



THE EUROPEAN UNION IN INTERNATIONAL AFFAIRS



# EU Foreign Policy in a Fragmenting International Order

★★★★★

*Edited by*  
Oriol Costa  
Eduard Soler i Lecha  
Martijn C. Vlaskamp

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## CHAPTER 1

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# EU Foreign Policy and the Fragmentation of the International Order: A Framework for Analysis

*Oriol Costa, Eduard Soler i Lecha, and Martijn C. Vlaskamp*

## INTRODUCTION

The European Union (EU) is currently in the midst of a significant reevaluation of its international role. Several key events have prompted this reassessment, including Brexit, the Trump Presidency, the COVID-19 pandemic, and the Russian invasion of Ukraine. Individually, each of these moments has exposed vulnerabilities in the liberal international order (LIO), which the EU views as the cornerstone of international society. However, when considered collectively, they are not merely isolated incidents but manifestations of broader trends: the weaponization of interdependence, technological innovation utilized as a tool of great power politics, and trade serving as a vehicle for geopolitical rivalries.

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The EU has come to recognize, albeit uncomfortably, the rapid pace and trajectory of these changes in the international landscape, prompting both EU member states and institutions to grapple with how best to address them.

The 2016 EU Global Strategy already acknowledged the need to navigate a difficult, more interconnected, contested and complex world. In 2019, during his pre-appointment hearing by the European Parliament for the position of High Representative and Vice-President of the Commission (HRVP), Josep Borrell remarked that the world had undergone dramatic changes, and not for the better. He noted that while it might not be the world the EU desired, the Union was prepared to confront its challenges (European Parliament, 2019). Approximately two and a half years later, and shortly after the Russian invasion of Ukraine, the 2022 EU's Strategic Compass was released. The document portrayed a world marked by growing strategic competition, complex security threats, and direct assaults on the European security order. Adopted unanimously by all EU member states, the Strategic Compass emphasized that both the world and the EU were confronted with a "competition of governance systems accompanied by a real battle of narratives" (EEAS, 2022).

The broader changes in the international order can be described as a fragmentation of the LIO, which encompasses the norms, institutions, and power relationships that have defined international political and economic relations in recent decades. Fragmentation is propelled, among other factors, by the resurgence of spheres of influence (Ferguson & Hast, 2018), the regionalization of globalization (Wang & Sun, 2021), the (in-)ability of existing institutions to accommodate ascending powers (Mukherjee, 2022), the divergence of technology standards (Seaman, 2020), and a shift towards a less universalistic understanding of human rights (Stoeckl & Medvedeva, 2018). In essence, fragmentation represents "the transformation of the global rules-based order into a new global ordering architecture characterized by diversity and plurality" (Flockhart & Korosteleva, 2022: 466).

We do not wish to overstate the degree to which these trends involve a departure from previous historical international orders that have also been described as liberal (Buzan & Lawson, 2015). If anything, what any historic evolution of the LIO demonstrates is its malleability. Some scholars have searched for the core features of any LIO (Ikenberry, 2018: 11), an effort that runs the risk of painting a "selective and exaggerated" picture of the LIO (Acharya, 2018: 5; Huang, 2021), or contributing to

the “myth of the liberal international order” (Allison, 2018). Our claim is more modest and contextual: the post-Cold War version of the LIO is undergoing a process of fragmentation, not against any essentialized understanding of what it stands for, but against its own institutional and normative reality.

We also do not wish to paint a one-sided, simple picture of the normative implications of the LIO and its fragmentation in this volume. All orders, including the LIO, embed power relationships, directly and through norms and institutions, which can perpetuate “frozen configurations of privilege and bias” (Barnett & Duvall, 2005: 52). Norms and institutions need to be contestable if they want to be legitimate (Wiener, 2014). For many emerging powers, the LIO represents Western domination, double standards, uniformity, and unequal political and economic relations (Bajpai & Lakshmana, 2023; Mahbubani, 2018; Sabataram & Laffey, 2023). For these actors, fragmentation signals the potential for a more complex and decentralized order, without a hegemonic power (Acharya, 2018). However, for others, the LIO symbolizes (or aspires to) a predictable, rules-based, highly integrated order that mitigates uncontrolled great power competition and could evolve into a more post-national global political organization (Ikenberry, 2009). From this perspective, fragmentation implies a shift towards a less cooperative and more conflict-prone order, dominated by zero-sum situations and unconstrained great power rivalry.

The experience of the EU with the fragmentation of the LIO “has not been all that benign”, as it has made its “place in the world [...] more uncertain” (Martill & Sus, 2019: 6). Kelemen and McNamara (2022: 965) have argued that the peaceful international order in which the EU developed, an order “without the pressure of war or perceived immediate military threat”, has shaped its development as a polity: “the EU has developed into a legal colossus, but remains weak or entirely impotent” in terms of the core coercive powers of states (including fiscal and administrative coercive powers) (Kelemen & McNamara, 2022: 964). From this point of view, the EU is *itself* a product of the LIO (in its different versions from the second half of the twentieth century). Consequently, current debates about the future of the EU discuss to what extent the Union is also made for this more complex order and capable of navigating the choppy waters ahead.

As an international actor, the EU advocates for a rules-based foreign policy and defends a rules-based international order. However, challenges



arise when the international order itself becomes problematic. Hence, key policymakers have called for strengthening the EU's ability to respond to a more complex international environment. French President Emmanuel Macron has linked European sovereignty with "our capacity to exist in the current world and to defend our values and interests" (Élysée, 2017). Similarly, former President of the European Commission Jean Claude Juncker advocated for the development of "Weltpolitikfähigkeit," the capacity for the EU to engage in global politics (European Commission, 2018). Likewise, the then HRVP Josep Borrell (2020) defined strategic autonomy as the "ability to think for oneself and to act according to one's own values and interests". Given the central role of multilateralism in EU foreign policy, the crisis of multilateral institutions poses new challenges for EU decision-makers and potentially contentious debates (Barbé et al., 2016).

The EU's response to this situation has been to become more "strategic" across various policy areas, including multilateralism (Commission, 2021), security (Martill & Sus, 2019), trade (protectionism, foreign investment screening, public procurement; see Koenig & Wernert, 2021: 3), and energy (Siddi & Kustova, 2021). However, both rhetoric and actions are shaped by complex political processes, often leading to clashes between key actors with differing views on the future international order and the role the EU should play within it.

This volume explores how EU actors, including member states, institutions, and political groups in the European Parliament, have responded to the fragmentation of the LIO and whether they believe these transformations necessitate significant changes in EU foreign policymaking. We want to understand the politics of the process through which the EU is attempting to make sense of its international role. We do so across various issue areas and dimensions of EU foreign policy, broadly understood to include both CFSP, external relations and the externalization of internal policies (Keukeleire & Delreux, 2014). In this introductory chapter, we will propose an approach to grasp the diversity of interpretations and the associated political agendas. This involves considering a range of interpretations of the term "strategic autonomy", which has played a central role in discussions regarding the EU's adaptation to a fragmenting LIO.

## THE EU AND THE FRAGMENTATION OF THE LIBERAL INTERNATIONAL ORDER

The EU has firsthand experience with the fragmentation of the LIO. The departure of the United Kingdom, the faltering of the WTO dispute settlement mechanism, the pre-Ukraine fragilization of the transatlantic alliance, the COVID-19-related emergencies, and the return of armed claims over spheres of influence in Europe have all impacted fundamental aspects of the EU's foreign policy. In the face of a changed and increasingly hostile international environment, Europeans have been in need "to rethink many of their assumptions about the world order and the best way of defending their interests, values, and the rules-based system that has been the foundation of European foreign policy in the last few decades" (Leonard & Shapiro, 2019: 3).

Indeed, EU decision-makers have acknowledged these changes, and the language used has evolved accordingly. In its European Security Strategy of 2003 (European Council, 2003), the EU still depicted the international environment as "one of increasingly open borders", wherein "flows of trade and investment, the development of technology, and the spread of democracy have brought freedom and prosperity to many people". Even the acknowledgment that "others have perceived globalization as a cause of frustration and injustice" underscored that this was someone else's viewpoint, one not shared by the EU. In such a world characterized by "global threats, global markets, and global media", the primary objective was to construct "an effective multilateral system" and foster the development of a "stronger international society". This entailed "widening the membership" of the World Trade Organization (China had already acceded in December 2001, while Russia was negotiating its entry), as well as that of the International Financial Institutions (European Council, 2003).

The shift towards a more fragmented LIO was clearly reflected in the language of the EU Global Strategy of 2016. The times were characterized by an "existential crisis, within and beyond the European Union", with the Union itself perceived as "under threat". While emphasizing the importance of a "rules-based global order" with multilateralism as its "key principle" for unlocking "the full potential of a prosperous Union", the EU expressed readiness to explore alternative paths if necessary. Recognizing that "soft power is not enough" in such a fragile world, the EU asserted the need to prioritize the security of the EU

and develop “an appropriate level of ambition and strategic autonomy”. The vision entailed the construction of “cooperative regional orders” in “a de-centred world” caught between “global pressures and local push-back” (EUGS, 2016). The perception of this change as hostile to the EU is perhaps best captured by Nathalie Tocci (2017), who described the early 2000s as years of “optimism, confidence, idealism, and yes, hubris”, contrasting them with the new environment where one could easily fall into conveying “a political message of closure, defensiveness, defeatism, or crude realpolitik” (Tocci, 2017: 55).

The language of the 2022 Strategic Compass was even darker, to the extent that some have questioned whether the “doom-laden worldview of its threat assessment” aligns with the decisions the EU can realistically be expected to take (Tallis, 2022). The Strategic Compass portrays a world marked by “conflicts, military build-ups, and aggressions”, with “sources of instability increasing in our neighborhood and beyond”, resulting in “severe humanitarian suffering and displacement”. In this environment, “interdependence is increasingly conflictual”, and there are “growing attempts of economic and energy coercion” (European Union, 2022: 10). Multilateral institutions appear unable to address these trends adequately, as their crises “are leading to increasingly transactional relations among states” (European Union, 2022: 14). This led HRVP Borrell, in his foreword, to advocate for the EU to “speak the language of power”, asserting that “if you want dialogue, diplomacy, and multilateralism to succeed, you need to put power behind it” (Borrell, 2022: 6). The fact that the last draft of the Compass had to be updated after February 24th to include, by one count, at least 15 references to Russia (Bell, 2022) underscores the rapid deterioration of the EU’s security environment. While the draft initially called for a “step change” in EU security and defence policies, the final version aspired to a “quantum leap”. Whereas the former suggested “selective engagement with Moscow”, the latter regarded the Russian invasion of Ukraine as “a tectonic shift in European history” (Koenig, 2022: 4; European Union, 2022: 14).

At the heart of debates concerning the future of EU foreign policy lies the political interpretation of interdependence. The post-Cold War consensus on “Wandel durch Handel” (change through trade) has been eroded by the weaponization of interdependence, now seen as a permanent aspect of the contemporary international system in an “age of unpeace” (Leonard, 2021), where “everything became war” (Brooks,

2016). However, no alternative consensus has emerged. This raises questions for EU policymakers: Which interdependencies should the EU relinquish? To what extent is the fragmentation of the LIO inevitable, or is it a self-fulfilling prophecy?

Answers to these questions vary across issue areas and among different actors. Indeed, these EU actors can opt to integrate long-held preferences into proposals tailored to the new international realities. We interpret the terms “strategic autonomy” and “European sovereignty” precisely in this manner, as speech acts aimed at promoting policy options that have not previously enjoyed consensus but could find new traction going forward. In this context, the European Council on Foreign Relations has discussed the emergence of a broad coalition, termed by Krastev and Leonard as “strategic sovereigntists,” which includes both “disillusioned globalists who have come to recognize that their vision of a multilateral world of global governance cannot be realized” under current conditions, and “nationalists [who] are beginning to realize that their states can only be sovereign as part of a European bloc” (Krastev & Leonard, 2020: 18).

The following section provides guidelines for systematically exploring how the fragmentation of the LIO is reshaping the politics of EU foreign policy.

## MAPPING OUT RESPONSES

### *The Discourse on Strategic Autonomy*

A common response to this state of affairs has been the call for a greater degree of strategic autonomy for the EU, highlighting the risks of relegating the EU to “strategic dependence” (Grevi, 2019). In a world of increased competition and rising nationalism, such a situation is seen as not sustainable politically by most EU actors. In fact, strategic dependence “would be both a symptom and a multiplier of centrifugal forces within the EU” (Grevi, 2019: 4). This discourse acknowledges the broader fragmentation of the LIO and its accelerators, such as the Trump Presidency, the COVID-19 pandemic, and the Russian invasion of Ukraine, and advocates for various policies and measures that would enable the EU to respond. However, understanding strategic autonomy as a bundle of different proposals and unpacking it provides a more nuanced understanding of how different EU actors plan to position the Union in an increasingly hostile international environment. The

meaning of strategic autonomy evolves over time, across users, and within various policy domains. It is precisely this ambiguity, its capacity to refer to several different projects, that has made it attractive to a broad range of participants in the debate over the international role of the Union. Therefore, for our analysis, we need to unpack the different dimensions of this concept.

