Policy Initiatives to Minimise Urban Heat Island Effect for Low Carbon Urban Growth, 35.

15 Schneider et al., Assessing key vulnerabilities and the risk from climate change. Contribution of Working Group II to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change, 779-810.



externally against the six effectiveness criteria, when possible: cost-effectiveness, number of residents affected, time taken to execute, level of innovation, political palatability, and level of transferability across cities.

This paper takes water and heat stress, subsets of broader climate resilience, as its central focus. We schematise this complex and interrelated issue as follows. First, adequate financing is an umbrella necessity which helps cities address all problems arising from heat and water stresses. Cities then implement climate resilience solutions with these funds to address and mitigate these risks. The flow chart below illustrates how this paper views the problems, risks and solutions.

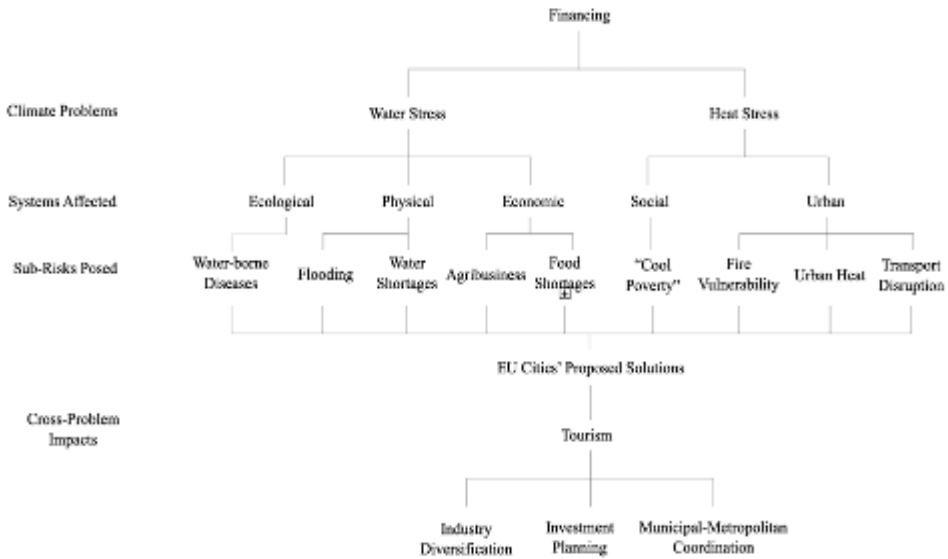


Chart 1: A visual overview of the problems, risks and solutions surrounding EU climate resilience

This paper is structured according to the flow chart, going from top to bottom. Firstly, there needs to be financing of fuel necessary to power resilience efforts, regardless of the type of climate problem. Ways the EU can encourage and stimulate climate resilience strategies through funding are also considered here. Second, the types of climate problems this paper addresses are water and heat stress. These stresses affect different systems, human and natural. Adverse effects on these systems pose risks, which the cities in focus seek to address through their climate resilience plans. The most effective strategies proposed by EU cities are outlined. Finally, this paper considers a significant cross-problem impact of the two climate problems: tourism and what city councils are doing to address long-term, structural changes in the tourism industry.

## CLIMATE RESILIENCE FINANCING

Climate-related disasters are on the rise in Europe and their economic impacts have almost doubled, from an average of 7.5 billion euros in 1980-1989 to an average of 13.3 billion euros in 2010-2015. The EU's Multiannual Financial Framework (MFF) plays an important role in helping Europe prepare for and respond to climate risk: it funds disaster response and can support investment in resilience.<sup>16</sup> The EU also supports adaptation in cities through the Covenant of Mayors for Climate and Energy initiative, and the LIFE+ program is the EU's funding instrument for the environment and climate action created in 1992. The current funding period 2014-2020 has a budget of 3.4 billion euros.<sup>17</sup>

Climate resilience financing is not coming just from the EU: the InsuResilience Partnership was launched at the UN in 2017. The central objective of the Partnership was to enable more timely and reliable post-disaster response and to better prepare for climate and disaster risk through the use of climate and disaster risk finance and insurance solutions, reducing humanitarian impacts, helping poor and vulnerable people recover more quickly, increasing local adaptive capacity and strengthening local resilience.<sup>18</sup>

The MFF provides a vehicle for replicating and scaling the InsuResilience initiative at the EU level. Closing the funding gap will have a direct effect in reducing the budgetary stress of disaster-response mechanisms under the EU budget. Civil society and the insurance sector should be involved in the creation of an initiative to support projects that increase protections for vulnerable people across the EU. It is necessary for the initiative to help to develop and identify projects with the greatest potential for improving access to climate risk insurance and for leveraging private investments.<sup>19</sup>

### THE EU'S ROLE IN FUNDING CLIMATE RESILIENCE FROM A LEGAL PERSPECTIVE

The EU has a policymaking function that is unique in the global political order. The European Commission (alongside the European Parliament and Council of Ministers) formulates legislation affecting almost an entire continent of sovereign nations. Its primary tools in doing so are Regulations and Directives. Regulations may be seen as the stricter of the two as they have binding legal force throughout every Member State and enter into force on a set date in all the Member States, without further deference to the member state governments themselves. They have direct effect, which means they confer EU Law rights directly on individuals

<sup>16</sup> Campillos et al., *Climate Risk and the EU Budget, Investing in Resilience*, 1.

<sup>17</sup> European Commission, *EU joins the InsuResilience Global Partnership to boost disaster risk financing and insurance*, 1.

<sup>18</sup> InsuResilience, *InsuResilience Global Partnership*, 1.

<sup>19</sup> Campillos et al., *Climate Risk and the EU Budget, Investing in Resilience*, 4-5.

and organisations for the sake of their implementation. Directives can be seen as the more ‘relaxed’ of the two, as they are less specific than a regulation since they merely set out a goal to be achieved in a specified timeframe without setting out precise methods through which it should be achieved. Nevertheless, both are legal Acts of EU Law and are useful tools in fostering climate resilience across the EU.

One example of an EU directive already mentioned is Directive 2007/60/EC, the EU Floods Directive. This entered into force in 2007 and its general purpose was to ensure that member states are more prepared to predict and deal with floods. Among its specific aims were for member states undertake a preliminary flood risk assessment of their river basins, develop flood risk maps and draw up flood management plans. According to the European Commission’s online report and ‘scoreboard’ on the directive’s implementation, all EU member states have kept to their targets thus far. Therefore, it can be said - at least in theory - that this directive may in some ways be effective in preparing member states for floods.<sup>20</sup> Whether the legal framework creates strong enough obligations, and if it works in practice, however, is an entirely different question.

## **WATER STRESS**

Water stress represents a broad facet of climate change which leads to a whole range of problems for cities, and for which there exists a fittingly diverse range of mitigation practices. The most pressing risks facing European cities that are addressed in this paper are the physical risks of flooding and resource shortages, the ecological risk of water borne diseases, and the economic risks involving agri-business and the development of local distribution agencies.

### **PHYSICAL RISK – FLOODING**

Flooding is a risk most pertinent for cities with already high volumes of annual rainfall, that lie within or around river basins, or that are low-lying and coastal. The economic and human costs related to flooding are immense and these cities have the most pressing need to address these issues. In fact, the 2002 flood in Central Europe was the costliest European natural disaster on record, causing about 21 million euros worth of damage.<sup>21</sup> Extreme weather patterns such as February 2020’s Storms Ciara and Dennis in Northern Europe will only exacerbate the issues of rainfall when a region is not equipped to handle an event of that nature. European cities have implemented a number of practices to address the issue of flooding. Most of these focus on increasing the preparedness of authorities and the local population to deal with the risk and occurrence of floods.

#### **MEASURES TO PREPARE FOR FLOODING**

20 European Commission, The EU floods directive, 1.

21 European Environment Agency, Economic losses from climate-related extremes in Europe, Key messages.

Water management experts are often consulted to advise local and national authorities on the different facets of the problem. For instance, London Mayor Sadiq Khan has convened a Water Advisory Group to advise the Mayor's Office on the water challenges and opportunities of London's growth.<sup>22</sup> The Drain London Forum has also involved the creation of an online data portal to allow flood risk management partners to more effectively increase information sharing on flood risk within the city. This portal allows for a quick and mobile way for these risk management partners to share data and updates on the flooding situation so that the appropriate responses can occur as soon as they are needed in order to prevent or at least mitigate any flood damage.<sup>23</sup> While the scale of coordination for the responses is sizable, this coordination still relies on authorities to conduct it from a top-down perspective. This portal at least makes the first hurdle - of sharing data in real time - easier to overcome so that the second hurdle can be addressed more expediently.

Another possible practice to address flooding is to cooperate with private insurers to effectively price the risk of flooding. Bologna's new LIFE+ project, 'DERRIS' – DisastEr Risk Reduction InSurance, was incepted to design and test a self-assessment tool. It will be able to measure the risk and enable companies to adopt flood prevention and management measures in case of an emergency.<sup>24</sup> The cooperation with the Italian insurance group Unipol started sharing the data collected and elaborated in the Local Climate Profile in order to improve the hydrogeological risk maps that Unipol is developing, in order to evaluate the price of new insurance policies covering the flooding risk.<sup>25</sup> This is both a more transparent and more accessible way for businesses and the average person to be aware of the flood risk of a certain area and therefore prepare for it, and makes use of the potential competitive advantage possessed by agents in the private sector who are incentivised by market forces to provide better quality services which in this context includes having more accurate measurements of flood risk.

Some cities, like Dublin, use rainfall sensors to predict future floods. As part of the Smart Dublin programme, the Dublin City Council is working in collaboration with Intel and the CONNECT Centre to build a network of low-cost, low-powered rainfall sensors. The long-term goal is to build an experimental flood prediction and response platform.<sup>26</sup> This would enable the relevant stakeholders to have an anticipatory estimate of the amount of rainfall and therefore begin preparations much earlier to deal with any subsequent flood risks. If paired with an effective

22 Khan, Consultation on measures to reduce personal water use, 5.

23 Nickson, Managing Risks and Increasing Resilience The Mayor's Climate Change Adaptation Strategy, 38-39.

24 Bono et al., Bologna Adaptation Plan for a Resilient City, 14.

25 Bono et al., Bologna Adaptation Plan for a Resilient City, 14-15.

26 Dublin City Council, Climate Change Action Plan 2019-2024, 85.

broadcast or outreach system, it would also enable the population at large to make their own preparations for any floods.

### **PHYSICAL RISK – WATER SHORTAGES**

Aside from flooding, another physical risk associated with water stress is the risk of resource shortages. Water scarcity is occurring increasingly often and it affects at least 11% of the European population and 17% of EU territory. Furthermore, it is estimated that about 20-40% of Europe's available water is being wasted due to problems such as leakages in the supply system, lack of water saving technologies, unnecessary irrigation, dripping taps, and so on.<sup>27</sup> This report by the European Commission was published in 2010, and there is no evidence that the situation has improved since its publication, though some cities have at least partially implemented measures dealing with this.

### **MEASURES TO ADDRESS WATER SHORTAGES**

One case study is the coastal Spanish city of Valencia, which has implemented a number of measures as part of an overarching world-class territorial model for water-use efficiency.<sup>28</sup> Some measures in this model include extending the lower metropolitan network to serve urban gardens and restoring the older network of locally-developed historic Spanish watercourses or 'acequias' for gardens, a technique hitherto widely unused in Valencia or any other part of Spain. This use of existing infrastructure reduces costs as the infrastructure need not be built from scratch, but merely updated and maintained. However, Valencian authorities have been prudent to not overextend the capacity of these acequias beyond their design, which means they are only used for lower-volume water supplies.<sup>29</sup> They have also implemented an electronic leak detection and monitoring sensor system in the water distribution network to reduce the useful life of leaks and optimize maintenance. They have microsectorized the drinking water distribution network to optimize management by reducing the problems associated with a large bureaucratic management structure and conferring more independence on the decision-making capacities of local authorities. This increases the speed of action, working on a basis of confidence in the decision-making abilities of such local authorities.

Besides measures which control the use and distribution of water, there are measures being adopted which aim to harvest more water from rainfall and minimise its dissipation in storage and transit. The Valencians, as part of the earlier mentioned model, have also relied on an increased use of reclaimed water to recharge

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27 European Commission, Water scarcity and drought in the European Union, 2.

28 Factor CO2, Valencia Climate Adaptation Plan – Plan de Adaptación al Cambio Climático de Valencia 2050, 1-98

29 Factor CO2, Valencia Climate Adaptation Plan – Plan de Adaptación al Cambio Climático de Valencia 2050, 1-98.

aquifers, thus ensuring a ready supply of groundwater. This has been coupled with more intelligent irrigation systems in public gardens and more intense but spaced irrigation.<sup>30</sup> These measures ensure a ready supply of water from rainfall, and whatever water gets collected is used effectively and sustainably. This avoids wasteful irrigation practices, which have been culprits in water shortages in communities around the world for decades. This policy synthesizes the coordination on a governmental level of the groundwater recharge with a change in approach for the local populace, as they then use more sustainable irrigation practices.

Rainwater can also be harvested in urban areas. The Bologna Urban Building Plan (PUA) conserves rainwater using effective paving material.<sup>31</sup> The PUA provides semi-permeable interlocking concrete pavers laid on a bed of gravel and sand for all parking spaces, both public and private. This solution means less water gets into the sewer while more collects in the drainage area below the pavement floor. Filtering trenches (excavations filled with materials, gravel and sand, wrapped in non-woven fabric to prevent clogging), are provided for the collection of water, which falls on green areas and on pedestrian paths, while the remaining paved and covered areas are served by specific laminating systems. This allows for a direct harvesting of reclaimed water without the additional cost and hygiene concerns associated with the cleaning of water from treated sewage, thus placing less of a strain on state-run sewage treatment facilities. Furthermore, as with Valencia's groundwater recharge measures, this makes direct use of a natural phenomenon to provide the water needs of the populace.

In addition to this, the Faculty of Agriculture, together with the BLUEAP team in Bologna, studied how to collect water with a rooftop harvesting system and to use the collected water to irrigate an experimental orchard 17,700 square meters wide.<sup>32</sup> The designed solution connects the drainpipes (to be equipped with filters containing suspended solids) coming down the roofs to the existing artificial pond through a specific plastic pipeline network, in order to store rainwater for irrigation uses. The idea for this is similar in principle to the sub-pavement filtering trenches, but limits its purpose to just irrigation. This works for that specific purpose, as irrigation does not need heavily-treated clean water to water plants. However, if this measure is to be used for water in a domestic context or industrial context where the required cleanliness and purity level is much higher, it would require the water to be channelled to a facility where it can be cleaned before re-distribution, which incurs its own set of costs and logistical hurdles, coupled with the need for government monitoring and regulation to ensure that the water is industry standard compliant.

#### **ECOLOGICAL RISK – WATER-BORNE DISEASE:**

<sup>30</sup> Ibid,1-98.

<sup>31</sup> Bono et al., Bologna Adaptation Plan for a Resilient City, 9.

<sup>32</sup> Bono et al., Bologna Adaptation Plan for a Resilient City, 12.

Water-borne diseases are commonly associated with periods of flooding and high rainfall as it is these periods that create the circumstances which foster their spread. However, this issue is substantial enough to be analysed separately from the issue of flooding, as numerous European cities have found. While flood prevention and management measures would address the issue of creating the conditions for the pathogens to spread, entirely different measures are needed to address the prevention and containment of diseases once they strike.

#### **MEASURES TO ADDRESS WATER-BORNE DISEASES:**

Valencia is once again a leader in this respect as it has implemented a number of measures to restrict the incubation and spread of viral pathogens. In order to do this, the municipal government has undertaken research, experimentation and development of innovative solutions for the control of infectious disease.<sup>33</sup> For instance, some of the city's gutters are coated with a paint that causes the death of the tiger mosquito (also known as the *Aedes* mosquito), which is notorious for spreading yellow fever and dengue fever. Aside from this, they also produce subcontracted institutions for mosquito control and fund studies examining the links between meteorological trends and disease proliferation. Research like the kind which has gone into producing the mosquito-killing paint is essential if the solutions to the problem are to be replicable on a wider scale and readily applied to any context. This is evident as this paint could be of use in any situation where mosquitoes pose a frequent problem.

However, the research would need constant funding to be continually effective as it has been documented that some mosquitos are beginning to evolve an immunity to pyrethroid insecticides.<sup>34</sup> Furthermore, while outsourcing the research to subcontracted organisations may save the government some cost, it does so at the expense of regulation and quality control. A middle ground has to be struck, therefore, between the perceived competitiveness of private research institutions and the need for central regulation on the part of the government of an area to make sure that the research funds are being used fruitfully in a way that benefits society.

Infrastructure could also be adapted appropriately to deal with this influx of water-borne pathogen carriers. For instance, mosquito larval proliferation could be prevented by the active biocontrol of swimming pools and sports venues to ensure that no breeding occurs, along with the effective sanitisation of household and industrial water supplies, avoiding unnecessary water deposits and even encouraging the growth of local mosquito larvae-eating species.<sup>35</sup> These former three measures depend on the mass participation of domestic populations. As such,

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<sup>33</sup> Torres, Valencia promotes a new strategy for controlling the tiger mosquito with the collaboration of Mosquito Alert, 1.

<sup>34</sup> Kupferschmidt, After 40 years, the most important weapon against mosquitoes may be failing, 1.

<sup>35</sup> Chandra, Biocontrol of Larval Mosquitoes by *Acilius Sulcatus*, 1.

their main advantages are in their low cost and their ease of execution. However, their difficulty lies mainly in their enforcement, whereby it is impractical for central authorities to ensure that every single household and business is regularly undertaking these practices. The measure of introducing local larvae-eating wildlife offers a potentially innovative and ‘natural’ solution to the problem, but it would miss a lot of the areas where mosquitoes do breed, such as everyday household items and drain gutters which collect water. It also requires a large and potentially costly logistical operation to undertake on a governmental level.

### **ECONOMIC RISK – ECONOMIC SUSTAINABILITY**

Along with physical and ecological risks, problems of water stress bring with them some economic risks as well. These require impetus from both the public and private sectors to be effectively addressed. This is especially brought into focus in food-related issues, which intersect with problems of resource management, community outreach, and conservation. The EU food supply chain is a major consumer of energy and water and a large emitter of greenhouse gases and air pollution. The amount of energy necessary to cultivate, process, pack and bring food to intra-EU consumers accounted for 17 % of the EU’s gross energy consumption in 2013, which was about 26 % of the EU’s final energy consumption that same year.<sup>36</sup> A number of measures are available to address this.

### **MEASURES TO PREPARE FOR ECONOMIC SUSTAINABILITY**

An oft-repeated piece of advice we hear is to ‘buy local’. Besides being a movement to support local producers, this is also a good model for more sustainable consumerism in the food industry. Larger producers who scale their business are much more resource-heavy in not just their food production, but also their packaging and distribution. The amount of plastic packaging, petrol and kilowatt-hours all add up to a large carbon footprint. Local food markets, by contrast, use far less packaging material and resources owing to their smaller scale. Organisations like the Sustainable Restaurant Association in the UK aim to encourage consumers to eat at restaurants which source locally as much as possible with the goal of promoting sustainability. This, coupled with the continued popularity of local food markets, should encourage more purchasing of locally-produced goods. Athens’ Kypseli Municipal Market is seen as “a Market of Social Entrepreneurship”, “combining a self-sufficient sustainable business model while also having social impact at its core.”<sup>37</sup> This is evident in its policy which holds that for every item sold, a percentage of the profit goes into a fund to buy food for people in need.<sup>38</sup>

<sup>36</sup> European Environment Agency, Energy use in the EU food sector: State of play and opportunities for improvement, 1.

<sup>37</sup> Seferou, Exploring the Vibrant Markets of Athens, 1.

<sup>38</sup> Lonely Planet, Kypseli Municipal Market, 1.



This also touches on the crucial issue of poverty and wealth disparity, which exacerbates the human impacts of climate change, which tend to hit those at lower incomes more significantly. Buying local is, in theory, a good model for the resource management aspect of sustainability. However, it should be acknowledged that the natural path for many profitable food businesses is to expand, especially when they can begin to take advantage of economies of scale. Furthermore, the large profit margins that come with larger-scale businesses can also be channelled back into more energy-efficient or environmentally sustainable methods of production, with the goal of reducing the per-unit ecological and carbon footprint of the goods. However, this itself depends on the objectives of such a company, and how socially-minded their motives are. Buying local, on the other hand, entails an automatically lower per-unit ecological and carbon footprint, albeit with the sacrifice of variety and in some cases, consumer choice.