Security and defence are areas in which strategic autonomy can be traced back further in European debates. The 1998 Franco-British agreement of Saint-Malo advocated for a European “capacity for autonomous action, backed up by credible military forces, the means to decide to use them, and a readiness to do so”. It is also in this area that strategic autonomy seemed to provide “a counter-Brexit narrative” after the British referendum of 2016 (Järvenpää et al., 2019: 6). In this field, the literature has identified strategic autonomy as comprising three different dimensions: political, operational, and industrial (Kempin & Kunz, 2017; Arteaga, 2017). These dimensions respectively refer to the capacity to make autonomous decisions, the ability to own and deploy the capabilities necessary to implement them, and the possession of an industrial base to produce such capabilities, thereby reducing dependence on their transfer by third parties. These three components can also be identified in other issue areas, especially if the industrial variable is broadened to include ownership of other types of assets. The authority to make decisions can be analytically separated from the ability to execute them, and both from the availability of homegrown resources to do so, whether from a technological, industrial, informational, corporate, or scientific perspective.

Different combinations of these three components of autonomy (political, operational, and asset-related) lead to different kinds of strategic autonomy. Along these lines, Fiott (2018) has proposed a three-fold distinction between distinct political projects behind the concept of strategic autonomy: as responsibility, as hedging, and as emancipation. These projects appeal to actors with different views on the EU’s international role. Examining them it is important to bear in mind that they were originally primarily referred to the domain of security and defence.

Strategic autonomy as responsibility can be seen as *autonomy to*, and it “links directly to the notion that European states should take up a greater share of the burden” inside the West, and “when appropriate, through the EU” (Fiott, 2018: 2). Since this is about providing Europe

greater autonomy to execute decisions independently from the US, but not against its opposition, it mainly demands operational autonomy.

The logic of autonomy as hedging is tantamount to *autonomy in case*, and it stems from “the uncertainties surrounding the transatlantic relationship” and the subsequent need to ensure that a potential realignment of the US strategic priorities (if the US withdraws from Europe) would not leave the EU unable to reproduce the resource base on which its security and foreign policy objectives rest (Fiott, 2018: 4). In other words, hedging could be seen as a way to “allow general alignment behind a hegemon, but with one eye on developing the capabilities needed for independent action” (Fiott, 2018: 4). On top of operational autonomy, hence, it includes an asset-ownership dimension.

Finally, emancipation is the most ambitious version of strategic autonomy and it would imply allowing the EU “to reach its full potential as a global power”, combining the operational, asset-related, and political dimensions of strategic autonomy (Fiott, 2019: 8). It can hence be seen as an *autonomy from*. Table 1.1 summarizes this argument.

In sum, strategic autonomy as responsibility (*autonomy to*) implies a greater level of operational capabilities; hedging (*autonomy in case*) requires also a certain level of asset autonomy since the EU cannot rely on US resources if it is to diversify its alignments; and finally, autonomy as emancipation (*autonomy from*) involves also a larger degree of decisional autonomy. We propose that *mutatis mutandis*, this three-partite distinction is at least partially relevant to policy areas beyond defence, although achieving each of these milestones poses different challenges in different policy areas, as analyzed in detail in the thematic chapters of this volume.

**Table 1.1** Unpacking Strategic Autonomy

	<i>Operational autonomy</i>	<i>Asset autonomy</i>	<i>Decisional autonomy</i>
Responsibility (StA to)	X		
Hedging (StA in case)	X	X	
Emancipation (StA from)	X	X	X

*Source* Own elaboration based on Fiott (2018)

### *Beyond Strategic Autonomy*

The diverse projects that exist under the label of strategic autonomy do not exhaust the range of stances that actors (member states, EU institutions, parties at the EP, knowledge communities, and interest groups) can take when they sense that the international order is fragmenting. We expect there to be greater variation in how different European actors perceive and react to the fragmentation of the LIO. Such variation stems from the underlying diversity of worldviews held by actors. They interpret international trends and events differently and defend different projects and understandings of how to insert their local reality into international politics (i.e. they have different broad geopolitical orientations). The point is that such worldviews will mediate the impact of systemic changes on EU decision-making. In other words, since “structures do not come with an instruction sheet” (Blyth, 2003), we expect actors’ perceptions and normative preferences to shape their takes on what international structural shifts mean for the EU as an international actor. To be sure, there is no need to essentialize actors’ worldviews. They can change, as policymakers shape their assessments in an environment populated by other practitioners, think tanks, and opinion makers.

We map out a number of such options. We start by differentiating between three broad and long-lasting approaches to EU foreign policy—nationalism, Atlanticism, and Europeanism. The latter two are a key cleavage in the development of EU foreign policy that remains very much relevant. It is a key divide between different national strategic cultures in the EU (Dyson, 2013), and it has a bearing on more recent debates. Atlanticists and Europeanists differ over the “definition of EU strategic autonomy and whether this amounts to hedging against the prospect of US withdrawal, a necessary reinforcement of [the Western alliance], or even an emancipation from dependence upon a fickle United States” (Kunz, 2018: 5; Tonra, 2021: 11). Atlanticists and Europeanists think of their countries’ participation in international relations as mediated, respectively, by their belonging to the West and Europe/the EU. In contradistinction, nationalists will rather think of their nation-state as an individual participant in international affairs, unencumbered by alignments, commitments, and solidarities imposed by membership in broader blocks. We can think of this as an expression, in the foreign policy realm, of demarcationist attitudes as described by Kriesi et al. (2006), among others. To be sure, there are ways to combine nationalism, Europeanism,

and Atlanticism into politically cohesive proposals. Nationalism can go together with Atlanticism and weaken the role of the EU in global affairs. Atlanticists might want to hedge their bets with a stronger EU, and Europeanists might see the Atlantic alliance as temporarily necessary before the EU is able to flex its own muscles by itself (and all member states are convinced that it can). National attachment has traditionally been part of and transformed by an interest in European integration. There is a wide array of possible combinations. We should expect to find mixed, impure expressions of such worldviews. However, we claim that there is leverage in keeping them analytically distinct and being able to identify the ways in which they collide and coalesce over time.

We also differentiate between two different reactions to a fragmenting LIO. Actors can either embrace or resist fragmentation. Those who embrace it can do it because of a normative preference (because they see it as a promising development) and/or out of the conviction that it is an irreversible trend that one needs to adapt to. On the contrary, others would rather resist the fragmentation of the LIO. This may happen because of principled or strategic reasons (i.e. so as to avoid turning such fragmentation into a self-fulfilled prophecy), or simply because of an inability to change course. In general, they will tend to see the agency as less constrained by structural processes than those who do not see any option but to go along with the full implications of a fragmenting LIO.

We explicitly raise a caveat here. As there are different normative readings of the LIO, there are also different normative reasons to endorse or oppose its fragmentation as a matter of principle. While some will see fragmentation as a harbinger of conflict, norm erosion, and possibly war, others will see it as fostering an order that is more complex and decentred, “culturally and politically diverse” (Acharya, 2018: 8), in which universal norms are strongly localized (Zimmermann, 2017) in a way that allows for “multiple modernities” (Acharya, 2018: 16). We remain agnostic on the normative convenience of any of such options which, again, should be seen as ideal types. But there are surely moral objectives at play in taking sides in this debate, either way an actor decides to do so.

Table 1.2 lays out the six options produced by our  $2 \times 3$  categorization. For each of the cells, we outline the most general description of (a) their view of the international order; (b) the response to such a state of affairs; and (c) a hint about the basic outlook behind each of these six possible approaches. To be sure, different actors can hold different positions over time (e.g. because they reassess the international context), or



over different issue areas (e.g. because they have different evaluations of the likelihood of the EU becoming an autonomous, influential actor on different policy domains).

We will now examine each of the six cells in more detail. The text is organized by columns and discusses nationalists, Atlanticists, and Europeanists in turn.

### *Nationalists*

Nationalists who embrace the fragmentation of the LIO will choose to participate in this process as sovereign nation-states, rather than as members of a Union. They will view a more localized order as a validation of their communitarian, anti-universalist worldview (Zürn & de Wilde, 2016), and will exploit it to advocate for less European integration. Due to their Euroscepticism, they will also perceive a more fragmented and competitive order as another justification to pursue a more independent orientation for their national foreign policy, distancing themselves from traditional EU alliances and aligning more closely with other great powers that share their preference for a less cosmopolitan international society. For example, the French far-right politician Marine Le Pen, a prominent proponent of this nationalist approach, rejected Macron's position by stating that "there is not and there will never be European sovereignty because there is no European people. (...) By promoting European diplomacy we have only achieved one thing: the weakening, even the erasure of our own diplomacy" (AFP, 2022).

On the contrary, rejecting fragmentation from a nationalist standpoint is rather complex, given the trade-off between universalist and demarcationist claims (Grande & Kriesi, 2015). If advocating for the fragmentation of the EU, the instinct would not be to reject that of the LIO. Nevertheless, only major players can attempt to reconcile this dilemma, as it requires a nation-state's capacity to actively contribute independently to the production of an integrated LIO. The slogan "Global Britain" precisely hints in that direction—despite leaving the EU, the United Kingdom pledged to become a major global power and remain an outward-looking country committed to liberal internationalism. From this perspective, not being constrained by the slow-moving wheels of EU decision-making can be seen as an advantage: an independent state would be more agile in contributing to (and benefiting from) the LIO.

**Table 1.2** Reactions to the Fragmentation of the Liberal International Order

	<i>Nationalists</i>	<i>Atlanticists</i>		<i>Europeanists</i>
		<i>If US administration Atlanticist</i>	<i>If US administration not Atlanticist</i>	
Acceptance	<ul style="list-style-type: none"> <li>• Fragmented order of sovereign nations</li> <li>• Euroscepticism and patriotic Europe</li> <li>• Transactional re-alignment with other great powers</li> </ul>	<ul style="list-style-type: none"> <li>• The West vs the Rest</li> <li>• Actorness requires greater operational StA. <i>Autonomy to</i></li> <li>• EU as a responsible partner in a struggling West</li> </ul>	<ul style="list-style-type: none"> <li>• The Rest vs a divided West</li> <li>• Actorness demands greater operational and industrial StA. Autonomy in case</li> <li>• Hope of getting the US back. No deterrent. When hope vanishes, move to next column</li> </ul>	<ul style="list-style-type: none"> <li>• Competing regional blocks</li> <li>• Actorness requires operational, industrial and decisional StA. <i>Autonomy from</i></li> <li>• Independent EU, including deterrent</li> </ul>
Rejection	<ul style="list-style-type: none"> <li>• Global order of sovereign nations</li> <li>• Euroscepticism and patriotic Europe plus globalist outlook</li> <li>• Only available to big players</li> <li>• “Global Britain”</li> </ul>	<ul style="list-style-type: none"> <li>• Continuity under more difficult conditions</li> <li>• No remarkably higher requirements for actorness. Confidence in US capacities</li> <li>• EU-US bilateralism as leverage to reform/defend the LIO</li> </ul>	<p><i>When hope of getting the US back vanishes, move to next column</i></p>	<ul style="list-style-type: none"> <li>• Cooperative regional orders</li> <li>• Actorness requires operational, industrial and decisional autonomy. But deterrent not critical because order is perceived as less conflictual. <i>Autonomy from</i></li> <li>• EU as mender of the LIO through multiple alliances</li> </ul>

Source Own elaboration

In any case, nationalists will view a fragmenting LIO, whether they reject or accept such fragmentation, as further justification to pursue their own national paths, free from the constraints of a common EU foreign policy.

### *Atlanticists*

For European Atlanticists, the fragmentation of the LIO will have varying implications depending on the degree of attachment of the US administration to the Atlantic alliance. Concerns over the future orientation of US presidents will influence their assessment.

If the US administration leans towards Atlanticism, European Atlanticists who accept the fragmentation of the LIO will likely view the EU as part of a besieged Western bloc. They will perceive the alliance with the US as needing reinforcement and as the most suitable strategy to confront the West's rivals in an increasingly conflict-prone international order. From this perspective, the EU must develop autonomous capabilities to make a greater contribution to the Western alliance. This goal is relatively achievable, as maintaining a role will only require greater operational autonomy. The US is unlikely to object to this understanding of autonomy as responsibility; it can even be viewed as a binding strategy to demonstrate reliability to the US and alleviate concerns over burden sharing (Alcaro, 2020: 153; Mazarr & Fiott, 2022).

However, if the US administration is not Atlanticist, or if concerns about this possibility arise, the requirements for EU actorness will be more demanding. A divided West will have less leverage in an increasingly competitive international system, and the benefits of the US alliance will not be that clear anymore for Europeans. Therefore, to remain relevant, the EU must develop strategic autonomy as hedging, encompassing both operational and industrial dimensions of autonomy. Those advocating this position believe that the fragmentation of the LIO and the unreliability of the US as a partner will compel the EU to hedge its bets, possibly by diversifying dependencies and establishing partnerships with other great powers. If hope for reviving the transatlantic alliance fades, there will be a tendency to shift towards the Europeanist camp. Chancellor Angela Merkel's statement in May 2017 that "the times in which we could completely rely on others have somewhat passed" reflects this sentiment and the election of Joe Biden as U.S. President did not entirely reverse her

stance.<sup>1</sup> Uncertainty about the inclinations of future US administrations persists, as evidenced by her speech at the 2021 Munich Security Conference (The Guardian, 2017), where she maintained a somewhat lukewarm response to Biden’s election, noting that interests may continue to diverge (Koenig & Wernert, 2021: 8).