Another useful economic measure to promote climate resilience is ‘agribusiness’. The agricultural sector’s effects on the economy and climate are wide-ranging and effecting change there could go a long way to fostering climate resilience. A lot of these incentivise sustainable water usage in agriculture. One example would be tax-based measures like water tax credits and tax breaks for water-efficient agricultural methods could be a useful way to foster less water-intensive and less wasteful agricultural practices. For example, Portugal has reduced its tax rate from 23% to 13% for some agricultural supplies, especially those which use less resource-intensive methods of farming.<sup>39</sup> These have a direct effect as a pricing incentive for the businesses which fulfil these sustainable practices, but could potentially detract from government spending by reducing their tax revenue. While this could reduce their ability to spend on research and development for renewables, it is an overall wide-ranging method to achieve this aim.

## HEAT STRESS

Environmental heat-stress is a multifaceted meteorological issue, encompassing several contributing factors that together manifest themselves in extended periods of above-average temperatures. In acute circumstances, such elevated temperatures may develop into heat waves. As a multi-factor climatic phenomenon, heat stress is not defined by air temperature alone: humidity, wind speeds, and insolation all play significant roles in the development of extreme heat.

The diversity of risk associated with extreme heat reflects this causal diversity. Incidences of prolonged extreme heat, particularly heat waves, pose a suite of major social, infrastructural and economic risks to the geographies of low-lying, Southern European cities. Four of post-war Europe’s five deadliest extreme weather

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<sup>39</sup> Alvara, Portuguese VAT Rates and VAT Compliance, 1.

events have been heat waves, with a combined death toll exceeding 60,000.<sup>40</sup> As the interdependence of extreme heat and drought makes the complete separation of their economic impacts challenging, the economic risks associated with heat stress are nebulous. Strain on metropolitan infrastructure is forecasted to increase significantly.<sup>41</sup> Transport networks and the habitability of buildings in urban environments are particularly vulnerable to increased pressure,<sup>42</sup> with demands on energy production and distribution infrastructure predicted to rise.<sup>43</sup> Rising temperatures are also likely to amplify the urban heat effect experienced throughout densely populated metropolitan areas,<sup>44</sup> posing a major health threat to the well-being of socially and economically vulnerable groups throughout Southern Europe.<sup>45</sup>

## URBAN RISK - URBAN HEAT

Large-scale urban planning of densely populated neighbourhoods has been widely embraced as a go-to method for combatting the hazards presented by the effects of continually elevated temperatures and heat waves in highly developed metropolitan environments.<sup>46</sup> The urban landscapes of many Southern European cities have been defined by rapid growth prior to the era of sustainable city planning. This has simultaneously exacerbated the effects of urban heat and constrained the approaches that can be taken to fully address the issue. Approaches in Paris, Vienna, Thessaloniki, and Valencia, however, have highlighted a number of effective policies that address the challenges posed to cities characterised by pre-urban planning layouts.

## MEASURES TO ADDRESS URBAN HEAT RISKS

Paris has placed a strong developmental focus on cool islands that citizens can readily access during periods of elevated temperatures.<sup>47</sup> By evaluating the areas most vulnerable to the effects of extreme heat, the City has identified, created, and informed the general public about cool islands and routes for leisure, rest, and transport that are available every summer in Paris. The City will place an annualised interactive map on its website that allows users to identify the best places to escape the heat. In 2018, this data was used to develop a mobile application with real-time information about the closest cool areas, and the coolest routes to take

40 Roser and Ritchie, *Natural Disasters*, 1.

41 Chapman et al., *Urban Heat & Critical Infrastructure Networks: A Viewpoint*, 7-10.

42 Harlan et al., *Neighbourhood Microclimates and Vulnerability to Heat Stress*, 2847-2852.

43 Pechan and Eisenack, *The Impact of Heat Waves on Electricity Spot Markets*, 63-64.

44 Ward et al., *Heat Waves and Urban Heat Islands in Europe: A Review of Relevant Drivers*, 527-530.

45 Thompson et al., *Energy Poverty and Indoor Cooling: An Overlooked Issue in Europe*, 21-28.

46 Ward et al., *Heat Waves and Urban Heat Islands in Europe: A Review of Relevant Drivers*, 527-530.

47 City of Paris, *Paris Climate Action Plan*, 62.

when travelling. By 2030, the City will create or open to the public at least 300 cool islands and routes.<sup>48</sup> This is to be addressed in part by the removal of asphalt and low-albedo surfaces from high-density environments such as school playgrounds. Such initiatives have the potential to show high impact as they selectively target geographically ubiquitous urban features; all Parisians live within 200 metres of a school, and so substantial impact potential can be achieved by reducing surface heat retention in a number of common institutional public spaces.

Urban ‘greening’ has also been central to the policy agendas of a number of European cities.<sup>49</sup> “Greenification” of densely populated regions aims to strengthen urban infrastructure in the face of the increasingly hostile conditions presented by extreme heat, capitalising on the cooling effects of green spaces and the role that the ecological adaptation of cities’ ecospheres can play in strengthening the resilience of such efforts. Vienna, Valencia, Sevilla, and Thessaloniki have all made significant proposals in this area.

Vienna too has made efforts in this arena by addressing long term issues with ventilation and cooling in residential buildings. Policies which are set to be implemented include geothermal cooling technologies, thermal component activation/concrete core cooling in new builds, vertical cooling surfaces, and roof shading in the form of photovoltaic installations and blue roofs.<sup>50</sup> Coupled with urban gardens, blue roofs offer the potential to integrate optimised water storage plans with a domestic cooling system. By creating a twofold use of water, such systems hold the potential to be employed in regions where water scarcity will be a significant medium-term problem. In short, two-fold use of such a water storage plan may simultaneously offer a way to integrate the best aspects of mechanical and biological cooling mechanisms into a single utility.

Thessaloniki and Athens have both placed an emphasis on the development of green corridors in order to cool infrastructural networks such as roads and city hubs.<sup>51 52</sup> Seville has evaluated the costs of a number of potential adaptations within its metropolitan area, with the installation of green roofs walls across public buildings estimated to cost approximately 125,000EUR.<sup>53</sup> Implementation of miniature gardens on terraces, balconies and patios is expected to stand closer to 60,000EUR.<sup>54</sup> Both are significantly more economical than public awareness cam-

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48 City of Paris, Paris Climate Action Plan, 62.

49 Massini and Smith, Planning for Green Infrastructure – The Green Space Factor and Learning from Europe, 2-16.

50 Czachs et al., Urban Heat Islands – Strategy Plan Vienna, 1040-1044.

51 100 Resilient Cities, Athens Resilience Strategy for 2030, 173

52 100 Resilient Cities, Resilience Strategy of Thessaloniki, 83-84.

53 Ayuntamiento de Sevilla, Plan de Acción por el Clima y la Energía Sostenibles: Pacas de Sevilla, 122.

54 Ayuntamiento de Sevilla, Plan de Acción por el Clima y la Energía Sostenibles: Pacas de Sevilla, 126.

paigns, the expansion of public gardens, and the greening of city hubs, which were anticipated to range from 800,000EUR to an excess of 2,600,000EUR.<sup>55</sup> Consolidation of existing networks via the expansion of green corridors was evaluated as being significantly cheaper, however, at approximately 80,000EUR. Expenditure by city councils on the cheapest options could provide an excellent means to catalyse green development within cities, with marginal impacts on budgets.

Resilience planning in Valencia has sought to put an emphasis on the promotion of ecological diversification, with focus placed on the reintroduction of local species rather than those of purely ornamental value. This includes the replacement of meadows with hardier, more drought-resistant native plant species, and where not possible, replacing green spaces entirely with ornamental gravels to promote soil permeabilization. Other urban ecology solutions promoted include the development of hillside ditches, use of contour sowing, vegetative growth barriers, buffer strips and cover crops, the implementation of plant-based drain protection, and the redesign of private and public gardens in urban areas to capture surface run-off and maximise shade, as well as the employment of storage tanks to maximise water storage capabilities.<sup>56</sup> Strengthening the emphasis placed on urban gardening, with a focus on tree cover, should create areas of cool shade in the city and ultimately catalyse the development of a public gardens biodiversity reserve.

Ultimately, revegetation of public spaces with local species<sup>57</sup> should lay the foundations for an ecologically resilient urban biosphere that can effectively mitigate the impact of urban heat islands whilst preserving biodiversity. This will promote ecological diversification and water conservation, and simultaneously boost surface permeability to reduce vulnerability to flooding. A more adaptable, heat-resilient urban ecology should aid in the development of appealing public spaces that are accessible in periods of elevated temperatures. Increases in plant coverage and usage of trees as natural, shade-generating elements should enhance their suitability summertime. Accompanying the wider efforts to appropriately re-vegetate public spaces with native species, ecological investment should help mitigate the effects of the urban heat island and preserve biodiversity.

Out of the aforementioned policies already in use, Paris' cool islands scheme is notable in its effectiveness. A successful app launch by Extrema in 2018<sup>58</sup> has made the project publicly accessible and boosted community awareness on the issue, and the technology has now been released in other Southern European cities including Athens, Lisbon and Milan. As a tool that has been offered to the public

<sup>55</sup> Ibid, 127-143.

<sup>56</sup> Factor CO<sub>2</sub>, Valencia Climate Adaptation Plan – Plan de Adaptación al Cambio Climático de Valencia 2050, 27 and 79-81.

<sup>57</sup> Ibid, 82-84.

<sup>58</sup> National Observatory of Athens, Extrema: Emergency notification system for extreme temperatures, 1.

cost-free, the effects of the programme are far-reaching; it is non-polarising and transcends social barriers, in a way that regulatory policies such as vehicular restrictions and energy subsidies do not. The relative ease of implementation makes it readily adoptable across European cityscapes.

### **URBAN RISK - FIRE VULNERABILITY**

Historically, limited or absent urban planning has resulted in urban, suburban and industrial growth into surrounding rural areas,<sup>59</sup> fragmenting forested environments to form peri-urban ecologies that mix lightly-managed forest remnants with urban and suburban landscapes. The result has been the formation of modern metropolitan environments that compartmentalise airflow and increase the risk of fire dispersion under heat stress. The development of green corridors and management of peri-urban forest in Athens and Thessaloniki aims to address these shortcomings in the cityscapes.

### **MEASURES TO ADDRESS FIRE VULNERABILITY**

Athens is actively integrating natural systems more formally and rigorously into the urban fabric.<sup>60</sup> By utilising urban greening as a cooling mechanism, opportunities for the mitigation of urban heat effects and reduced fire risks are placed within reach. Widespread urban greening should be integrated with the maintenance of existing peri-urban forests, upscaling their beneficial impact on urban environments while downsizing fire risk. In addition to undertaking regulatory procedures that can establish new green public spaces in the cityscape, there are plans to instigate new planting schemes in existing green areas that belong to the municipality of Athens, enhancing the role of green infrastructure in the regeneration of public spaces, whether they be dilapidated or in daily use.

Further to this, both Thessaloniki and Athens plan to design and create green corridors within the city, in order to improve air circulation and walkability.<sup>61,62</sup> Improved ventilation of these cities on a metropolitan scale should lower the risk of heat pockets developing, and by extension reduce the likelihood of peri-urban forest fires developing. Green corridors will be grown in part through the establishment of pocket parks, parklets, green roofs and vertical gardens in public, private and abandoned properties. Urban greening will be bolstered further by the development of urban farming in parks, schools and nurseries, public and private lots, roof gardens and other private spaces including roof gardens and promotion of community farming in municipal green areas. A focus on reinforcing peri-urban

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59 Mallinis et al., Monitoring Land Use/Land Cover Transformations from 1945 to 2007 in two Peri-urban Mountainous Areas of Athens Metropolitan Area, Greece, 262-272.

60 100 Resilient Cities, Athens Resilience Strategy for 2030, 82-93.

61 100 Resilient Cities, Resilience Strategy of Thessaloniki, 83-84.

62 100 Resilient Cities, Athens Resilience Strategy for 2030, 173.

and urban forests with a climate-appropriate balance of deciduous broadleaves, evergreen broadleaves, and conifers has also been shown to make significant reductions to levels of ozone and PM<sub>10</sub>, particulate matter less than 10µm in diameter.<sup>63</sup> As a secondary benefit, well-planned planting schemes present urban communities with the opportunity to combat pollution levels for airborne substances that are prone to increase with elevated temperatures.<sup>64</sup>

## URBAN RISK - TRANSPORT DISRUPTION

Rising temperatures and the disruption of transport networks are cyclically related. In Europe, heat waves hold the potential to inflict substantial damage to transport systems. Buckling railway lines, melting asphalt, and overheated underground systems are all considerable risks during periods of extreme heat, and the projected rise in the frequency of heatwaves is likely to put considerable strain on travel and transport infrastructure. Worse still, heavy traffic flows in confined, population-dense spaces such as city centres hold the potential to worsen the urban heat effect, pushing elevated temperatures higher still. The aforementioned effects of raised temperatures on air quality also warrant significant consideration, with levels of major atmospheric pollutants such as ozone and PM<sub>10</sub> boosted directly by increased traffic flows and indirectly by the contribution of increased vehicular activity to elevated temperatures.<sup>65</sup> Paris and London have both taken a number of steps to address the feedback loop that characterised transport disruption.

## MEASURES TO ADDRESS TRANSPORT DISRUPTION

The reduction of vehicle traffic during heat waves also has the potential to play an instrumental role in dampening the UHI effect. In this arena, Paris has published plans to reform road travel in the city centre. A large restricted travel zone will limit the use of personal vehicles in central districts, but exclude public transport and other public service vehicles. Reduction in vehicular traffic during heat waves will be achieved through police enforcement. Integrated with this initiative is a larger, long-term aim to reduce traffic during heat waves to reduce the urban heat island effect and identify a comprehensive cooling strategy for public transportation. The aim is to prevent the most polluting vehicles from being driven in Paris during recognised heat waves, in order to prevent further overheating of the city and to reduce the health risks posed by elevated levels of ozone, volatile organic compounds, and nitrogen oxides. To further cut back city traffic, Ultra-Low Emissions Routes (AUBE) will also be introduced in a number of neighbourhoods. A traffic lane will be permanently reserved in one direction for vehicles that run either on

63 World Health Organisation, Climate and Health Country Profile: Italy, 11-13.

64 Kalisa et al, Temperature and Air Pollution Relationship during Heatwaves in Birmingham, UK, 111-112

65 Ibid, 112.

natural gas or electricity. However, this will not be enforced until 2024.<sup>66</sup>

Implementation of comprehensive cooling strategies for public transportation have been high on the agenda for London. A number of unified measures have been put in place to build a robust cooling strategy for the London Underground network. These include the delivery of new air-conditioned carriages on the sub-surface lines and the investigation of opportunities to further develop groundwater cooling systems for tunnels. Improvement of ventilation shafts is also central to policy, with out-of-service ventilation fans across the network being replaced.<sup>67</sup> Industrial fans and chiller units have also been placed on the concourses of key interchange stations to ensure optimal heat mitigation in high-footfall locations. Plans for cooling systems in certain key stations will be delivered as part of major future station upgrades.

### **SOCIAL RISKS - “COOL POVERTY”**

It is well-established that as the century progresses, the health risks posed by extreme heat are likely to increase universally in urban areas in Southern Europe.<sup>68</sup> The distribution of risk, however, will be disproportionately placed on members of socially and economically vulnerable groups in urbanised regions. The elderly, the young, low-income households, outdoor labourers and socially marginalised groups such as migrants, refugees, and the homeless will all face particularly high exposure to the dangers of extreme heat. The high-rise accommodation, high population densities, and poor ventilation that characterise low-income inner-city regions exacerbate the effects of urban heat<sup>69</sup> and will place such groups under considerable stress without comprehensive, multi-angle social and economic intervention on a metropolitan scale.

Energy poverty is closely linked to the social impact of heat stress, with low-income households often unable to finance the costs of air-conditioning. This problem is unlikely to subside. Increased strain on electricity generation and distribution networks are projected to lead to increased utility bills with business-as-usual development in energy markets.<sup>70</sup> More frequent and prolonged periods of extreme heat are expected to push up demand for power further, doubling the economic pressure faced by socioeconomically disadvantaged groups. Historically, energy poverty has widely been associated with an inability to afford the costs of properly heating a home. Heat stress is likely to reverse this relationship in the near future: the metric of energy poverty in Southern Europe should be redefined as an inability to afford the costs of cooling a home to a habitable standard. We

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66 City of Paris, Paris Climate Action Plan, 26-29, 67.

67 Mayor of London, London Environment Strategy, 379-381.

68 Amengual, Projections of Heat Waves with High Impact on Human Health in Europe, 71-82.

69 Chakraborty, Biocontrol of Larval Mosquitoes by *Acilius Sulcatus*, 1-5.

70 Capros et al., Outlook of the EU Energy System up to 2050, 255-263.

have chosen to label the issue as “cool poverty”. The rise of cool poverty and its social ramifications for socioeconomically vulnerable groups are acknowledged to varying extents in the literature. The development of comprehensive social policy to address the issue is sparse, however. While policies promoting climate-resilient infrastructure and heatmap development are widespread<sup>71</sup> and in the process of implementation, detailed, socially-oriented approaches to the problem are largely underdeveloped or absent. However, Thessaloniki, Athens, and Paris have taken first steps to explicitly address the role that socially focussed policymaking could play in combating the threat of extreme heat. A number of recent and soon-to-be-implemented plans have been proposed.

### MEASURES TAKEN TO ADDRESS “COOL POVERTY”

As an extension to Paris’ wide-spanning infrastructural development plans, the City has decided to facilitate the creation and growth of a new “eco-manager” profession.<sup>72</sup> Those in the role will first be deployed in concerted development zones (CDZs), districts within the city that are part of resilience-based renovation projects. These aim to promote urban greening and the pooling of energy resources and ensure that heat wave-vulnerable housing is suitably adapted for future stresses. Although a key task of the eco-manager role will be to facilitate urban greening on a neighbourhood scale, professionals will be delegated substantial social responsibilities. Monitoring economically and socially disadvantaged neighbourhood members who are vulnerable to heat stress will form a crucial component of the job. The role highlights a wider push within Paris to promote intergenerational cohabitation through the creation of CDZs. By funding the revitalisation of heat wave-vulnerable accommodation and encouraging inclusive citizenship roles, the City hopes to push neighbourhoods to reach out to the most vulnerable members of society during conditions of extreme heat and reinforce the social fabric of the city.

Athens has taken a different approach to combating the risks of heat stress to the socioeconomically vulnerable. By capitalising on the realities of the post-financial crisis urban landscape, the city and the greater metropolitan region have made concerted efforts to open the city up to marginalised and isolated groups that face major risks during heat waves. Amongst the most prominent initiatives is the expansion of a “cool centre” network that enables citizens to readily access spaces across the city.<sup>73</sup> Centres for both senior citizens and young children are being located in more shaded regions, with extended opening hours to accommodate the increased public need for these spaces for vulnerable groups. Separately, Thessaloniki is seeking to diversify its usage of existing public spaces such as

71 European Startup Initiative, Build Transnational Startups, 1.

72 City of Paris, Paris Climate Action Plan, 13, 43 and 72-83.

73 100 Resilient Cities, Athens Resilience Strategy for 2030, 87.



schools and gymnasiums.<sup>74</sup> By opening up city-owned buildings to the public as multi-function spaces, the city hopes to cultivate stronger grassroots communities with a focus on climate and environment-related issues. Ultimately, the hope is that enabling such activities will strengthen social cohesion, actively raising environmental awareness through mediums other than conventional public awareness campaigns.

The provision of temporary accommodation for refugees and the homeless places a significant strain on infrastructural arrangements throughout Greece. Both groups are threatened by particularly high risks in the face of extreme heat. Upscaling accommodation requirements by constructing new, purpose-built centres is difficult both in fiscal and logistical terms. To circumvent these challenges, Athens has opted to utilise and adapt the range of abandoned buildings in the city to accommodate these vulnerable populations, streamlining the costs associated with social-humanitarian programmes and addressing the large surplus of abandoned buildings in the city.<sup>75</sup> Widespread implementation of such measures could also hold the potential to buffer the demands likely to face Athens with the arrival of climate refugees in the medium to long-term.

Arguably the most novel social policy-based approach implemented to date is Thessaloniki's annual "Climathon" initiative.<sup>76</sup> This is a hackathon-style event that places a focus on pooling public intellectual resources into the design of solutions for local climate-related issues. Ultimately, the event aims to help cities find innovative ways to tackle climate change and encourage public initiative and awareness of climate action on a local scale. A jury selects the best team and provides one-on-one support and coaching to develop the winning idea further. The opportunity offered by such an event to engage with the city's human talent and develop innovative solutions for climate change adaptation has been well-received by the public. A successful pilot event was organized in 2016, on the theme of 'Inspiring behavioural change for a climate friendly city', with plans to cement it as a regular event in the city.<sup>77</sup> The event also offers an alternative medium through which public awareness on resilience issues can be boosted. By cultivating a spirit of environmental entrepreneurialism, such events offer cities opportunities to integrate social capital with economic networks to grow sustainable business sectors rooted in start-up culture.