The rejection of fragmentation by European Atlanticists will also lead to different outcomes depending on the orientation of the US administration. If the US administration maintains an Atlanticist stance, European Atlanticists can defend the LIO based on the Western alliance, imposing relatively mild new requirements for EU actorhood. This scenario would allow the EU to complement US power and remain hopeful about the endurance of the status quo, under the understanding that the relative decline of the US does not necessarily mean the international order it created will falter if allies shore it up (Massie & Paquin, 2020: 7). Bilateral EU-US deals would be seen as leveraging the combined power of the US and the EU in support of international norms.

Conversely, if the White House adopts a non-Atlanticist stance, European Atlanticists will lack a viable strategy to sustain a universalist version of the LIO. This may prompt them to align themselves with other camps in the table, potentially leaning towards more Europeanist positions.

### *Europeanists*

Europeanists who accept or welcome the reality of a more fragmented order perceive fragmentation as the emergence of competing regional blocs. They advocate for the full development of strategic autonomy, understood in this context as emancipation. Their ultimate goal is to reduce risky dependencies on other poles. This entails achieving political, operational, and industrial autonomy, and in its most advanced form, the development of an EU deterrent that would significantly weaken the Atlantic alliance. French President Emmanuel Macron made gestures in this direction during the Trump administration, warning of NATO’s “brain death” and that Europe stood on “the edge of a precipice”,

<sup>1</sup> However, there is nothing unavoidable in this trend. Days before the US election of 2020, Annegret Kramp-Karrenbauer, Defence Minister of Germany, wrote that “Europeans [would not be able to replace America’s crucial role as a security provider] and that consequently “illusions of European strategic autonomy [had to] come to an end” (Kramp-Karrenbauer, 2020).

given doubts about “the commitment of the US” with its defence (The Economist, 2019). This led him to propose a “strategic dialogue with our European partners” on the role of the French nuclear deterrent in collective security (Macron, 2020). Some former Atlanticists, who believe that EU and US security interests will diverge in the future, may also adopt a more Europeanist stance and align with this position. However, the hope of re-engaging the US in Europe may pull them back towards the Atlanticist camp, albeit with a more cautious hedging strategy.

Finally, Europeanists who resist fragmentation perceive the world as composed of cooperative regional orders. They view forming alliances with multiple, possibly issue-specific groups of like-minded states as the best approach to strengthening multilateral institutions, with the EU serving as a stabilizing force in the LIO. In this scenario, the US does not necessarily need to be the primary partner. Instead, alliances will vary depending on the specific issue, reflecting the understanding that while factors may be driving the fragmentation of the LIO and there may be limited broad coalitions opposing this trend, it is still possible to form specific alliances to defend particular international institutions. The European Commission seems to point in this direction in its reflections about multilateral institutions: “Non-traditional coalitions and formats should be explored, building on lessons from processes such as the EU, China and Canada co-convoked Ministerial Meeting on Climate Action, the Paris Peace Forum and Finance in Common summit” (Commission, 2021: 14). Sustaining EU actorship in this context will require greater autonomy in operational, industrial, and decisional terms. However, this version of strategic autonomy as emancipation stops short of advocating for the construction of an independent deterrent, as actors in this camp do not perceive the international context as sufficiently conflictual to justify such a drastic measure.

## CONTRIBUTIONS

In Chapter 2, Patricia García-Durán and Johan Eliasson examine the EU response to the fragmentation of global trade policies, including the rejection of previously accepted norms, declining rule adherence, and trade wars. Great power competition and geoeconomic concerns now shape important aspects of international trade. The authors understand the EU’s trade strategy as a defensive move, forced by the fragmentation of the LIO. New trade instruments are designed to protect rather than to attack,

to serve as deterrence, only to be used when other means to compel rule adherence fail. This has pushed the EU closer to the US, such as with investigations into Chinese electric vehicle industries. At the same time, the Commission is cognizant of the fact that the EU can also be at the receiving end of new Trade Defence Instruments and can be negatively affected by changes to industrial policy, the net-zero transition, and state aid such as in the case of the U.S. Inflation Reduction Act. The potential for a Europeanist approach is hence built into recent developments.

Chapter 3, by Eva Michaels and Monika Sus, discusses debates on European Strategic Autonomy (ESA) in the field of security and defence, viewing it as the main response of the EU and its member states to the fragmentation of the LIO in this domain. The authors trace the evolution of EU and national approaches in debates over three key components of security and defence: industry, crisis management, and relations with global powers, and conclude that there is no overarching permissive consensus on these topics. This lack of an EU-wide shared understanding of the direction and applicability of ESA has rendered it impracticable as an answer to the fragmentation of the LIO. This is an upsetting conclusion for the handful of EU actors who believe ESA could be an effective response, but the authors see little indication that the majority of member states are keen to breathe life into the idea. To be sure, a good deal of them have paid lip service to the concept as long as it has remained vague. However, they are not ready to commit to its effective implementation.

Diego Badell and Esther Barbé devote Chapter 4 to the analysis of international norms over violence against women and EU views and responses to its ever more contested character. The chapter focuses on the processes of ratification of the Istanbul Convention of the Council of Europe both by EU member states and the EU itself (which took place in May 2023, six years after its adoption). The Convention has become a bone of contention between two broad camps, both containing civil society actors and Member States. On one hand, there are opponents who see the Istanbul Convention as imposing “gender ideology” (just as they see the EU as a vehicle for that same worldview) and who claim that its implementation either clashes with their national traditional values or should take place only under the aegis of national authorities. On the other hand, there are proponents who hold a universalist side of Human Rights and side with the Convention and a common EU position.

Chapter 5, by Óscar Fernández and Robert Kissack, deals with global health. The Covid-19 pandemic added to the density, diversity, and scope

of the global health architecture, while also exacerbating geopolitical tensions. However, health multilateralism was already fragmenting before great power competition became a factor. Contrary to the other contributions to this book, it was the liberalization of the international order after the end of the Cold War that made this regime complex more regionally and vertically differentiated, and more prone to engage with different constellations of state and non-state actors in each of those dimensions. The EU has accepted this state of affairs but at the same time has promoted expansive ontologies of global health, such as “One Health” and “Health in All Policies” and rejected further fragmentation. In this situation, the EU and EU member states have pivoted between the classical EU agenda of reinforcing the WHO and the (Western) inclination for market-oriented solutions.

Martijn Vlaskamp’s chapter 6 examines the responses of the EU and EU actors to the fragmentation of the LIO in relation to the trade in critical raw materials, i.e. economically and strategically important materials for the EU, whose supply is vulnerable and insecure. While the order has experienced some degree of fragmentation compared to its state 10–15 years ago, the EU’s actions are primarily driven by its dependence on China and concerns about the associated vulnerability to a rival great power. Access to such materials is no longer about the removal of trade barriers, but it requires geopolitical decisions to strategically direct sources and chains of supply. This view, Vlaskamp argues, is widely shared among EU actors, and as a result, most debates focus not on the necessity of strategic autonomy in this specific issue area, but rather on determining the most effective EU responses to address the challenge.

Eduard Soler i Lecha authors Chapter 7, examining the Global Gateway—an EU flagship project and among the most ambitious responses to great power competition in connectivity and infrastructure within Europe. The EU, concerned about the trend toward deglobalization amidst multipolar competition and the impact of external shocks such as COVID-19 on trade and supply chains, presents the Global Gateway as a comprehensive and inclusive initiative. It claims that its objective is to establish connections where others seek dependencies, a stance that echoes the EU’s response to the Chinese Belt and Road Initiative, aligning with the EU’s revitalized geopolitical reflexes. However, the challenges in implementing this project do not primarily arise from intra-EU differences in geopolitical strategies or diverging perceptions of the international order and how to address its challenges. Instead, they

stem from bureaucratic inertia, vested interests, and the availability of partnerships, both within the public and private sectors. These hurdles, though less glamorous, wield significant influence and are just as crucial as geopolitical factors in foreseeing the EU's cohesion in advancing this project.

Chapter 8 by Giovanni Briganti Dini explores how the EU is responding to the fragmented governance of Artificial Intelligence, an area that will remain critical for decades to come. In contradistinction to other chapters in this volume, this one does not describe any process of fragmentation of previously existing regimes, as the governance of Artificial Intelligence has been fragmented from its inception. However, the existence of separate governance schemes does contribute to the broader fragmentation of the international order. EU institutional actors have deployed a mostly Europeanist response to such trends, defending what they perceive to be European preferences. States have added national interests into the mix, without advocating for a national response (with the exception of Hungary). There is also a shared understanding that the opportunity for the United States to become a partner needs to be cultivated. The US-EU Trade and Technology Council, set up shortly after the election of President Biden, embodies precisely that hope and has fostered a rapprochement between US and EU chips reshoring policies and a modicum of two-way convergence on regulating Artificial Intelligence.

Chapter 9, by Benjamin Kienzle, examines how the EU and its member states have responded to three key challenges in the area of non-proliferation and arms control: the development of nuclear weapons in violation of the basic non-proliferation norm; the grievances of non-nuclear weapon states regarding nuclear disarmament; and the disintegration of great power cooperation, especially between the United States and Russia. The chapter argues that the EU's actions to address these challenges are limited to its traditional support for international non-proliferation institutions and export controls of sensitive items. The ability to provide more forceful responses is hampered internally by divisions among member states, particularly concerning nuclear disarmament, and externally by the primacy of great power politics. In other words, in this terrain, the reaction of the EU to a more challenging environment has been to adhere to its usual repertoire of policies due to its inability to expand it.

Finally, Chapter 10 concludes the volume, reflecting on both the fragmentation of the LIO and the EU response to it. As regards the former,



Oriol Costa and Esther Barbé note the ways in which the current fragmentation, driven by great power competition and the contestation of liberal norms, sits on top of previous fragmentations, some of them built into the system by design, some of them a consequence of the success and liberal aspect of LIO. When it comes to the ways in which the EU is responding to fragmentation, they make three claims. First, the EU “has not mounted any systematic opposition to the fragmentation of the LIO”, but has generally accepted its logic. Second, the EU and EU actors show little exclusive nationalism, i.e. nationalist positions that exclude any combination with Europeanism or Atlanticism. Hungary is the most consistent exception to this. And finally, actors participating in EU debates are prone to combine elements of Europeanism and Atlanticism, which seem to appear together quite frequently” (Costa and Barbé, this volume).

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# EU Trade Policy in Light of a Fragmented Liberal International Order

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## INTRODUCTION

The liberal international order (LIO) established by the United States (US) and Europe after the Second World War was initially a way of stabilizing the ‘West’, while then serving as a bulwark against the Communist ‘east’; only at the end of the Cold War did the LIO become the dominant global order (see Ikenberry, 2018). The LIO is centred on ‘economic openness, multilateral institutions, security cooperation and democratic solidarity’ (Ikenberry, 2018: 7) and includes trade liberalization. The EU and the US were able to largely steer developments on international trade until the early twenty-first century (Poletti, 2023). This includes the establishment and evolution of the General Agreement on Trade and Tariffs (GATT) and, since 1995, the World Trade Organization (WTO),

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as well as adherence to reciprocity transparency, free and fair competition, and gradual liberalization of markets. The Commission incrementally increased its trade authority as the EU's global market share grew—widening the scope of issues included in and addressed through trade policy (Freudlsperger, 2021), while retaining a focus on ensuring EU rules were WTO compliant.

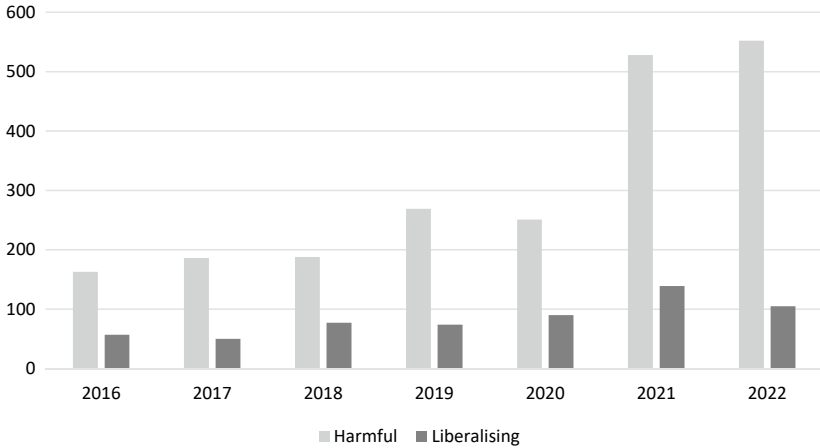
Challenges to the international trading system had been mounting prior to Donald Trump's January 2017 ascendancy to the American presidency, but the latter was a defining moment, as Trump initiated a more systematic dismantling of norms and rules, while inserting hard geopolitics into the economic realm (Danzman & Meunier, 2023). However, China also contributed extensively to these developments, as did others (South Korea, Brazil), and to a limited extent, the EU itself.<sup>1</sup> In short, dismissal of accepted norms, declining rule adherence and trade wars, along with geopolitical concerns, now permeate many aspects of international trade. The next two sections of this chapter look at the fragmentation of the trade international order over the past decade and the EU's trade policy response. The fourth section then looks at the reaction of different EU actors to this fragmentation.