Amongst the policies that have been actively trialled, Thessaloniki's Climathon stands out as one of the most successful, both in terms of impacts and cost. It was well-received by the wider metropolitan community, and offers a low-cost, logistically-straightforward means to collate and hone ideas from local commu-

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74 100 Resilient Cities, Resilience Strategy of Thessaloniki, 64.

75 100 Resilient Cities, Athens Resilience Strategy for 2030, 181-185.

76 100 Resilient Cities, Resilience Strategy of Thessaloniki, 26 and 57.

77 100 Resilient Cities, Resilience Strategy of Thessaloniki, 138.

nities. Just as beneficially, it provides a low-cost medium through which public awareness can be raised on climate issues. Organised under the right conditions, the costs of hosting such an event should significantly undercut conventional advertising campaigns designed solely for the purpose of spurring public interest in climate change and sustainability. More generally, however, there is a drought of already-implemented social policies. While the literature suggests that there is an awareness of the risks faced by vulnerable groups in cities, there is little published evidence that decisive action has been taken. Cool poverty is an issue that is likely to continue growing against a backdrop of ageing demographics, rapid growth in homeless rates, rising wealth inequality, increasing energy demand, and the arrival of climate refugees in the medium to long-term future.<sup>78</sup> This is an area of policy that requires close examination by lawmakers and a long-term effort in order for effective redressal.

## TOURISM

Europe is the most visited continent in the world: 50% of the world's tourists arrived in the EU in 2018, and global visitors to the EU are expected to grow by 9 million a year (1.9%) until 2030.<sup>79</sup> Flood and heat stress may change this: these pressures place great strain on transportation networks, harm businesses facing tourists and reduce the attractiveness of affected cities. For example, Venice had its worst flood in 50 years, leading to a 40% fall in hotel bookings in 2019.<sup>80</sup> The Canary Islands saw a decline of 1.2 million tourists in 2019 as temperatures exceeded 35 degrees Celsius in most of Spain.<sup>81</sup> Addressing climate change's impact on tourism has been dealt with in various innovative ways by EU cities, including industry diversification, investment planning adaptation and increased municipal-metropolitan coordination.

## INDUSTRY DIVERSIFICATION

The tourism industry can turn heat and water stress into an opportunity to diversify and smooth revenue as weather becomes increasingly volatile. It also avoids high tourist concentrations in specific areas, reducing stress on city infrastructure.

## DEVELOPING AND EXPANDING AGRITOURISM

As part of a larger network of green corridors, to complement urban cooling initiatives, and for farmers to smooth income streams, Valencia has placed significant focus on agritourism development. Agritourism is the practice of encouraging tourists to visit farms or ranches in their destination of choice. It has the greatest

78 Foundation Abbé Pierre, Second Overview of Housing Exclusion in Europe, 1-21.

79 Ferries, 70 Tourism in Europe Statistics (2020): Industry Trends, 1.

80 France-Presse, Venice hotel bookings drop by nearly half following November's historic flood, 1.

81 El Pais, Spain braces for first heat wave of the summer, 1.

potential to impact Romania and Greece, which have the greatest share of agriculture relative to GDP (4.3% and 3.7% respectively), and France, which contributed the most to the EU-28 total agricultural output in 2018 (17%).<sup>82</sup> The sustainability of agritourism on rural health and environment cannot be dissociated from the economic, social and cultural life of the community in which it manifests itself, and has a multiplier effect on all the domains with which it interacts.<sup>83</sup> Farms with agritourism tend to develop more sustainable techniques that have a positive impact on biodiversity, landscape and on natural resources.<sup>84</sup>

### INVESTMENT PLANNING ADAPTATION

City councils must consider climate mitigation and climate resilience in deciding how to spend and attract tourist dollars. In Valencia, the city council is promoting experimental neighbourhoods and green urban spaces. For example, they have developed parking spaces with permeable alternative materials and encouraged pedestrianisation with the creation of parking spaces outside dense tourist residential spaces.<sup>85</sup> These measures reduce infrastructure stress and creates incentives to reduce driving in dense areas.

In Athens, the city is looking to develop a more holistic city brand to reinvent their tourism strategy as they deal with the effects of climate change, especially hotter summers. The Athens Tourism Partnership (ATP) - a joint effort by the City of Athens, the Athens International Airport and Aegean Airlines - was established aiming at the city's tourism sector growth, by positioning Athens as a modern cultural city destination. The City of Athens is negotiating with the tourism sector a quota for hiring Athenian residents in the tourism job openings. The City is also considering using its prerogative to open up a local employment agency. Following the example of the Athens Tourism Partnership (ATP) as well as the Athens Convention and Visitors Bureau (ACVB), the city will scale up and maximise its partnership potential to include other major city investors in the funding and co-creating major municipal initiatives. ATP agreed to pool resources and develop a 2016-2017 Marketing and Communications program under the official "This is Athens" brand umbrella.

### MUNICIPAL - METROPOLITAN COORDINATION

First, EU funds through the LIFE+ program and other resources for sustainable

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82 European Commission, Small and large farms in the EU – statistics from the farm structure survey.

83 Ciolac et al., Agritourism-A Sustainable Development Factor for Improving the 'Health' of Rural Settlements. Case Study Apuseni Mountains Area, 1.

84 Mastronardi et al., Farms with agritourisms tend to develop more sustainable techniques that have a positive impact on biodiversity, landscape and on natural resources, 4.

85 Ayuntamiento, Plan de Acción por el Clima y la Energía Sostenibles: Pacas de Sevilla, 175.

tourism investment are currently uncoordinated across countries, and across municipalities within countries. A technical support system should be created to streamline and integrate investment efforts across municipalities. This would allow cities to share best practices and pool resources to launch joint bids.

Second, in order to reduce the competition inherent in tourism grant allocations across municipalities within cities, a metropolitan-scale common policy approach to tourism should be adopted. The criteria for grants should be objective and quantifiable, and made widely available.

Third, a Metropolitan Land Financial Institution should be created for each country. This institution should be developed to generate urban development financing opportunities, increasing opportunities for tourism financing with a country-wide perspective. The institution should also manage land rights to help release space for public use, without compromising the rights of private owners.

## LIMITATIONS

First, though this paper has attempted to narrow down the group of cities to ones that have similar physical features, best practices and lessons learnt from other cities may not be useful, feasible, or directly applicable in other cities' political, economic and social contexts. For example, agritourism as a strategy to alleviate urban heat will not apply as well in countries with little agribusiness, such as Germany. Second, climate resilience proposals urgently need to be developed. At the same time, greater EU financing and increased coordination across programs will take at least 2-3 years. In this time, many cities would already have developed and updated their climate resilience plans without taking potential increases in EU financing into account. Third, and perhaps most importantly, climate strategies that are today believed to be effective in the future may turn out to be less effective once tested with real climate disasters. How climate change manifests is becoming more and more uncertain. Cities will need to maintain flexible financing and development mechanisms to prepare for an uncertain climate.

## CONCLUSION

We defined climate resilience measures in urban areas as the ability of a city to withstand stresses arising from the effects of climate change, encompassing both adaptation and mitigation. We narrowed the focus of these stresses to those caused by heat and water, taking city councils as the current primary relevant actors involved in the planning and implementation of responses. We took 10 cities, 9 from the EU, and London, as our case studies, sourcing information from official government documents as well as from first-hand interviews we conducted. When possible, we identified an effective resilience strategy according to its cost-effec-

tiveness, the number of residents it affected, the time taken to execute it, level of innovation, its political palatability, and the level of transferability across cities.

We schematised climate resilience issues as follows. First, adequate funding underpins all and any effective response by cities. Second, the climate problems of water and heat stress affect various systems, including ecological, physical, economic, social, and urban. In turn, each comes with its own more sub-risk, including flooding and “cool poverty”, for example. The cities’ responses follow on from this, and we also examined the impacts on – and by – tourism on these issues too, as a strikingly interrelated theme. We found broadly that these 10 cities use – or plan to use – many innovative and extremely valuable schemes in addressing water and heat stress. Valencia, for example, uses the novel method of containing water-borne diseases by coating gutters with a special paint, which kills the disease carrier, tiger mosquitoes, while Paris has developed ‘cool islands’ – areas with less elevated temperatures during summer – made accessible via a mobile map app with real-time updates. The EU would do well to take lessons from these cities and help generalise them to other similar cities, while cities themselves should learn from them similarly too.

But despite this, there remains a lack of rigorous evaluation – over a sufficiently long period of time – of these innovative schemes, and a severe increase in investment at both the EU and city level is needed to ensure both these and other effective means are successfully implemented. It may also be true that structural issues across Europe will not be addressed adequately by fragmented schemes, but instead require a unified, cross-European approach, which provides both incentives for action across the continent, and green regulations to build sustainability. For example, a pan-European tax to reduce carbon use in buildings and cars, or an incentive to build more flood proof buildings and naturally vented buildings are possibilities. But in the meantime, we suggest further directions of research. Firstly, it would be helpful to understand the best mechanisms to transfer knowledge and expertise across cities in Europe. Secondly, we would like to see the best means to scale up interventions to achieve large impact, as well as the role of the EU and individual countries in achieving this. Finally, the key to understanding the success of this issue from the outset also requires an analysis of whether - despite plentiful scientific evidence in this field - this is the right political moment within and across Europe, for the ambition necessary to push for more effective climate resilience measures at all.

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# European Student Policy Competition

## 6. 1. Responses to the Belt and Road Initiative A European Grand Strategy

SUBMITTED BY

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### EXECUTIVE SUMMARY

China's Belt and Road Initiative (hereinafter BRI) poses considerable domestic and international challenges on the European Union (EU). So far, the Union's "engagement" strategy has not been able to effectively counter or mitigate China's growing political and economic influence. This shortcoming can be overcome by the creation of an alternative "liberal" investment framework in cooperation with democratic partners such as Japan and South Korea. This framework should not only foster economic links to Asian and African countries by investments in important infrastructure projects but should additionally involve the sustainable training and development of the local workforce and, more generally, the recipient countries' economies.