## FRAGMENTATION OF THE INTERNATIONAL ORDER

While the 2022 WTO agreement on fisheries subsidies was a rare moment of multilateral success, and notwithstanding the 2018 Comprehensive and Progressive Transpacific Partnership (CPTPP) and the 2020 signing of the Regional Comprehensive Economic Partnership (RCEP), there is, as of 2024, a declining adherence to established global rules of trade in key sectors. Between 2017 and 2022 state interventions to restrict trade were three times more prevalent than those aimed at liberalizing trade (Fig. 2.1) and WTO members subsidy-notification compliance rates also dropped (Global Trade Alert, n.d.; Kleimann, 2023). There is increased protectionism and greater emphasis on geopolitical and security considerations in many countries' trade policies (Adriaensen & Postnikov, 2023; Global Trade Alert, 2022; Schild & Schmidt, 2024), and, increasingly, political coercion exercised against states, firms, and their intellectual property (especially, but not exclusively, by the Chinese state against

<sup>1</sup> The EU's use of TDIs has also not been consistently WTO compatible (cf. e.g. Vermulst & Sud, 2020).





**Fig. 2.1** Global Trade Interventions 2016–2022 (*Source* Global Trade Alert)

Western firms). In short, there is a weaponization of interdependence—a weaponization of trade (Morales & Wigell, 2020; Reinsch, 2022).

The international trading system has been subject to contestation at various points in the twenty-first century, but until 2016 opposition focused predominantly on the application of the liberal order rather than on the order itself. The Battle of Seattle in 1999—where civil society organizations (CSOs) protested the consequences of trade for developing countries—focused on the inclusion of environmental and labour rules, better health and safety standards, and the incorporation of other values (Narlikar et al., 2012); it was not a rejection of rules-based trade. The clash in Seattle was also preceded by successful campaigns in Europe and the US against the Multilateral Investment Agreement (see Scholte, 2000). The protests targeted the perceived unfair benefits for corporations vis-à-vis states, not the system of global trade rules. Thereafter, multilateral negotiations stalled (including the Doha Development Round), while bilateral and megaregional agreements proliferated. Both the US and the EU began negotiating trade agreements with other developed countries—in particular Japan and Canada—and, in 2013, between themselves (the Transatlantic Trade and Investment Partnership, TTIP).

These developments and growing concerns took place amidst a rise in what Börzel and Zürn (2021) describe as a universal, post-national

liberalism, replacing the post-war geographically bound liberal multilateralism. From this perspective, international institutions were pushing not only rules, but also a liberal social agenda, and accumulating more power vis-à-vis states. This post-national liberalism, or at least the perception of such developments, in turn, generated a backlash among conservatives and nationalists in many countries, especially American conservatives (Cass, 2022; Mutz, 2021). While this 'LIO 2.0' retained an emphasis on a strong rules-based trading system centred on the WTO, American complaints against the WTO's dispute settlement system (DSS) also grew louder during this time. Following a few decisions that struck down the US practice of 'zeroing', both the Bush and Obama Administrations showed their dissatisfaction with the DSS, and especially its Appellate Body (considered too judicial, too expansive in scope, and insufficiently deferential to domestic investigations) by refusing to support reappointment of the American member of the body in both 2007 and 2011. In 2016 the Obama Administration also blocked other reappointments, but without bringing the body's work to a halt.

The election of Donald Trump elevated a strong nationalist to the American presidency and with it increased contestation in the international trading system. He immediately withdrew the US from the Transpacific Partnership and the Paris Agreement (on climate), refused reappointments or renewals of any WTO Appellate Body member, and preferred a return to a power-based GATT system. Trump started a large and encompassing trade war against China, who then retaliated, invoking the importance of 'self-reliance and sufficiency' (Roberts et al., 2019: 664, 668). President Trump persistently expanded the concept of national security to justify government management of trade; the mantra was 'economic security is national security' (Bown, 2020: 4; González & Véron, 2019). The president also questioned cooperation with allies; the goal was no longer for everyone to gain from trade, but for the US to benefit more than the rest, to 'beat the cheaters' in a zero-sum game (see for example Mutz, 2021). For Trump, the victims of free trade were developed, not developing, countries, in particular the US (Narlikar, 2020: 125–179). In sum, Trump deemed economic and trade tools as appropriate to address political disagreements.

The Chinese had dumped heavily subsidized steel onto the US (and European) market after the 2009 financial crisis, to which President Obama responded with select anti-dumping duties. The Trump Administration deemed this response too lenient, replacing it with direct

economic confrontation and additional tariff hikes. In 2018, referencing Article 21 of the GATT—which exempts compliance with WTO obligations for national security reasons—the US imposed a general 25% tariff on steel imports, and 10% on aluminium, from almost all its trading partners. The politically sensitive Article 21 had until then only been invoked to justify increased protection during military conflicts. Allowing a state to invoke Article 21 at its convenience would nullify the WTO’s core principles of predictability and non-discrimination. The EU and other steel and aluminium exporters took the case to the WTO, while also retaliating (by raising their tariffs on North American products) without waiting for a resolution through the DSS.

A 2022 panel ruled against America’s claim of complete self-determination, finding that one can objectively define what constitutes a ‘time of war or emergency’, thus making Article 21 justiciable (WTO, 2022). This was the second such finding, the first being a 2019 decision where the US supported Russia’s (unsuccessful) claims of complete self-determination (WTO, 2019: 38 and ftn 144). The Biden administration, agreeing with its predecessor, appealed the 2022 finding, stating the US ‘will not cede decision-making over its essential security’ (WTO, 2023). Since the Appellate Body ceased its operations in December 2020 after the Trump administration vetoed both the renewal and appointment of any members (which Biden continued), America’s appeal entered a void. While insisting that it is for legitimate security purposes, America’s invocation of Article 21 decision provides carte blanche for any WTO member to invoke national security justifications for protectionist and discriminatory policies at any time, thus further eroding the foundation of the trading system.

Washington has also strengthened Congress’ control over foreign investments in American companies considered strategic, especially in the field of new technologies, through the Foreign Investment Risk Review Modernization Act. There is now a ban on Chinese technology provided by ZTE and Huawei for use in government services and the domestic 5G network. The US and China signed a WTO-incompatible ‘managed trade’ agreement in 2019, stipulating the exact value of US goods that China was required to purchase by the end of 2021. The bipartisan hostility toward China enabled widespread domestic legislative support for a renewed industrial policy based on supporting domestic jobs and manufacturing, the protection of US technology, strategic dominance,

and the promise of subsidies for innovation (Bacchus, 2022; Eliasson, 2023; Erixon, 2021).

After entering office in 2021, the Biden administration reached out to traditional allies, employing a more conciliatory rhetoric than that of his predecessor; however, there was significant policy continuity. President Biden was even more aggressive than Trump in certain areas. He kept the tariffs on Chinese imports, remained aloof on WTO reforms, strengthened ‘Buy American’ provisions in federal contracts and ordered a reduction in waivers to such provisions; created a director of Made in America, and strengthened semiconductor export restrictions. Biden’s Trade Representative, Katherine Tai, has also followed in the footsteps of her predecessor (Robert Lighthizer) in downplaying multilateralism and rejecting free trade agreements (FTAs). Biden signed the Chips and Science Act in August 2022 (providing massive subsidies for semiconductor factories, while banning Chinese involvement, and as well as certain Chinese investments in the US). In October 2022 President Biden invoked national security as the justification for new rules (through the Commerce Department) banning the exports of advanced semiconductors to China (as well as tools, parts and support services). The latter was followed in 2023 by a total export ban on all products shipped to Huawei, the Chinese telecoms company, and a ban on US investments in select sectors in China, along with reporting requirements on investments in other sectors. These subsidies and restrictions prompted a French government official to quip ‘If we were doing this in France, we would be described as communists’ (Chassany, 2023).

The US insists that China has continuously violated numerous WTO articles and obligations, while arguing that the EU failed to recognize these threats through 2020, despite intense American prodding (Atkinson & Whisman, 2023). Others call China a ‘selective stakeholder’ that cherry-picks ‘which responsibilities to take based on a narrow cost-benefit analysis’ as regards multilateral norms (Kirchner, 2021: 146).<sup>2</sup> China has adopted its own version of ‘buy Chinese’, and has used trade to retaliate against political decisions it dislikes. For example, it banned imports of Australian wine after Australia endorsed an inquiry into the

<sup>2</sup> In the context of weaponizing interdependence, China’s ‘dual circulation’ policy is ‘an attempt to recalibrate its engagement with the world so that it feels less threatened by the world outside’.

origins of COVID-19, and removed Lithuania from the list of recognized countries from which to import goods after the small EU state allowed the Taiwanese government to open an office in Vilnius. China has also ‘effectively maintained control on foreign investment, involving forced transfers of technology, uneven protection of intellectual property and state subsidies for its firms that have caused gluts in the supply of commodities such as steel’ (Kirchner, 2021: 146). China’s 2023 Foreign Relations Law (aimed at countering anything deemed ‘detrimental to Chinese interests’) was in part a response to the EU’s Anti-Coercion Instrument (discussed in the next section); the US Congress is discussing an act to counter economic coercion. Both the US and China have also raised the possibility of further retaliation against what they perceive as ‘aggressive’ EU trade policies (Eliasson et al., 2023; Krukowska et al., 2023).

This shift towards geopolitics, back towards the nation-state, regions, and power politics represents a shift in the global order. A given order is defined by certain regulations (rules, norms, institutions) and patterns of behaviour (actions, reactions, outcomes) that reflect how actors understand and apply those regulations. As Roberts et al. (2019: 659) point out, ‘Although politics was not absent from the institutional design and operation of the WTO, the regime’s legalization somewhat shielded its day-to-day operation from the broader topics of world politics, which side-lined security and strategic concerns’. Today’s shift in the global order is in the opposite direction, evidenced by the emergence of new regulations and different patterns of behaviour vis-à-vis the relatively predictable previous order (Table 2.1).

In sum, the US, the long-standing guarantor of the LIO has dismissed significant aspects of trade rules and norms, choosing to massively expand government subsidies, all in the name of national security and geopolitics—surpassing what even statist European governments dared to propose. China has also violated WTO rules and trading norms, and its regime type makes it an undesirable substitute for US leadership (see for example Green & Medeiros, 2020). The EU’s stated preference remains a return to the rules-based multilateral trading system (European Commission, 2021a; Weyand, 2022). However, the turn to geopolitics, the lack of US leadership and competition between great powers has compelled a shift in EU trade policy (cf. Eliasson & Garcia-Duran, 2023; Matthijs & Meunier, 2023; Weyand, 2022).

**Table 2.1** A Shift in the Global Trading Order

Logic of the LIO	Assumptions in a geo-political and geo-economic order
Trade and investments: absolute gains Interdependence leads to peace Interdependence increases economic efficiency; calls to reduce trade barriers through cooperation	Trade and investments: relative gains Peace leads to interdependence Interdependence generates strategic vulnerabilities (e.g. critical technologies); calls for resilience (including self-reliance); interdependence can be weaponized
Common rules with exceptions, and judicial review	Use of exceptions based on national security (e.g. WTO Art 21 by the US, or investment screening mechanisms)

*Sources* Own elaboration on Roberts et al. (2019), in Garcia-Duran and Eliasson (2022)

## THE EUROPEAN UNION ON THE ISSUE

Since its creation, the WTO-centred rules-based trading system has been pivotal to the EUs trade agenda (Garcia-Duran & Eliasson, 2022). Yet, this liberalization has always been balanced with measures designed to ensure a domestic margin of manoeuvre to preserve political and social stability—what Ruggie (1982, 2022) coined ‘embedded liberalism’. EU Trade Commissioner Pascal Lamy (1999–2004) posited that trade policy should include a variety of trade and non-trade objectives, such as social justice, labour and sustainable development, referring to this collectively as ‘managing globalization’ (MG); this became the trade policy doctrine during his tenure (Meunier, 2007). The EU trade policy was liberal, balanced with values of fairness and social stability.

The EU’s first formal trade policy strategy was published in 2006, and the second in 2010—both focusing predominantly on liberalizing trade. However, the legacy of the MG doctrine remained visible. The Commission emphasized trade liberalization as a path to growth by stressing the need to tackle non-tariff barriers (NTBs) and not shielding companies or sectors from inevitable change. This was coupled with an emphasis on helping workers, sectors, and regions affected by global competition (embedded liberalism), and a need to balance openness and competitiveness with rules (fair trade). When later negotiating TTIP (2013–2016) the Commission emphasized the agreement’s potential economic and geostrategic benefits, but also how standards would rise globally if the transatlantic partners paved the way (Eliasson & Garcia-Duran, 2019).

Following three years of intense intra-EU contestation and trade politicization around TTIP, and, from 2014, an agreement with Canada (CETA), the Commission's focus turned to the social consequences of market opening. Here, 'key policies for the future of Europe's integration into the world economy, like investment and regulatory cooperation, must support, not undermine, the EU's broader objectives of protecting people and the planet' (Commission, 2015: 26). The new equilibrium between free trade and a resurgent MG in the 2015 trade strategy (aptly named *Trade For All*) signalled a return of MG as a guiding paradigm, along with more qualified support for trade liberalization. Sustainability provisions and stronger emphases on labour rights would now accompany the latter, under the assumption that global trade rules remained intact. This was further fortified in a 2017 Commission paper on 'harnessing globalization', wherein the link between internal and, by now, increasingly uncertain external policies was clear,

The aim is to reconcile the *means* of globalisation — opening markets and technological progress — with its *ends* — projection of rights and increased human well-being' ... [thus] 'strengthening the internal cohesion and social policies in the EU would help make globalization and competition more palatable'. (Commission, 2017a: 13, 18–22)

Trade policy began shifting towards a more security-oriented stance in 2017 while maintaining an emphasis on sustainability. The previous year the EU's external action service had declared that 'principled pragmatism' should guide external actions; multilateralism was preferred, but the EU needed to develop autonomous security and defence capabilities (European External Action Service, 2016: 8, 16, 19). Then, in 2017, the Commission recognized deficiencies in its trade defences (European Commission, 2017b). It proposed changes to EU anti-dumping and anti-subsidy instruments in response to rising concerns about China's continued violations of trade norms, the dumping of excess Chinese steel production in Europe and the US, and the expiration of Article 15 of China's accession to the WTO (an article that allowed countries to treat China as a non-market economy without other legal justifications). The new—quickly adopted—regulations were neutral on market and non-market status (Hoffmeister, 2020).