### INTRODUCTION

The EU's economy has never been as closely integrated with the rest of the world as today. The Union is now the world's largest trading bloc making its member states highly dependent on stable and efficient trade relationships around the world. This unique position appears to be increasingly challenged by the new offensive mercantilist strategy adopted by China, and in particular the country's

2013-launched BRI. This new Chinese foreign and economic policy is the source of internal and external challenges that the EU is already facing and that are likely to worsen without an adequate and comprehensive response by the EU. Key to overcoming these challenges will be to foster internal cohesion, as well as to provide an ambitious “liberal” alternative to the Chinese BRI model.

## PROBLEM DESCRIPTION

The BRI was launched in 2013 as a progressive foreign and economic policy. Its main goal is to establish new logistic links across Eurasia that include the expansion of railway networks, ports, and other infrastructure. This should subsequently foster new economic growth in partner countries and simultaneously strengthen Beijing’s economic leadership in general. The BRI imposes direct challenges on the EU. In regard to the domestic arena, the BRI has already proven to weaken internal cohesion among European member states. While Southern and Eastern European countries welcome the BRI expecting appreciated economic benefits and investments in crucial infrastructure, especially Germany and France criticized the BRI for running against the EU’s agenda for liberalizing trade and pushing the balance of power in favor of subsidized Chinese companies.<sup>1</sup>

In regards to the international arena, the BRI poses several severe threats to the EU’s interests. First, the BRI is expected to further increase China’s global influence challenging the values and organizational principles that Western developed nations and in particular the EU stand for.<sup>2</sup> Second, growing Chinese investments into developing countries in Asia and Africa are expected to increase those countries’ vulnerability to economic shocks as the investments concentrate on only some strategically important sectors (resources) potentially leading to similar problems as the so called “resource curse”. Thirdly, the BRI has already led to involuntary handovers of critical infrastructure to China in cases in which countries were not able to repay their debts and is likely to continue to do so.<sup>3</sup> Fourthly, China will further foster the promotion of authoritarian “sharp” power within the countries receiving infrastructure investment following an active strategy of influencing the political and civic sphere of these countries in their favor.<sup>4</sup> Moreover, the country is assisting authoritarian leaders with political know-how. For instance, the government sold their newest surveillance technique to such leaders in African and Asian states that enables them to efficiently and powerfully control

1 E. Baark, “European Perspectives on the Chinese Belt and Road Initiative,” *China-an International Journal* 17, no. 4 (Nov 2019).

2 Ibid.

3 Gustaaf Geeraerts, *Europe and China’s Belt and Road Initiative: Growing Concerns, More Strategy*, Security Policy Brief, (EGMONT Royal Institute for International Relations, 2019).

4 Christopher Walker, “What Is ‘Sharp Power’?,” *Journal of Democracy* 29, no. 3 (2018).

and repress their populations.<sup>5</sup> Finally, China is expected to use its strategic investments in order to advance their military power in tactically important regions as seen with the establishment of its first military base on the African continent<sup>6</sup>

## POLICY OPTION

Currently, the EU and its member states have tended to follow a strategy of “engagement” as a general response to China’s growing global influence. This strategy seeks to shape China’s external and even its internal behavior by augmenting and intensifying economic, diplomatic and political contacts with Chinese leaders, in order to socialize China into the existing international order.<sup>7</sup> The newest policies by the EU, such as the EU-China Connectivity Platform or the “Connecting Europe and Asia” strategy lack ambition, creativity and vision for the future development of the EU’s relationship and connectivity with Asian and African countries.<sup>8</sup>

As the Union’s current “engagement” strategy cannot be expected to efficiently mitigate detrimental externalities of the BRI, the EU should instead focus on a “balance” tactic. In order to effectively counter and mitigate Chinese economic and political influence that is likely to challenge the Union’s long-term international goals, the EU needs to establish an own ambitious, future-oriented and liberal economic investment framework that should “balance” out, Chinese authoritarian sharp power. In order to distinguish the own economic initiative to the BRI, the EU’s program should not only propose monetary investments but in addition non-monetary benefits to partner countries. These non-monetary benefits can include the training of local workers, the assistance with know-how and skills in creating infrastructure projects, and the substitution of linkages with European companies. This constitutes a significantly different approach compared to the Chinese idea of investing large amounts of money without assisting the local population. Instead, Chinese investment projects oftentimes are accompanied by the employment of Chinese workers and sometimes even with the handover of firms to China. In these cases, the local population does not benefit from the investment through higher employment rates or the accumulation of modern skills and resources. This is where the EU can provide an attractive alternative to the lo-

5 Sheena Chestnut Greitens, Myunghee Lee, and Emir Yazici, “Counterterrorism and Preventive Repression: China’s Changing Strategy in Xinjiang,” *International Security* 44, no. 3 (2020).

6 An example for this is the creation of China’s first overseas military base in Djibouti; Yun Sun, “Djibouti: What Europe should understand of China’s approach to military expansion,” *Euractiv* (2018).

7 Richard Maher, “Europe’s response to China’s rise: competing strategic visions,” *Asia Europe Journal* 15, no. 2 (2017/06/01 2017).

8 European Commission, “EU steps up its strategy for connecting Europe and Asia,” news release, 2018; European Commission, *Connecting Europe and Asia - Building blocks for an EU Strategy*, (2018); European Economic and Social Committee, *Connecting Europe and Asia - Building blocks for an EU Strategy*, (2018).

cal economy by investing money into important infrastructure projects and other economic programs and additionally assisting with the training and employment of the local workers and the sustainable development of the country's economy. A positive side-effect of such a strategy might be that effective training and employment of the local population might lead to higher education rates and more demands for political participation which is likely to strengthen democratic rule and to weaken authoritarian one.<sup>9</sup>

In order to further strengthen the EU's influence and to weaken Chinese sharp power in particular on the Asian continent, the EU can foster closer cooperation and coordination with Japan and South Korea. With both countries, the EU has friendly relations based on the promotion of liberal values and market-based economies. Both countries are economic powerhouses on the Asian continent and share similar interests on a lot of political and economic issues with the EU. Therefore, the EU could further enhance its cooperation with Japan and South-Korea and incorporate them in its own economic strategy that should foster connectivity with Asian and African states. Moreover, both countries are also increasingly concerned about the immense political and economic influence that China exercises in their nearest neighborhood and might therefore be specifically interested in countering this themselves. In the EU they would find a reliable and powerful partner. Building a strong political and economic block based on mutually beneficial economic policies would make ties with this new block a more attractive alternative compared to the BRI.

## RECOMMENDATIONS

The Chinese BRI poses severe domestic and international challenges on the EU whose current "engagement" strategy has not been able to mitigate them. It is necessary to develop an own "liberal" alternative to the BRI which not only strengthens economic ties to Asian and African states through investments in infrastructure, but which also fosters the sustainable development of a mature workforce and of local businesses. In order to make this project even more effective and attractive, cooperation with Japan and South Korea should be sought. Clearly, such a project would impose financial burden on European member states. As a reference point, China announced to invest around US\$ 160 billion in infrastructure projects. Member states will only accept these financial demands if the responsible EU bodies, the Commission and the Council, are able to communicate that fostering strong trade relations with growing economies and markets and assisting in their sustainable development is expected to be economically and politically beneficial for the EU in the middle- and long-run. It is crucial that the EU's response will be comprehensive and cohesively supported by all member states, including those currently benefitting from BRI investments. Only by "balancing" out growing Chi-

<sup>9</sup> Carles Boix and Susan C. Stokes, "Endogenous Democratization," *World Politics* 55, no. 4 (2003);



nese economic influence in Asian and African countries will the EU be able to mitigate China's use of sharp power and its diffusion of authoritarian rule along the economic ties it established via the BRI.

## 6. 2. The importance of local political activism in reducing the rise of extremist parties

### The impact on young people and migrants

SUBMITTED BY

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#### EXECUTIVE SUMMARY

This policy paper outlines the relevance and importance of local political activism in reducing the rise of extremist parties, and what the EU can do to encourage its Member States to have greater success in this area. It details why policies implemented in the past, whilst being a good start, are not comprehensive enough, and nor do they offer sufficient scope for local policymakers to implement effective changes directly within their communities. The threat that extremism faces to society is undeniable, and thus this paper outlines two methods that can be utilised to best mitigate its effects by focussing primarily on the most vulnerable groups: young people and migrants. Overall, it calls for the EU to continue encouraging local action and training as outlined in RAN, but in addition to this, utilise<sup>1</sup> social media to effectively engage the youth, and provide linguistic and cultural education for migrants, and make these measures compulsory action for Member States.

#### INTRODUCTION

The last decade in particular has seen a considerable rise in the presence of extremist parties, especially those which fall towards the far-right of the political spectrum. This is a trend that is evidenced all across the EU and is visible in countries that are both more conservative, such as Hungary, where Fidesz gained 49% of the vote at the last election, and in more liberal countries such as Denmark and Sweden, wherein the Danish People's Party and Sweden Democrats gained

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1 "Prevention of radicalisation," European Commission, accessed April 23, 2020, [https://ec.europa.eu/home-affairs/what-we-do/policies/crisis-and-terrorism/radicalisation\\_en](https://ec.europa.eu/home-affairs/what-we-do/policies/crisis-and-terrorism/radicalisation_en).

21% and 17.6% of the vote, respectively. The rise of extremism is undeniable, as has been<sup>2</sup> evidenced by the formation of Identity and Democracy (ID) Bloc in the European Parliament, composed of 9 far-right European parties. The European Union has certainly made efforts to minimise the impact of extremism on<sup>3</sup> democracy and stability as outlined in both the 2014 and 2016 European Commission Communications on<sup>4,5</sup> Preventing Radicalisation and Violent Extremism, however these efforts have been primarily focussed on tackling radicalisation and violent extremism or terrorism, rather than sociopolitical extremism evident in daily life. Additionally, much of the current policy framework endorsed by the European Commission shows Member States taking as much action as they see fit on a national- or local-level, leading to significant discrepancy amongst States when tackling political extremism. The EU should take a firmer stance and, as well as continuing its current policies, should develop more comprehensive and targeted policies that Member States must undertake and adapt according to what is suitable for their local communities. If discrepancies amongst Member States are lessened, the EU will be better prepared to tackle extremism.

## PROBLEM DESCRIPTION

History is an ode to what can occur if a more comprehensive effort is not made to tackle the increased political extremism across Europe. As was evidenced most clearly in the rise of the Nazi Party in 20th Century Germany, if extremist parties remain unchallenged and unmonitored, they continue to push the boundaries of what is considered normal or acceptable in public discourse, and with sufficient time, are able to normalise their ideology. This then enables even more extreme attitudes to enter the view of social discourse, thus pushing the Overton window<sup>6</sup> to progressively further extremes. If insufficient action is taken, the majority can be left unable to counteract or respond to the actions of the extreme. The impact of an uncontrolled rise in extremist parties is undeniable: it bolsters social divisions, polarisation, and hostility, and leads to the creation of an ‘us vs them’ mentality within a society. The effects of this are harmful to all as a reduced ability or will to cooperate can impair both the economic output and resilience of a country — consumers may be less likely to support businesses run by a group that their extremist ideology may deem as inferior or unworthy. On a larger scale, if migrants,

2 “Europe and right-wing nationalism,” BBC News, accessed April 26, 2020, <https://www.bbc.co.uk/news/world-europe-36130006>.

3 Ibid.

4 European Commission, “Preventing Radicalisation and Violent Extremism,” 2014, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/e-library/documents/policies/crisis-and-terrorism/radicalisation/docs/communication\\_on\\_preventing\\_radicalisation\\_and\\_violence\\_promoting\\_extremism\\_201301\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/e-library/documents/policies/crisis-and-terrorism/radicalisation/docs/communication_on_preventing_radicalisation_and_violence_promoting_extremism_201301_en.pdf).

5 European Commission, “Preventing Radicalisation leading to Violent Extremism,” 2016, <https://ec.europa.eu/transparency/regdoc/rep/1/2016/EN/COM-2016-379-F1-EN-MAIN-PART-1.PDF>.

6 “The Overton Window,” Mackinac, accessed April 28, 2020, <https://www.mackinac.org/Overton-Window>.

for example, feel that they are unwelcome in a society due to the prevalence of anti-migrant rhetoric, for example — which is often central to right wing extremist parties — they may be less willing to integrate and assimilate into their new society. As well as reducing their ability to thrive socially, it may limit their economic progression and mobility by preventing them from accessing better careers with higher incomes, thus limiting their individual disposable income, and accordingly, their personal consumption and spending. The overarching impact remains that an environment where political tensions and social divisions are high will likely be extremely unpleasant and uncomfortable for residents and citizens, and can trigger emigration and social exclusion, thus failing the basic fundamentals of upholding societal and communal wellbeing.

## POLICY OPTION

Local-level policy should be enhanced to combat the rise in extremist parties, but it is critical to ensure that the aim is not to appease extremists and justify or endorse their sentiment, but rather to foster a clear sense of community and togetherness and ensure that a logical counter narrative is always present. Firstly, there is much to be gained from focussing on the youth and ensuring they are engaged and able to think critically when faced with extremist narratives. Young people are a very vulnerable and easily manipulated group, and when exposed to such ideologies, are amongst the least likely to resist. Encouraging local awareness and activism amongst the youth can be achieved by utilising social media platforms effectively. Currently, platforms such as Facebook and Twitter lessen the impact of extremism by condemning illegal hate speech on their platforms; however, directly targeting young people<sup>7</sup> through educational campaigns encouraging them to think critically about extremist rhetoric should be also be present across these platforms. Exercises testing logic and critical thinking can be gamified as online challenges or quizzes that young people can participate in using social media. Incentives to participate can be increased by hosting competitions, where essays, speeches, campaigns or policy ideas are submitted to local policymakers, detailing young people’s own thoughts, ideas, and experiences with extremist parties.

Social media can also be used to promote the Erasmus+ programme through targeted advertising, and local educational authorities should ensure that all eligible students are made aware of the programme and its benefits. In addition to this, it is critical to ensure that young people are continually provided with safe spaces in and out of school, such as youth centres and after school clubs, which promote key EU common democratic values of openness, freedom, equality and liberty. This will foster a sense of community and ensure that the risk of a young person’s vulnerability or loneliness being exploited by the rhetoric of extremist movements is minimised, as often, voting for the extreme can also be the result of a ‘desire to

<sup>7</sup> European Commission, “Preventing Radicalisation,” 2016.

be part of mass culture.’

Basic political education programmes, as well as voluntary community work,<sup>8</sup> should be implemented as part of the curriculum, and young people should be made aware of the state of affairs in their country and globally. The Commission should also continue to develop its ‘specific toolkit’ so young people<sup>9</sup> continue to ‘increase their democratic resilience, become media literate and think critically, on how to... resolve conflicts and respect the views of others and on how to spot and react to early signs of radicalisation.’ Additionally, local educational authorities should also ensure that young people maintain regular contact with ‘representatives of civil society and role models’ to motivate and prevent them from drifting to the margins of society.

Secondly,<sup>10</sup> much of the current extremist rhetoric across Europe is centred around immigration, with one of the many issues being cited by extremists being the apparent inability or reluctance of migrants to integrate and assimilate into their host country. A key policy countries such as Denmark and Sweden adopted is to host subsidised language and<sup>11,12</sup> culture classes for new migrants. Through EU encouragement and support, other Member States can develop similar programmes in their communities. This will ensure that the barriers to entry towards language classes that several migrants face are removed, and will allow them to gain a deeper linguistic and cultural understanding of their host country, thus enabling them to progress and better assimilate into society. Local authorities should develop budgets<sup>13</sup> and raise awareness amongst their residents, so that native speakers or lifelong residents can volunteer as language or cultural coaches, and if they are taking on a more intensive managerial or administrative role in setting up a programme, can be reimbursed at national living wage level.

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8 Parliamentary Assembly of the Council of Europe, “Threat posed to democracy by extremist parties and movements in Europe,” 2000, <http://www.assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewHTML.asp?FileID=8818&lang=en>.

9 European Commission, “Preventing Radicalisation,” 2016.

10 Ibid.

11 “Daily chart - Europeans remain welcoming to immigrants,” *The Economist*, accessed April 29, 2020, <https://www.economist.com/graphic-detail/2018/04/19/europeans-remain-welcoming-to-immigrants>.

12 “Swedish Academy to launch new language lessons for immigrants,” *TheLocal.se*, accessed April 29, 2020, <https://www.thelocal.se/20171023/swedish-academy-to-launch-new-language-lessons-for-immigrants>.

13 “Vassiliou: Immigrants must learn the language of their host country,” *Euractiv*, accessed April 29, 2020 <https://www.euractiv.com/section/languages-culture/news/vassiliou-immigrants-must-learn-the-language-of-their-host-country/>.

## RECOMMENDATIONS

Overall, policies that should be implemented to further encourage local political activism in an effort to mitigate the rise of extremist parties should have a twofold focus: on young people and on migrants. Both of these groups are fairly vulnerable and, be it for different reasons, are frequent targets of extremist groups, thus it is logical that in order to best reduce the impact and appeal of extremism, these two groups are most supported and prioritised. For young people, social media should be utilised by local and national policymakers as a medium for raising political awareness and encouraging the ability to think critically and logically about divisive rhetoric. Policymakers must also ensure that community spaces are kept intact and funded for young people, thus ensuring that they do not feel lonely or detached. For migrants, it is key that local policymakers cooperate with their communities to ensure that new migrants feel accepted in their new society and feel encouraged to integrate into their host country, rather than feeling rejected from the outset. Policymakers should ensure that effective systems are in place for migrants to gain the relevant cultural and linguistic skills needed in order to thrive in their new environment.

# 6. 3. Europe's Response to the BRI

## Preventing China's aggressive economic expansion

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### EXECUTIVE SUMMARY

Only recently has the European Union declared China as its systemic rival and recognized its Belt and Road Initiative (BRI) as a threat to global economic development and prosperity. It must now work together with its global partners to present developing nations with alternative sources of funding for long-term infrastructure projects. Moreover, the EU should take advantage of the tremendous financial distress BRI economies are likely to be put under due to the COVID-19 crisis and engage in a dialogue with China, offering to co-finance some of the BRI ventures in exchange for China's adherence to international rules and EU values.

### INTRODUCTION

Ever since the introduction of the BRI in 2013, China has provided more than \$200 billion-worth of loans for infrastructure projects across Asia and Europe.<sup>1</sup> While the program is being advertised as an effort to promote economic development, free trade and globalization, over the years it has become clear that the BRI has a much more self-serving side than previously thought.<sup>2</sup> Research and intelligence reports show that Chinese funds are often used as leverage for gaining political sway or, even worse, as means of taking over strategic assets (electricity grids, oil pipelines, highways, railways and ports) in recipient countries. This is achieved through “debt-trap diplomacy,” whereby China intentionally provides excessive credit to countries unlikely to meet their obligations in the future in the hopes of extracting greater economic and political concessions instead. Dealing with this issue, and China's increasing power projection, should be a key priority for the

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1 Felix Chang, “Lack of Demand: The Coronavirus Pandemic and China's Belt and Road Initiative,” Foreign Policy Research Institute, April 20, 2020, <https://www.fpri.org/article/2020/04/lack-of-demand-coronavirus-pandemic-belt-and-road/>

2 Felix Chang “Unequal Sequel: China's Belt and Road Initiative.” Foreign Policy Research Institute, August 6, 2019. <https://www.fpri.org/article/2019/08/unequal-sequel-chinas-belt-and-road-initiative/>.

EU. So far, the United States has taken a much more proactive stance in addressing the BRI, labelling Chinese economic practices as “predatory”<sup>3</sup> and advising countries against taking Chinese money.<sup>4</sup> The US has also restructured its foreign aid vehicles to provide nations in financial distress with alternatives to taking Chinese investing. Meanwhile, in October 2018, the former High Representative of the Union for Foreign Affairs and Security Federica Mogherini presented a new EU strategy for connecting Europe and Asia, considered by many to be Europe’s counter strategy to the BRI, even if this is not explicitly stated.<sup>5</sup> Only in March 2019 did the European Commission openly recognize China as “a systemic rival promoting alternative models of governance.”<sup>6</sup> However, the current response leaves much to be desired, and stronger measures will have to be taken if the EU hopes to remain on track for meeting its global strategic goals.

## PROBLEM DESCRIPTION

There is a myriad of evidence suggesting that the BRI represents significant threat for developing and developed countries alike.

To begin with, findings show that China has not been averse to using backroom deals and even bribes<sup>7</sup> to corrupt officials in order to gain favor for BRI projects. Moreover, Chinese funding and aid clearly comes with political strings attached. For example, if an African nation recognizes Taiwan as an independent state, it receives, on average, 2.7x less infrastructure financing and aid from China, while countries that consistently vote along with China in the UN General Assembly receive 1.8x more financing and aid than the standardized mean.<sup>8</sup> The problem extends beyond just developing nations, as China has already gained some foothold in Eastern and Central European and is beginning to influence EU policies. An example of this is China employing state-owned firms as proxies in financing or

3 “Summary of the National Defense Strategy: Sharpening the American Military’s Competitive Edge” (Department of Defense, 2018), <https://dod.defense.gov/Portals/1/Documents/pubs/2018-National-Defense-Strategy-Summary.pdf>.