The real shift towards security, however, took place as a reaction to American policies under President Trump. In 2018, facing Trump's

trade wars, European Commission President Jean-Claude Juncker insisted that ‘the EU believes in open and fair trade but we are not naïve free traders...we will do whatever it takes to defend European producers and workers when others distort the market or don’t play by the rules’ (European Commission, 2018b). The EU countered Trump’s measures (raising tariffs on some US goods) while becoming more critical of China. The latter was now—depending on the issue—simultaneously a partner, economic competitor, and systemic rival (European Commission 2019: 1), language repeated in 2021 (European Council, 2021). In 2020, in response to the WTO Appellate Body’s cessation of work, the Commission proposed a Multiparty Interim Appeal Arbitration Arrangement under the WTO’s article 25 in order to maintain an arbitration system. As DG Trade official Garcia Berbero (2022) emphasized, ‘in a geopolitical world...[you] can’t have a rules-based system without a functioning dispute system.’ By 2022, 52 WTO members had joined, with the first case filed. While China joined, the US (the most frequent target, and a significant user, of the dispute settlement system), Japan and Russia did not, leaving the Appellate Body no closer to a long-term solution.

In 2020, the Commission also published its first annual strategic foresight report to ‘better chart the way forward for the twin green and digital transitions and to recover from disruptions’ (European Commission, 2020: 2). The report refers to ‘the impact of economic measures driven by political considerations, such as the extra-territorial impact of sanctions or protectionist measures’ (European Commission, 2020: 16). Six months later the Commission proposed amendments to the so-called blocking statute to ‘deter and counter act the unlawful extra-territorial application of sanctions to EU operators’ (European Commission, 2020: 17). This was in direct response to the extra-territorial application of US sanctions. Moreover, the EU worried that the combination of geopolitical and economic interests by other global powers ‘raises the chances of foreign investors attempting to acquire strategic European assets, especially in the health, defence and space supply chains, as well as for critical infrastructures’ (European Commission, 2020: 18). The importance of preserving and strengthening access to critical resources was also emphasized in the EU’s New Industrial Strategy (2020, updated 2021). The latter included initiatives to promote strategic autonomy through defensive measures (‘efforts to retain existing critical resources and strategic assets’) and offensive efforts, such as building capabilities by ‘secur[ing]



critical capabilities and supplies in strategic areas where such resources and assets are lacking’ (Pohl, 2020: 153 in Weinhardt et al., 2022: 111).

The EU presented its latest trade strategy, the Trade Policy Review—An Open, Sustainable and Assertive Trade Policy (OSA), in February 2021, amidst the COVID-19 pandemic (which had further complicated the trading context). The new strategy explicates the EU’s intention to defend itself against external changes threatening its values and interests while positioning trade as part of EU foreign policy proper. The strategy emphasizes the necessity of improving trade defence instruments (TDIs) to counter the weaponization of commerce undertaken by (mostly) the US and China. There is a focus on building resilience (23 mentions, mostly in relation to a strong economy and functional market) and strengthening the EU’s autonomous trade defences, alongside a willingness to unilaterally address and punish non-market principles and undemocratic practices, even absent the heretofore-requisite WTO ruling. The focus on geopolitical developments and the inclusion of the ‘strategic autonomy’ narrative indicates a shift in trade policy discourse: from liberal to more realist; a pendulum swing towards a new balance between MG (liberal) and trade as a foreign policy tool (realist) (Eliasson & Garcia-Duran, 2023; cf. Schmitz & Seidl, 2023). This rebalancing is also an attempt at merging ideal-type approaches to decision-making under conditions of uncertainty: the principled (favouring both a rules-based trading order and improved resilience) and the pragmatic (experimenting with new instruments) (Boin & Lodge, 2021).

The 2021 OSA explains how ‘the EU needs to equip itself with tools to operate in a more hostile international environment if necessary’ (Commission, 2021: 8). As such, it represents a ‘deliberatively strategic document...on how the EU places itself in a geopolitical environment’ (veteran DG Trade director Garcia Bercero, 2022). As summed up in Table 2.2, the Commission proposed new TDIs, alongside revisions of existing ones; all are explicitly constructed to be WTO-compatible, without targeting specific third countries. While some instruments aim to ensure a level playing field amidst various subsidies and tax breaks offered by other countries (the Foreign Subsidy Instrument and the International Procurement Instrument, as well as the Chief Trade Enforcement Officer), others support a combination of greening technology, sustainability, and unfair trade practices (the Carbon Border Adjustment Mechanism). The Anti-Coercion Regulation, the Investment Screening Mechanism, and the Foreign Subsidy Instrument target economic and

security threats, with the goal of protecting the EU from ‘economic attacks’ (cf. De Ville, 2022). Although the EU has been careful to convey how the TDIs are defensive tools (reactions to external developments), rather than part of an offensive, geopolitical, foreign policy, the targeted countries may not appreciate this distinction. These countries are likely to be those with which the EU has significant volumes of trade and economic interdependence, and with whom the EU wants to remain competitive.

The Commission argues that the anti-coercion instrument (ACI) is ‘complementary to other, more structural initiatives [the Union’s Industrial Strategy of May 2020] to enhance the resilience of the Union economic and financial system to various forms of external pressure’ (Commission, 2021b: 2). The contours of the ACI were first discussed after Trump imposed tariffs on EU steel and aluminium, while branding the EU a ‘foe’ that had ‘taken advantage’ of the US. It fills a gap in the EU’s arsenal that in the US is covered by the broad-ranging section 301 of the Trade Act of 1974.<sup>3</sup> The latter provides the USTR, at the direction of the president, broad authority to respond to unfair trade practices, including violations of trade agreements, or ‘an act, policy, or practice of

**Table 2.2** The EU Trade Toolbox

<i>Revised and updated</i>	<i>New</i>
Anti-dumping, anti-subsidy instruments, 2017	Anti-Coercion Act, adopted October 2023
Enforcement Regulation, 2021	Foreign Subsidy Instrument, in force since July 2023
Export Controls, 2021	International Procurement Instrument, in force since August 2022
Corporate Due Diligence, proposed in 2022, tentative agreement 2023	Chief Trade Enforcement Officer, 2021
	Framework for Screening Foreign Investments, 2020
	Carbon Border Adjustment Mechanism (CBAM), in force from October 2023

*Source* European Commission’s website

<sup>3</sup> Though France had argued for a European equivalent to US Section 301 since its adoption.

a foreign country' that 'is unreasonable or discriminatory and burdens or restricts United States commerce'.<sup>4</sup> The ACI allows any Member State to complain to the Commission about coercion, after which the Commission investigates. If it finds coercion, and the Council agrees with the Commission's findings, the Commission draws up countermeasures, which are adopted by a qualified majority in the Council.

The result is a trade instrument with shared competences. Member States have veto rights on the Commission's findings, defining what constitutes coercion, but the complicated process, where a QMV of member states can decide that a fellow member was not coerced, may work to the Commission's advantage. If capitals are reluctant to question each other's claims for fear of ending up on the receiving end in the future, the Commission's findings will, de facto, be determinant (Garcia-Duran et al., 2023). The new powers in the ACI 'break novel ground' (Weiss, 2023: 8).

In fact, the revised and new TDIs combine to enhance the Commission's power to address all aspects of unfair trade and coercive action. The 2023 European Economic Security Strategy (EESS) also emphasizes the centrality of these instruments; trade tools are deemed essential to protecting against economic security risks, including economic coercion and trade-related threats to security (for example in high-tech areas such as AI, advanced semiconductors, and biotechnologies [Commission, 2023c]).

The Commission proposed the Transatlantic Trade and Technology Council (TTC) in December 2020, a month after Joe Biden's victory in the US presidential election, presenting it as an opportunity to work bilaterally with the US to address the multiple challenges facing the rules-based international trading system and bilateral relations (Commission, 2020). The EU's stated goal was 'to maximise opportunities for market-driven transatlantic collaboration, strengthen technological and industrial leadership and expand bilateral trade and investment' (Commission, 2020: 2). After a tentative start, the TTC played a concrete role in coordinating transatlantic sanctions and export controls on Russia

<sup>4</sup> Trade Act of 1974, Public Law 93-618; 19 U.S.C. §2411 also provides the USTR extensive leeway.

following its February 2022 invasion of Ukraine.<sup>5</sup> Aside from that, the US quickly made the TTC all about how to address concerns about China. While most of the discussions on misuse of technology, regulations, human rights and investment screening explicitly or implicitly address concerns with China—and notwithstanding greater European public and political leadership scepticism of China’s intentions by 2022—the Commission consistently rejects the idea of the TTC as an anti-China institution.

There are other transatlantic tensions as well. The EU concluded a Comprehensive Agreement on Investment (CAI) with China in late 2020, after seven years of negotiations. While negotiations began during the Obama administration’s pivot to Asia, EU commercial interests (and with fewer European concerns about China’s intentions) and Trump’s actions spurred a conclusion. However, negotiations concluded at the same time as the EU proposed the TTC, angering the incoming Biden administration who was hoping to work closely with Europe. After revelations of the Ughur internment camps and human rights violations, the European Parliament announced it would not ratify the CAI, which, as of late 2023, remains ‘frozen’.

On the environment, the EU prefers to make carbon emissions so costly that environmentally friendly alternatives prevail (using its emissions trading system and CBAM, a tool to ensure that producers pay a price for the carbon emissions embedded in the production of imported goods). The US prefers subsidies for renewables and a closed ‘green steel club’ with common external tariffs, while China uses state-directed production and extensive subsidies. CBAM has been called a tax and discriminatory by the US and China, who threaten retaliation, while the EU rejects a steel club, calling it WTO-incompatible (Allenbach-Amman, 2023).

The fragmentation of the digital economy, and data transfer, is a related challenge to the LIO and transatlantic relations. The EU’s General Data Protection Regulation (2016), Digital Market Act and Digital Service (criticized in the US as ‘anti-American’); China’s April 2022 Personal Information Protection Law (PIPL), various state-level private laws in the US, and the Court of Justice of the European Union’s 2021 rejection of the 2016 Transatlantic Privacy Shield (used by firms to transfer

<sup>5</sup> *Inside U.S. Trade Daily Report* (14 March 2022). Some Member States (e.g. Hungary, and occasionally Austria and Slovakia) have voiced opposition to EU and US sanctions on Russia.

data) have resulted in a myriad of conflicting regulations on privacy and data transfers. This increases pressure on firms to ‘venue shop’ a regulatory framework while discriminating against SMEs who cannot afford the legal and administrative costs to ensure multi-jurisdictional compliance. Challenges to the new (2022) Trans-Atlantic Data Privacy Framework are working their way through courts in the EU, with a CJEU decision likely by 2025. A new rejection by the CJEU would not only devastate transatlantic data flows but also hamper global standard setting for cross-jurisdictional data flows.

However, here too, the EU is forging ahead. The EU adopts regulations because it cannot tax, and in a field (data transfer and privacy) largely devoid of international standards and regulations, setting such regulations forces third-party compliance in order to access its market, with potential for EU regulatory adoption elsewhere. While possibly making it more expensive for third parties to trade into the EU, this is another example of how the EU has responded to the substantive requirement of transferring data when trading, along with the need to protect consumer data, amidst a fragmenting LIO.

## RESPONSES OF DIFFERENT EU ACTORS

The fragmentation of the international trade system has weakened the multilateral dispute settlement system and exposed the limits of its rules and norms to deal with trade weaponization, especially in the area of technology and digital trade. The Commission insist that the EU’s changed focus, its emphasis on TDIs while attempting to bring others around to reforming the trading system, is due to these changes in the LIO, and actions by others, especially the US and China. ‘The EU’s new geopolitical trade policy is hence framed as a ‘provoked’ turn in response to the offensive geopoliticization of trade policy of other international actors’ (Couvreur et al., 2022: 11). Are the responses of EU actors predominantly Atlanticist, Europeanist, or nationalist?

An Atlanticist trade and investment approach means that the EU is prepared to ally with the US, at least while the latter is open to it, and where the degree of EU autonomy depends on the US administration’s position. A Europeanist response means the EU coordinates and cooperates with allies when possible while establishing autonomous capabilities to allow it to act alone when necessary. A nationalist response implies internal contestation of common European positions, with each

member-state promoting their interests regionally and internationally, with no autonomous EU capabilities. The latter is not possible given EU treaty language and existing laws, but stronger nationalist sentiments would nonetheless prevent further strengthening of EU capabilities. A US trade policy that turns more inward, more isolationist, and less Atlanticist, would weaken transatlantic political ties, but be welcomed by rivals (read: China and Russia); it would necessitate more investments to build stronger autonomous EU capabilities, and yet, ultimately, may weaken the EU's ability to promote multilateralism. Table 2.3 captures the results of our analysis.

The Commission, while accepting the reality of a fragmenting LIO, shifting power politics, and declining adherence to rules-based trade, has become increasingly divided between Europeanists and Atlanticists, while simultaneously retaining a unified and strong preference for multilateralism and a functioning WTO dispute settlement system (Garcia-Duran & Eliasson, 2022; Garcia Bercero, 2022). There are different positions within the Commission, with most straddling the Europeanist and Atlanticist divides, but without clear cleavages. DG Internal Market (under Commissioner Breton) favours resilience and subsidies without retreating to pure Europeanism, while DG Competition (under Vestager) and Trade (under Dombrovskis) favours openness and market behaviour coupled with more (and more effective) defensive trade instruments. The resulting EU trade policy depends on the perceived need to defend EU values and interests and whether there is reciprocal interest in transatlantic cooperation and coordination. Put differently, absent widespread international departures from existing rules and norms (China's subsidies, Russia's violations of sovereignty, America's subsidies, and security tariffs)

**Table 2.3** Atlanticists, Europeanists and Nationalist Regarding EU Trade Policy

Atlanticists	Europeanists	Nationalists (no further EU capabilities)
Most northern Member States (Scandinavian, Germany, the Netherlands)	DG Internal Market, European Parliament, France, Italy	A few political parties, including True Finns (Finland), Vlaams Belang (Belgium)

Commission, incl. DG Trade

there would be less perceived need for a Europeanist approach, including capabilities previously deemed unnecessary.

A more protectionist American policy, replete with import tariffs, subsidies, public procurement restrictions, export restrictions and American dictations on the EU's China policy results in a stronger Europeanist (rather than Atlanticist) response in terms of strengthening autonomous capabilities, including TDIs. Part of the internal divide is due to the Biden administration's 'halfway' Atlanticist position. While Trump dismissed the LIO, promoting protectionism and fragmentation, his stance (if not his language) struck a chord with the working-class Republican base and much of the Democratic party leadership. As part of an effort to win back working and middle-class voters lost to the Republicans over the past two decades, Biden wants to work with allies, but will act unilaterally when he feels American interests are at stake, interests which includes manufacturing jobs. In his 2023 State of the Union address Biden responded to criticism of protectionism by saying 'I am not changing my mind. We are going to buy American....no exceptions...All projects using federal funds use American construction materials.' Actions undertaken by the Trump and Biden administrations signal conspicuous American backsliding on both Atlanticism and neoliberalism—buttressed by bipartisan support (Bacchus, 2022; Eliasson, 2023). A Science for Policy Report on how to shape and secure the EU's open strategic autonomy by 2040 proposes strengthening the transatlantic partnership while simultaneously preparing for possible future discontinuities in US politics and foreign policy (Cagnin et al., 2021). In other words, the Commission recognizes that it should prepare to uphold its own agenda—a Europeanist approach.

The Chinese weaponization of trade and lavish subsidies remained unabated by spring 2023, and the US had already jumped on the subsidy bandwagon. The Commission and many Member States saw America's 2022 climate-positive, but fabulously misnamed Inflation Reduction Act (IRA) as a threat to the EU's renewable energy and auto industries. It was filled with discriminatory, local content-specific, tax breaks and extensive subsidies, leaving the Commission divided on how to respond, alternatively calling for retaliation, cooperation and compromise, or massive EU subsidies ('if you can't beat them - join them'). Interestingly, the Commission's criticism of the IRA was less about subsidies for renewables or tax breaks for energy efficiencies (after all, various forms exist in the EU), than the discriminatory local content requirements. The latter discriminate against European electric vehicles and other products

lacking sufficient North American content (CRS, 2022). WTO rules (in the Agreement on Subsidies and Countervailing Measures, see Kleimann, 2023) prohibit making subsidies contingent on local content requirements, yet now a main architect of the WTO, the US, was again saying ‘we don’t care’. This led the two sides to start negotiating a ‘critical minerals agreement’ in 2023, whereby EU-mined minerals used in electric vehicle batteries would count towards the eligibility criteria for US EV tax credits.<sup>6</sup>

However, Commission President von der Leyen insists that ‘To keep European industry attractive, there is a need to be competitive with offers and incentives that are currently available outside the European Union’ (Commission, 2023a). By March, the European Commission announced that 40 percent of clean energy technology, and a similar percentage of critical minerals (used or EV batteries) must be produced in the EU by 2030; EU state aid rules have been relaxed to assist in sectors that ‘are key in the transition to a net-zero economy’ (Commission, 2023b). A temporary Crisis and Transition Framework allows EU countries to provide subsidies to green-energy projects, all to counter and compete with the US and China (Japan and South Korea also launched subsidy schemes). The Commission also proposed the 2023 Critical Minerals Act (in trilogue by late 2023), which aims to ensure access to materials of ‘high economic importance for the EU [and] with a high risk of supply disruption’ (European Council, 2023b), other step in strengthening strategic autonomy. This was followed by a decision to begin ‘collective risk assessments’ in product areas that could be subject to export restrictions from 2024, and a September 2023 announcement of an anti-subsidy investigation into Chinese electric vehicles subsidies (European Union, 2023), a move welcomed by the US.

There is also a debate among and within Member States. The Swedes (supported by the Dutch and Austrians, among others) emphasize productivity, R&D, competition and investment rather than long-term subsidies and protectionism (Fleming et al., 2023). The liberal-minded Swedish EU Affairs minister further emphasized ‘There is a correlation between free trade and productivity... A subsidy race is not the answer’ (in Van Gaal, 2023). The finance ministers of Finland, the Czech

<sup>6</sup> There was no agreement as on November 2023, though non-US automobiles will have access through lease arrangements, since ‘commercial vehicles’ are exempt from local content rules.



Republic, Denmark, Estonia, Ireland, Austria and Slovakia sent a letter to Trade Commissioner Dombrovski opposing ‘permanent or excessive non-targeted subsidies’ (Vinocur, 2023); Italy agreed, but wants targeted subsidies to assist specific industries. Opposition was also premised on fears of intra-EU discrimination, ‘These plans risk fragmenting the single market and laying the ground for a subsidies free-for-all’ (Stolton et al., 2023); these member states support a free trade Europeanist position.

Germany and France accounted for 80% of all state aid to citizens and firms across the EU during the 2022 energy crisis, and with the union’s largest coffers, they could afford industrial aid schemes that would discriminate against other EU Member States. The Germans want a Europeanist approach to industrial policy and reduced reliance on China in strategic sectors, but until there is an acceptable funding stream (read: Germans don’t pay for southern/poorer states), the government will provide their own domestic industrial support.<sup>7</sup> But French Trade Minister Becht insisted there was a ‘paradigm shift’ in the world of international trade, emphasizing that the EU must react and ‘counter-balance negative effects with higher customs duties [...] and reinforce our commercial defence instruments’ (Bourgery-Gonse, 2023; see also Moens et al., 2023) thus promoting another type of Europeanist position. The European Council ultimately agreed to a more pro-subsidies Europeanist position, relaxing state aid rules, easing the regulatory environment for green projects, and increasing subsidies and loans through existing financial facilities (European Council, 2023a).

France is again emphasizing the need for European champions, protecting certain sectors with subsidies and import tariffs (including on electric vehicles), and full strategic autonomy in all areas; the EU should not be mere vassals of the US, and instead become the world’s ‘third superpower’ (Barigazzi, 2023; Zachová & Kurmayer, 2023). The Scandinavian members, Germany, Poland, Czechia, and the Netherlands, along with the DG competition, remain wary of what they perceive as a move towards protectionism, and fears of Chinese retaliation that will hurt key sectors, such as the automotive sector. The EU recognizes China as a challenge that needs addressing (European Commission, 2023c; Lau et al.,

<sup>7</sup> German Ministry for Economic Affairs and Climate Action (2023). *Industriepolitik in der Zeitenwende Industriestandort sichern, Wohlstand erneuern, Wirtschaftssicherheit stärken*. [Industrial policy at the turn of the century: Secure an industrial base, renew prosperity, and strengthen economic security.].

2023) but there is limited coordination with the US, and greater fears in Europe about the consequences of reorienting supply chains away from, or starting a trade war with, China (Moens et al., 2023; Oertel, 2023).

National parties on the far left and extreme right are most likely to advocate for greater protectionist measures (Polk & Rosén, 2023), including some wanting to halt or reverse EU-level powers on trade (Table 2.3). Domestic parties matter because the Council has to sign off on trade regulations and agreements, and the Commission must be aware of what is feasible to get approved, necessitating ‘an awareness of domestic politics’ (Polk & Rosén, 2023: 9). Many far-right or extreme-right parties in Europe appreciated American President Trump’s nation-first approach, but most conservative and far-right European parties oppose protectionism.

The European Parliament generally supports stronger EU capabilities. While the Atlanticists faction remains large, there has been growing recognition of the need for better coherence between trade policy and non-trade policy objectives, such as sustainability (Weiss, 2021), but also that the EU needs a more assertive EU trade policy, citing geopolitical concerns, distortive subsidies, and coercion against EU firms, interests and institutions (European Parliament, 2022). The parliament’s trade committee (INTA) declared in 2021 ‘We now need to establish a comprehensive approach to what constitutes coercive behaviour and how the EU should respond to these aggressive acts. A rules-based multilateral trading order remains our priority, but we will not allow others to dictate decisions to us’ (European Parliament, 2021).

Migliorati and Vignoli (2022), analysing a dataset of all European Parliament plenary debates between 2009 and 2019, show that two traditional cleavages influence views on free trade: ‘[one’s] position on the left–right axis and support for the EU. Right-wing and more Europeanist MEPs are significantly more supportive of FTAs than their left-wing and Eurosceptic colleagues. ... In highly salient agreements including TTIP and CETA, the gap between left–right and pro-anti EU MEPs is wider’. In other words, pro-Europeanist MEPs want to expand EU resources through more FTAs, while seeing an agreement with the US as benefiting the Union. But, by the fall of 2022, amidst Russia’s invasion of Ukraine and challenges of resources and over-dependency on authoritarian regimes, there was a shift on the left, led by the Socialists and Democrats group, ‘there’s convergence between all of the political groups

around the urgent need to have deeper trade and economic relations with reliable partners’ (Aarup & Moens, 2022).

## CONCLUSION

A new equilibrium has emerged in EU trade policy since 2016, this time between the liberal paradigm of MG and the realist paradigm of trade-as-foreign-policy, which has moved the EU’s trade policy closer to that of the US (Eliasson et al., 2023). The EU still prefers a liberal, rules-based international system but is also cognizant of the rules-based trading system facing its most serious challenge since WWII, and that the EU must be able to react to coercion by other actors. Although the Commission still views preferential trade agreements as rule-enhancing and economically beneficial, the 2021 trade strategy and the EESS reflect a determination to defend EU values and interests in a fragmented LIO. It has been (re)focusing on managing economic globalization through regulations on fair trade and sustainability, while simultaneously adopting new industrial policies and TDIs. Having, as De Ville (2023: 3) notes ‘failed to create a world in its own image’, the EU is reinforcing its TDIs in a world where power politics is again in vogue.

These developments have seemingly made the Commission more Atlanticist, and by way of opening investigations into Chinese electric vehicle subsidies and discriminatory public procurement policies, supported by sector-specific industries, the Commission has moved a step closer to American policies (Lau et al., 2023). However, the Commission is very much aware that a Europeanist position may be needed in the near future. Certain aspects of the EU’s new TDIs reflect this reality, as do changes to industrial policy, and the net-zero transition and state aid—these have reinforced Europeanist voices. China, Russia or another third party, including the US, maybe at the receiving end of the new TDIs. For Atlanticism to strengthen, both the US and the EU must agree—at minimum—to treat each other as trusted partners whose products are not a threat to national security, and to not weaponize trade against one another. Language to this effect was inserted by the EU in the May 2022 TTC draft conclusions, but the Biden administration insisted on its removal, signalling a preference for retaining this option, a preference it confirmed in 2023 (Moens & Overly, 2023). Thus, Europe’s alignment with and reliance on the US cannot be taken for granted.

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# Strategic Autonomy in Security and Defence as an Impracticability? How the European Union's Rhetoric Meets Reality

*Eva Michaels and Monika Sus*

## INTRODUCTION

The idea of European strategic autonomy (ESA) has informed the EU's efforts to grow into a sovereign actor in international security from the moment then French President Jacques Chirac and British Prime Minister Tony Blair agreed on the 1998 Saint-Malo Declaration, which paved the way for common EU security and defence policies (Howorth, 2018;

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Ricketts, 2017). While the notion of autonomy or sovereignty<sup>1</sup> was not formally anchored in EU policy documents until 2013, it influenced the thinking of French decision-makers and as such the launch of the EU's first military operation overseas and subsequent crisis management efforts.

Upon taking centre stage in the 2016 European Union Global Strategy (EUGS), ESA achieved buzzword status and the concept, as well as its potential implications, were intensely discussed. The term struck a nerve back then as it epitomised a shared understanding that the EU would need to think and act more strategically—and as such more autonomously—in response to greater external and internal instability as part of a perceived fragmentation of the Liberal International Order (LIO). The trend towards challenging the EU's global role became more tangible for EU member states with the rise of populism across Europe, the effects of the 2015–2016 migration crisis, the results of the Brexit referendum five days before the adoption of the EUGS, and the arrival of the Trump administration in the US in 2017.

However, while ESA became the most prominent reference point when debating the EU's capacity as a global actor post-2016 and many EU actors chose it to define the overarching aim of EU cooperation on security, the search for its meaning is ongoing (Helwig, 2022; Michaels & Sus, 2024). Policy-oriented discussions paid close attention to post-2016 developments and provided food for thought,<sup>2</sup> whereas academic engagement with the term ESA has been more limited (Helwig & Sinkkonen, 2022).