4 Evan A. Feigenbaum, “Reluctant Stakeholder: Why China’s Highly Strategic Brand of Revisionism Is More Challenging Than Washington Thinks,” MacroPolo, April 27, 2018, <https://macropolo.org/analysis/reluctant-stakeholder-why-chinas-highly-strategic-brand-of-revisionism-is-more-challenging-than-washington-thinks/>.

5 “Connecting Europe and Asia - Building Blocks for an EU Strategy,” European External Action Service, September 19, 2018, [https://eeas.europa.eu/sites/eeas/files/joint\\_communication\\_-\\_connecting\\_europe\\_and\\_asia\\_-\\_building\\_blocks\\_for\\_an\\_eu\\_strategy\\_2018-09-19.pdf](https://eeas.europa.eu/sites/eeas/files/joint_communication_-_connecting_europe_and_asia_-_building_blocks_for_an_eu_strategy_2018-09-19.pdf).

6 “EU-China – A Strategic Outlook,” European Commission, March 12, 2019, <https://ec.europa.eu/commission/sites/beta-political/files/communication-eu-china-a-strategic-outlook.pdf>.

7 Jonathan E. Hillman, “Corruption Flows Along China’s Belt and Road,” Corruption Flows Along China’s Belt and Road | Center for Strategic and International Studies, April 27, 2020, <https://www.csis.org/analysis/corruption-flows-along-chinas-belt-and-road>.

8 Alex Dreher, “Apples and Dragon Fruits: The Determinants of Aid and Other Forms of State Financing from China to Africa,” AidData, October 2015, [http://docs.aiddata.org/ad4/pdfs/wps15\\_apples\\_and\\_dragon\\_fruits.pdf](http://docs.aiddata.org/ad4/pdfs/wps15_apples_and_dragon_fruits.pdf).



buying up European ports, such as the Greek port of Piraeus, and railroads, such as the Hungary-Serbia railway, and then using its newly gained power over the governments of these countries to coerce them into supporting China's political agenda (Greece vetoing a EU statement at the UN Human Rights Council criticizing China's human rights record, Hungary refusing to sign a joint letter denouncing the torture of detained lawyers in China).<sup>9</sup>

Most importantly, China has figured out that it can reap the greatest benefits through debt-traps. An IMF study shows that China has been systemically targeting heavily indebted poor countries and that its contributions to these countries' debt has nearly doubled, going from 6.2% to 11.6% in between 2013 and 2016.<sup>10</sup> Moreover, there a number of cases of China exploiting the precarious condition cash-strapped nations find themselves in when unable to pay, and taking over key assets, e.g.: Sri Lanka being unable to service its debt to China and subsequently granting a 99-year lease of the port of Hambantota, potentially to station the Chinese navy in the years to come; Djibouti being unable to service its debt to China and allowing it to open up its first military base overseas in the nation's territory, posing a threat to the Djibouti's sovereignty.<sup>11</sup>

Response from the EU in regard to the expansion of the BRI has been haphazard to say the least, partially due to a lack of intelligence and awareness of the issue, and partially due to divided interests - some countries preferring the short-term economic benefits cooperation with China brings over a long-term strategy of promoting an international order centered around EU values of democracy, transparency and sustainability.<sup>12</sup>

## POLICY OPTION

As noted, according to many experts, "the lack of transparency and, by extension, understanding of BRI is currently the biggest hindrance in the EU formulating an effective and coherent strategy."<sup>13</sup> Hence, any policy response should be preceded by an action committee to investigate, gather and disseminate intelligence on the BRI across EU Member States and the wider international community. The EU

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9 Erik Brattberg and Etienne Soula, "Europe's Emerging Approach to China's Belt and Road Initiative," Carnegie Endowment for International Peace, October 19, 2019, <https://carnegieendowment.org/2018/10/19/europe-s-emerging-approach-to-china-s-belt-and-road-initiative-pub-77536>.

10 Mark Green, "China's Debt Diplomacy," Foreign Policy (Foreign Policy, April 25, 2019), <https://foreignpolicy.com/2019/04/25/chinas-debt-diplomacy/>.

11 Ibid.

12 "Connecting Europe and Asia: seeking synergies with China's Belt and Road," European External Action Service, April 25, 2019, [https://eeas.europa.eu/topics/eu-global-strategy/61412/connecting-europe-and-asia-seeking-synergies-china%E2%80%99s-belt-and-road\\_en](https://eeas.europa.eu/topics/eu-global-strategy/61412/connecting-europe-and-asia-seeking-synergies-china%E2%80%99s-belt-and-road_en)

13 Ivan H Shim, "The EU's Problematic Approach to China's Belt and Road Initiative," The Cipher Brief, April 19, 2019, [https://www.thecipherbrief.com/column\\_article/the-eus-problematic-approach-to-chinas-belt-and-road-initiative](https://www.thecipherbrief.com/column_article/the-eus-problematic-approach-to-chinas-belt-and-road-initiative).

should take great care to monitor shifting political allegiances as a result of Chinese loans or aid, especially on its home turf.

The EU should attempt to work with China and BRI countries in negotiating better, more sustainable investment terms for all parties involved. An important aspect of this would be pushing national governments to recognize the importance of having China participate in regional projects as an investor rather than a lender.<sup>14</sup> An equity stake would lead to China sharing more of the risk in these projects and would, consequently, help ensure that China expects them to be commercially viable, rather than potential future leverage against target countries. Moreover, the EU could offer its services as a consultant and an intermediary, or subsidize the contracting of independent private consultancies, as many nations, especially the poorest ones, often lack adequate resources for a comprehensive evaluation of trade and investment deals.<sup>15</sup>

Above all, the EU should recognize that COVID-19 brings considerable opportunities, particularly in addressing the BRI. A report by the International Institute for Strategic Studies (IISS) shows that China would have faced constraints on future lending even if the pandemic had not hit,<sup>16</sup> and many experts now believe that COVID-19 threatens to cause a wave of economic crises along the BRI, presenting China with a serious test to preserve the initiative.<sup>17</sup> Many of the BRI economies, including China itself, are heavily reliant on export revenues, which the pandemic will cut dramatically.<sup>18</sup> The prospect of many simultaneous debt crises and defaults is daunting for Beijing, and it is beginning to look to other major global creditors for support in restructuring BRI countries' debt. As the IISS report outlines, Beijing sees co-financing as a viable solution to the risks of debt unsustainability in BRI projects.<sup>19</sup>

The time is ripe for the EU to step up and offer China and the BRI target countries debt relief in exchange for adoption of regulation in accordance with EU standards on transparency, sustainability and an international rules-based order.<sup>20</sup> Once again, best results would likely be achieved working in tandem with the newly es-

14 Michal Makocki, "China's Road: into Eastern Europe," European Union Institute for Security Studies (EUISS), February 2017, [https://www.iss.europa.eu/sites/default/files/EUISSFiles/Brief\\_4\\_China\\_Eastern\\_Europe\\_0.pdf](https://www.iss.europa.eu/sites/default/files/EUISSFiles/Brief_4_China_Eastern_Europe_0.pdf).

15 Ibid.

16 "China's BRI: The Development-Finance Dimension," IISS, March 30, 2020, <https://www.iiss.org/blogs/research-paper/2020/03/beyond-the-myths-of-the-bri>.

17 Nick Crawford and David Gordon, "China Confronts Major Risk of Debt Crisis on the Belt and Road Due to Pandemic," *The Diplomat* (for *The Diplomat*, April 11, 2020), <https://thediplomat.com/2020/04/china-confronts-major-risk-of-debt-crisis-on-the-belt-and-road-due-to-pandemic/>.

18 Ibid.

19 Ibid.

20 "Connecting Europe and Asia - Building Blocks for an EU Strategy," European External Action Service, September 19, 2018, [https://eeas.europa.eu/sites/eeas/files/joint\\_communication\\_-\\_connecting\\_europe\\_and\\_asia\\_-\\_building\\_blocks\\_for\\_an\\_eu\\_strategy\\_2018-09-19.pdf](https://eeas.europa.eu/sites/eeas/files/joint_communication_-_connecting_europe_and_asia_-_building_blocks_for_an_eu_strategy_2018-09-19.pdf).

established U.S. International Development Finance Corp. and USAID, currently being armed to counter BRI influence and provide assistance to developing nations on their path to self-reliance, and empowerment of private sector investors.<sup>21</sup> This would also give the EU a seat at the table in key infrastructure projects and prevent China from using further debt-traps, excessive pressure and other means it is comfortable exercising in bilateral negotiations.<sup>22</sup> The EU would have to carefully select projects to balance its priorities of mitigating China's strategic reach, ensuring adherence with EU values and securing the greatest return on investment possible. Finally, such a policy would help extend the Union's power projection and help improve its relations with Eastern European, Central and Southern Asian countries, if publicity is properly coordinated and the EU is made out to be a generous benefactor in times of great distress.

## RECOMMENDATIONS

Faced with an increasing body of evidence that China has been using the BRI as a cover to expand its global power projection, while failing to adhere to international standards and regulation on sustainability, environmental protection, transparency, human rights and democracy, the EU should take swift action to secure its geopolitical interests at home and abroad. The Union should begin with increased surveillance of China's economic presence in Eastern and Central Europe, identifying and informing Member States of looming dangers and aiding them in securing the best possible deals in negotiating with China. This should be followed by increased investment in key infrastructure. Moreover, the EU should partner with its US allies to more carefully track development and negotiations in other BRI countries, and offer alternative funding options to reduce reliance on Chinese loans. By carefully choosing the infrastructure projects to invest in, maximizing a joint function of potential profits and strategic importance, the EU would be looking to recoup most of its investments and ensure economic prosperity and independence among allies. As was once the case with the Marshall Plan, further gains would be enjoyed from reduced aid and security-related costs in the long-run. Finally, the EU should not miss an opportunity to exploit the mounting financial pressure on China and the BRI as a result of the COVID crisis, and consider the possibility of joining China in co-financing select projects within the BRI in order to gain a seat at the table, bring Chinese practices more in line with the Union's values, and strengthen Europe's image as a trustworthy partner and benevolent global superpower.

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