Yet overall, relevant research has emerged along four strands. The first one explores how the EU embraced ESA in light of rising global competition and a fragmentation of the LIO (Aggestam & Hyde-Price, 2019; Biscop, 2013; Casarini, 2020; Deschaux-Dutard, 2022; Howorth,

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<sup>1</sup> The terms European strategic autonomy and sovereignty are generally used interchangeably.

<sup>2</sup> There has been an abundance of think tank reports on ESA in security and defence, e.g. (Biscop, 2019, 2016; Fiott, 2018; Fiott et al., 2021; Helwig, 2021; Kempin & Kunz, 2017; Lippert et al., 2019; Lucia Retter et al., 2021; Morgen, 2020; Sabatino & et al., 2020).

2017, 2018; Meijer & Brooks, 2021; Nielsen & Dimitrova, 2021; Olsen, 2022; Pieper & Lak, 2019; Riddervold & Rosén, 2018; Ringsmose & Webber, 2020; Schreer, 2019; Smith, 2018). A second strand investigates how the phenomenon of EU differentiation affects the reality of EU and transatlantic security and defence cooperation (Bunde, 2021; Ewers-Peters & Baciú, 2022; Howorth, 2019; Martill & Gebhard, 2023; Rieker, 2022). A third one discusses how EU member states and third states have responded to or may be affected by the EU's quest for ESA (Česnakas & Juozaitis, 2022; Deni, 2022; Deschaux-Dutard, 2022; Huntley, 2020; Knutsen & Tvetbråten, 2022; Lundmark, 2021). Fourth, studies unpacking the EU's struggles to act strategically as a security provider (Cottey, 2020; Simón, 2012) or the competing logics of the EU's Common Security and Defence Policy (CSDP) (Duke, 2019) have added value to our understanding of the limitations of ESA.

Addressing this book's overarching question of how EU actors have reacted to the fragmentation of the LIO, we show that the main response in the field of security and defence was the debate on ESA. A handful of EU actors and among them the EU's institutions and selected member states believed that this could be an effective answer. As we summarise in the following table, our research shows that some member states sought to shape its meaning and strengthen the capability and action aspects of ESA. But other member states were less keen to breathe life into the idea: whereas lip service to a vague concept was acceptable, committing to its implementation was not (Table 3.1).

As a result of these differences, the EU struggled to implement the notion of ESA in security and defence even when confronted with the return of heavy warfare to Europe in February 2022. We argue that the lack of an EU-wide permissive consensus about the direction and applicability of ESA rendered this an impracticable tool when dealing with international security and defence issues. Projecting military force autonomously in response to Russia's invasion of Ukraine was not an option for the EU, leaving NATO and the US in the driver's seat for the provision of European territorial security (see also the argument by Meijer & Brooks, 2021). A certain division of labour emerged, with NATO focusing on enhancing the operational capabilities of its Eastern flank, and the EU supporting Ukraine through budgetary instruments. It remains to be seen though whether this *modus operandi* can last. Washington's preferred long-term strategic priorities lie elsewhere and the outcome of the 2024 US presidential election may undermine

**Table 3.1** Selected National Positions Vis-à-Vis ESA as a Reaction to the Fragmentation of the LIO

	<i>Atlanticists (mostly rejection of ESA with differences nuances)</i>	<i>Europeanists (acceptance of ESA)</i>
France		EU should become independent from the US for security; support for EU defence capabilities of any kind
Italy		Understanding of ESA as “transatlantically sustainable”; support for EU defence industrial cooperation
Poland	US and NATO remain key allies; support for EU defence capabilities only if complementary to NATO	
Denmark	ESA must not imply disengagement from the US; strong support for enhancement of the EU’s operational capabilities	
Hungary	ESA must not imply disengagement from the US, especially if there is a Republican US President	
Germany	After February 2022: ESA must not imply disengagement from the US	Prior to February 2022: supporting Macron’s vision of ESA Support for increase of EU defence capabilities as a way to strengthen the European pillar of NATO

*Source* Own elaboration

NATO, which could push the Union to act more autonomously. Yet when exploring why the EU’s rhetoric on ESA has so far not been matched by action, we depart from the observation that the EU as a security community tends to defy dominant theoretical expectations, for example, the proposition that exogenous shocks—such as Russia’s invasion of Ukraine—lead to real turning points in EU security and defence (e.g. Koppa, 2022).

Our analysis proceeds in five steps. First, we provide a brief overview of how the liberal order in international security has become fragmented in the post-Cold War era. Next, we trace the EU’s evolution as a security and defence actor prior to the adoption of the 2016 EUGS, when ESA gained prominence. Building upon this background, we then map the

EU's response to the fragmentation of the LIO in security and defence, focusing on post-2016 tools relating to the defence industry, CSDP crisis management and relations with global powers (mostly US and Russia) and organisations (NATO). We focus on these aspects of EU security and defence as they are the most salient and representative of the issue area. Apart from discussing the responses of EU institutions, this section discusses national views on the EU's response to the fragmentation of the LIO. As preferences among member states differ, also beyond the traditional East–West divide (Deschoux-Dutard, 2022), our analysis follows the overarching framework of this volume and maps selected national perspectives based on whether member state governments identify mostly as nationalists, Atlanticists, or Europeanists. To conclude, the chapter highlights the main factors influencing the EU's evolution as a security and defence actor in response to the fragmentation of the LIO. It also discusses the prospects of the EU developing a more effective response to the fragmentation of the LIO through ESA.

### FRAGMENTATION OF THE INTERNATIONAL ORDER IN SECURITY AND DEFENCE

The trends presented in this section informed a shared understanding among member states that the LIO had become less orderly and consensual than hoped for and that the EU would need to respond by stepping up its efforts in security and defence. Awareness of these trends peaked in the mid-2010s, resulting in acceptance that the following elements of the post-Cold War international order in security and defence could no longer be taken for granted: firstly, a strong Transatlantic alliance in which the EU could rely on the US for security provision, secondly, the notion that the international community would—under Western leadership—manage and solve global crises, and thirdly, the expectation that major wars in Europe and specifically in the post-Soviet space had come to an end.

As a first trend, **changing priorities in US security and defence policy since the 1990s** led to a shift in member states' perceptions, catalysing closer EU cooperation in these areas. Initially, this ideational shift occurred against the backdrop of violent conflict in the Balkans and specifically the EU's failure to respond to the wars in Bosnia and Kosovo (Shepherd, 2009). To put some numbers to this trend, the US defence posture in Europe decreased from over 280.000 troops stationed

in Europe between 1989 and 1992 to 86.000 in 2007 (Dyson & Konstantinides, 2013, p. 142) and 62.635 in 2016 (Stokes, 2017). Moreover, the inauguration of Donald Trump as US President plunged EU–US relations into unprecedented uncertainty (Hamilton, 2017). While it had previously dawned upon many European countries that they could no longer rely on US security guarantees, the arrival of the Trump administration led them to reflect on the possibility of a more transactional Transatlantic relationship (Aggestam & Hyde-Price, 2019; Besch, 2016; Riddervold & Newsome, 2018).

Second, the EU faced **increased insecurity and instability in its Eastern and Southern neighbourhoods**, especially from the late 2000s onwards, for which it was often ill-prepared. The 2008 Russo-Georgian war indicated that the post-Soviet space might become more turbulent (Light, 2010). The Arab uprisings—starting in December 2010—were another strategic surprise that the EU struggled to respond to (Ikani, 2022). Further crises followed in the 2010s, with ISIS’s expansion in Syria and Iraq from 2013 onwards or conflict between Russia and Ukraine culminating in Russia’s 2014 annexation of Crimea (Meyer, Michaels, et al., 2022). When seeking to deal with these crises, the EU faced the effects of the US pivot to Asia (Silove, 2016). Member states had lobbied to get Washington to respond to the escalating situation in Libya in 2011, where a reluctant US contribution to a NATO-led military intervention followed (Haesebrouck, 2017). Shortly afterwards, the EU had to devise a response to the deterioration of the security situation in Mali with the escalation of violent conflict from December 2012 onwards (Plank & Bergmann, 2021). The rise of violent non-state actors, such as ISIS or paramilitary organisations including Wagner, added further pressure on the EU and its partners. The 2021 Taliban takeover of Afghanistan and the botched Western withdrawal were a further reminder of how the international community can fail as a security provider (Fischer et al., 2021). Finally, Russia’s invasion of Ukraine in February 2022 has starkly shown how threatened the LIO is and how vulnerable the EU and its Eastern neighbourhood are (Fiott, 2023).

Third, triggered by the escalation of violent conflict in its Southern neighbourhood from the early 2010s, the EU was confronted with the **effects of the 2015–2016 migration crisis. To reduce the number of illegal migrants, the EU reached an agreement with Turkey, accepting concessions to Ankara such as lifting visa restrictions for Turkish**



citizens, and paying Turkey €6 billion in aid for Syrian migrant communities.

This was, fourth, paralleled by **growing Euroscepticism, the rise of populism, and broader systemic contestation of EU security cooperation** (Maurer & Wright, 2021). These trends had been fuelled by both endogenous challenges to the European project (e.g. effects of the 2007–2008 financial crisis; under-delivering welfare policies; changes in societal value systems; the EU’s growing legitimacy problem) and exogenous ones (e.g. the speed of change of globalisation; migration) as well as more attention to the internal–external security nexus (Colombo & Soler i Lecha, 2021) in light of the terrorist attacks in Paris, Madrid, Berlin, and Brussels. The results of the 2016 referendum on EU membership triggered the UK’s decision to leave the EU, which confronted EU actors with complex implications (Martill & Sus, 2019; Sweeney & Winn, 2020).

Fifth, **the gradual decline of American hegemony led to geopolitical reconfigurations**, which made it more challenging to identify and respond to sources and trajectories of conflict. US-China confrontation, among others over the South China Sea, and Russian foreign policy assertiveness are two examples of shifts in global power dynamics that led to a fragmentation of the LIO and challenged the EU to rethink its policies (Casarini, 2020; Olsen, 2022; Riddervold & Rosén, 2018).

Sixth, **further security challenges, including non-traditional ones, intensified over the past decade** and questioned the EU’s actorness and role in international security and defence. Examples are the proliferation of WMDs, disinformation and cybersecurity attacks, the security of energy supply, the climate emergency, and the Covid-19 pandemic.

### THE EU’S DEVELOPMENT AS A SECURITY ACTOR UNTIL 2015

This section discusses EU priorities regarding security and defence prior to 2016, by looking at the development of CSDP<sup>3</sup> as well as the tensions at the heart of this policy, which continue to affect the EU’s capacity as a security actor. We firstly look at the policy and rhetoric that have

<sup>3</sup> While the policy was called “European Security and Defence Policy” (ESDP) back then, the current term—introduced with the 2009 Lisbon Treaty—is here used throughout.

guided the EU's actions. Secondly, we explore the institutional set-up and political leadership and thirdly, we summarise how the EU has employed CSDP between 2003 and 2015. We focus on crisis management operations undertaken within CSDP, as this area constituted the core part of EU security policy at the time.

### *Strategic Vision: Policy and Capability Development*

Alongside the pressures resulting from the deteriorating security situation in the EU's neighbourhoods, a shared understanding between Jacques Chirac and Tony Blair at the 1998 Saint-Malo summit was crucial for the development of EU security and defence, and most notably for the launch of CSDP. The two leaders agreed that the EU "must have the capacity for autonomous action, backed up by credible military forces, the means to decide to use them, and a readiness to do so, in order to respond to international crises" (Chirac & Blair, 1998). This implied an ideational shift as for the better part of the 1990s an autonomous security role for the EU had been "virtually unthinkable" (Howorth, 2017, p. 343). CSDP as a project took off as other EU leaders agreed that the EU would need to learn to act autonomously in security matters—given the experience of the Balkan wars, shifting US priorities, NATO's post-Cold War soul-searching and calls by the US that Europe would need to come of age as a security provider for its neighbourhood (Biscop, 2013).

The progress on CSDP was paralleled by new objectives for the development of military and civilian capabilities that would underpin the EU's role as a security actor. These included the 1999 Helsinki Headline Goal, a force catalogue which envisaged the possibility of deploying up to 60,000 troops and other key capabilities at 60-day notice and sustaining them for a year. While this was never formally abandoned, it soon became an unrealistic scenario. From 2004, the EU focused its efforts on the EU Battlegroup and Headline Goal, 2010, which anticipated a readiness by 2007 to deploy 1500-strong rapid response units within 15 days, for an initial period of 30 days (Headline Goal, 2004, 2010). The idea behind these concepts was to strengthen the EU's capacity to respond to possible UN requests for rapid crisis management as a stopgap measure. However, while the Battlegroups became a tool for capability development, member states have never agreed to use them (Reykers, 2017). To better coordinate capability development, in 2004 the European Defence Agency, and in 2007 the Civilian Planning and Conduct Capability (CPCC) were

created, with the latter overseeing all EU civilian operations. Similar progress was not possible regarding military operational planning as the UK vetoed initiatives for the establishment of an Operational Headquarters (Howorth, 2017; Karolewski et al., 2015). Over time, further targets for capability development were adopted (Council of the European Union, 2008a), where pooling, specialisation, and sharing of national capabilities were central themes. The 2009 Lisbon Treaty introduced the possibility of “Permanent Structured Cooperation” (PESCO) for “[t]hose Member States whose military capabilities fulfil higher criteria and which have made more binding commitments to one another in this area with a view to the most demanding missions” to establish closer military cooperation within the EU framework (Treaty of Lisbon, 2010). Yet none of these initiatives got the EU closer to meeting its level of ambition for crisis management and thus strengthening its security policy.

Overall strategic guidance for EU global action was provided in a vague and cautiously optimistic manner by the 2003 European Security Strategy, involving a clear commitment to multilateralism (Solana, 2003). This received an (unimpressive) update in 2008, including the truism that for the EU to realise its full potential, it needs to be “still more capable, more coherent and more active” (Council of the European Union, 2008b, p. 2). Given slow progress in terms of capability development, recurrent challenges with CSDP crisis management operations and the shared realisation that the EU was not prepared to face geopolitical challenges in its environment, a special “Defence Matters” European Council summit was held in December 2013. This was the first time since the entry into force of the Lisbon Treaty in December 2009 that the European Council met to discuss defence. As we demonstrate below, the results of this summit paved the way for the EUGS published in 2016.

### *Institutions and Political Leadership*

The emergence of CSDP triggered the creation of new institutions, aimed at providing guidelines and overseeing policy formation and implementation. This included the Political and Security Committee, EU Military Staff, and EU Military Committee. In addition, the 1999 Treaty of Amsterdam had introduced the central position of High Representative of the Common Foreign and Security Policy (HR), whose title and powers were enhanced by the Lisbon Treaty to include the additional role of Vice President of the European Commission and chair of the Foreign

Affairs Council. Since December 2010, the HR has been assisted by the then-established European External Action Service (EEAS).

CSDP's mode of governance can best be described as "supranational-intergovernmentalist" (Howorth, 2012), which we locate within a realist-constructivist explanatory framework (Michaels, 2022). While the supranational institutions have a socialising effect on Brussels-based bureaucrats and national policy-makers, EU member states are in the driver's seat of CSDP and EU security policy in general, and reconstitute state interests and power at the supranational level (Mérand et al., 2011). CSDP action tends to happen because of shared norms, discourses, and practices at the EU level as well as preferences, constraints, or indifference at the national level. As such, CSDP can take member states into unanticipated directions (Howorth, 2017, p. 346) but national policy-makers can shape CSDP to a significant degree. For this, they consider that decisions need to be implemented nationally and they gauge the domestic desirability and acceptability of proposed policy measures (Michaels & Kissack, 2021). While the emergence of CSDP and its operationalisation in 2003 materialised due to Anglo-French leadership (supported by a highly committed HR with Javier Solana), CSDP suffered from a lack of political leadership in subsequent years—mostly due to the UK becoming less interested in EU security policy after 2003—until HR Federica Mogherini sought to fill this vacuum from late 2014 onwards (Sus, 2021). While somewhat effective, the leadership coming from the EU's institutions was not matched by strong leadership by the member states, and therefore CSDP action became less ambitious over time.

### *EU Security Policy in Action: Crisis Management Through CSDP Operations*

It proved challenging for member states to determine how CSDP, as a prominent manifestation of EU security policy, should become operational. After Turkey lifted its opposition to CSDP and the possibility of EU-NATO cooperation, the Berlin Plus arrangements were adopted in 2002 (Howorth, 2017, p. 349). These were tested with the EU's first military operation in the Former Yugoslav Republic of Macedonia in 2003. Yet, the arrangement that the EU would have access to NATO planning, assets, and capabilities as well as the unwritten rules of Berlin Plus proved impracticable. Chirac, supported by Solana, soon raised the initiative for the EU's first autonomous military operation, *Artemis* in

the DR Congo (also launched in 2003), to achieve emancipation from NATO. *Artemis* has remained the EU's most robust and rapid military operation to date, which was considered a true coming-of-age of the EU as crisis manager at the time. Expectations were high after *Artemis* but remained mostly unfulfilled. While the EU launched a total of 36 military and civilian crisis management operations between 2003 and 2015, most were carefully circumscribed in terms of scope, length, personnel strength, risk tolerance, and area of operation—yielding limited results. Staffing for civilian operations was especially problematic, but force generation and logistics were also challenging for military operations. Geographical emphasis was placed on Africa, followed by the Balkans and the Eastern neighbourhood. Further one-off missions were launched in Palestine, Afghanistan, Iraq, and Indonesia. Due to mission fatigue and member states' involvement in non-EU deployments (such as Afghanistan and Iraq), fewer operations were launched until 2012, when the EU shifted its attention to the deteriorating security situation in the Sahel. In the end, the EU did not effectively respond through CSDP to security threats in its neighbourhood, for instance, the 2008 Russo-Georgian War, Libya in 2011 or the 2014 annexation of Crimea. While the EU launched civilian missions in Georgia in 2008 and Ukraine in 2014, these have been limited in scope and have not been instrumental in addressing the crises.

Moreover, no CSDP operations were launched for collective defence, which remained within the purview of both NATO (Howorth, 2017, p. 353) and powerful member states acting alone or with like-minded partners, as in the case of Libya (Sus, 2023b). Thus, CSDP's defence dimension received little attention between 1999 and 2015. Further, the EU's "comprehensive approach" to external crises and conflicts, which was introduced at the beginning of the 2000s to combine various tools including civilian and military ones, remained largely a discursive construct (European Parliament, 2013). Overall, despite a high number of CSDP operations, the EU did not establish itself as a sovereign crisis manager.

## EU RESPONSES TO A FRAGMENTED LIO: THE EVOLUTION OF EU SECURITY AND DEFENCE POLICY SINCE 2016

The geopolitical challenges at the EU's doorstep and increasingly fragmented LIO pushed the Union and its members to address the aforementioned shortcomings of its security and defence policy. The EU's answers

emerged as two intertwined processes, which can be seen as components of ESA while having their own separate dynamics. The first one is a process of strategic alignment. The second is the gradual implementation of ESA through strengthening the EU's defence capabilities. These processes are still ongoing, they started prior to 2016 but gained traction then. We here shed light on them, focusing on projects that became acceptable to member states despite national differences, and on the role of key EU actors and selected member states. We address the empirical challenge of EU security policy, which tends to be shaped by differentiation (Howorth, 2019; Viceré Amadio & Sus, 2023), while following the analytical framework of this volume by mapping national perspectives based on whether member states identify mostly as nationalists, Atlantacists, or Europeanists. This approach allows us to highlight the most representative threads and identify key cleavages in national perspectives on the EU's response to the increasingly fragmented LIO.

The following analysis is structured in three parts: it begins with the process of strategic adjustment, then explores the material development of EU security and defence, and concludes with a discussion of national differences regarding the long-term goal of enhancing EU security and defence, namely ESA as a response to the fragile LIO.

### *Strategic Adjustment*

The strategic reflection process kicked off in December 2013, when the European Council focused its attention on security issues (European Council, 2013). From then onwards, national leaders repeatedly called for advancements in EU security and defence (Council of the European Union, 2015; European Council, 2015). Also, the EU's institutions supported this goal and pushed for ESA, defined by the European Commission as the ability to “assume its responsibilities for its own security and for international peace and stability in general” and to “decide and to act without depending on the capabilities of third parties” (European Commission, 2013). These reflections were accompanied by calls from epistemic communities for an overhaul of the 2003 European Security Strategy due to the changed geopolitical context (e.g. Biscop, 2012, 2013). Federica Mogherini, who took the HR office in late 2014, led the new strategy, and in June 2016 the EUGS was introduced (EEAS, 2016). Mogherini managed to secure the support of EU

members who committed to implementing the EUGS provisions (Implementation Plan on Security and Defence, 2016). Since then, the process of strategic adjustment has gained more momentum with the adoption of further strategic documents on various aspects of EU security such as the 2017 Reflection Paper on the Future of European Defence (Mogherini & Katainen, 2017), the 2020 EU Cybersecurity Strategy, the 2021 Strategy for Cooperation in the Indo-Pacific or the Global Gateway. In March 2022, in the immediate aftermath of Russia's invasion of Ukraine, national leaders adopted the most ambitious and actionable security strategy the EU has ever had: the Strategic Compass for Security and Defence (European External Action Service, 2022). The work on the Compass had been underway since 2021, but the war in Ukraine raised member states' level of ambition in terms of their defence capabilities, as we shall discuss below. Further sectoral strategies followed, including the 2022 EU strategy for external energy engagement, the 2023 EU Space Strategy for Security and Defence, and the updated EU Maritime Security Strategy. The EU has also strengthened its cooperation with NATO, as manifested by three declarations signed in 2016, 2019 and 2023 (NATO, 2016, 2023). Overall, the plethora of strategy documents addressing different aspects of EU security shows that the process of adjustment is supported by the majority of member states (Sus, 2023a).

An integral part of strategic adjustment has been informed by conceptual discussions of ESA. Since 2016, the concept has featured regularly in Council conclusions, the abovementioned EU strategies, and expert debates. Relatedly, the reassessment of its strategic environment led the Union to re-conceptualise the notion of resilience (Bargués, 2021). Yet, while a more pragmatic reinterpretation of resilience in EU security and defence was seen as an attempt to protect the LIO (Juncos et al., 2023), the increased attention to ESA has less of a normative, rules-based dimension: it includes perceptions that the fragmentation of the LIO might be irreversible and beyond rescue. Importantly, the concept of ESA has not been limited to security and defence. The Covid-19 pandemic revealed EU supply-chain dependencies on others, mostly non-liberal, players, which strengthened the economic dimension of ESA (Borrell, 2020; Michel, 2020) and the scope of the concept was formally extended to all EU policy domains. At the same time, the term "strategic autonomy" was being used less and replaced by similar concepts, such as "open strategic

autonomy”, “strategic sovereignty”, “capacity to act”, and “resilience” (Damen, 2022, p. 1). The cacophony of these various concepts makes the notion of “strategic autonomy” increasingly blurred (Koenig, 2020) and attention shifted away from autonomy in security and defence. Yet, the Russian war in Ukraine brought the debate back.

### *Putting ESA into Practice: Strengthening EU Security and Defence Capabilities*

The strategic adjustment process provided the necessary backdrop for strengthening the Union’s security and defence capabilities. It has generated momentum, gradually building up from 2013, when the European Council highlighted the need for a “European defence technological and industrial base” that can “enhance its strategic autonomy and its ability to act with partners” (European Council, 2013). Again, significant progress was made from 2016 onwards as the advancement of European capabilities, and the Integrated Approach aimed at linking up various tools in a coordinated way became the leading narratives in the EUGS and Implementation Plan on Security and Defence. Since 2016 several new policy instruments mushroomed, making EU security and defence policy the fastest-growing field of European cooperation (Moser & Blockmans, 2022, p. 1).

Specifically, four key instruments made a significant contribution to strengthening EU defence capabilities: the European Defence Fund (EDF), aimed at boosting Europe’s defence industry (European Commission, 2017), Permanent Structured Cooperation (PESCO), enabling willing member states to jointly plan, develop, and invest in joint capability projects and enhance the readiness of their armed forces (Council of the European Union, 2015), the Military Planning and Conduct Capability (MPCC) whose purpose is to exercise command over EU non-executive and executive missions (Reykers, 2017) and the European Peace Facility (EPF), an off-budget fund to enhance the EU’s conflict prevention efforts, including assistance to strengthen third states’ military capacities (Sus, 2019). It is a fund worth €12 billion for a period of seven years (2021–2027), financing all Common Foreign and Security Policy-related activities with military and defence implications that enhance the Union’s ability to prevent conflicts and crises.

These EU-internal developments in security and defence gained further prominence after Russia invaded Ukraine. The shock of the Russian



aggression prompted member states to support the ambitious provisions of the Strategic Compass such as the launch of the EU Rapid Deployment Capacity and Hybrid Toolbox (Meyer, Van Osch, et al., 2022). Moreover, in light of the war, member states took the unprecedented decision to use the EPF to finance lethal weapons for Ukraine, breaking the EU's taboo of not supplying weapons to warzones (Maletta & Héau, 2022). Thus, as of 24 February 2022, the EPF mainly serves as an instrument to reimburse member states for the military support they provide to Ukraine. Moreover, utilising the EPF, member states decided to jointly procure ammunition and missiles for Ukraine (Brzozowski & Pugnet, 2023). In another explicit response to the return of heavy warfare to Europe, the European Commission pushed for the advancement of joint defence procurement via the European Defence Industry Reinforcement Through Common Procurement Act (EDIRPA).

### *National Perspectives on ESA As a Response to the Fragmentation of the LIO*

Our overview shows that the process of strengthening EU defence capabilities is ongoing. At the same time, however, there is still no agreement among member state governments on what the long-term goal of these increased capabilities should be and whether ESA should be the EU's response to the fragmented LIO. We argue that in the context of EU security and defence policy, two groups of national governments matter most: Atlanticists and Europeanists. They differ over their "definition of EU strategic autonomy and whether this amounts to hedging against the prospect of US withdrawal, a necessary reinforcement [of the Western alliance] or even an emancipation from dependence upon a fickle United States" (Tonra, 2021, p. 11). Nationalists as a potential third group, perceiving their nation-state as an individual participant in international affairs, seem inexistent in EU security and defence matters, as all EU member state governments are aware of their inability to defend themselves unilaterally against geopolitical threats.

In the following, we characterise the attitudes of selected member state governments, focusing on countries that differ in terms of factors influencing their attitudes towards ESA, such as political orientation of national political elites, historical circumstances, characteristics of the defence industry, and the geopolitical environment. This approach allows us to present the most representative picture of both groups. For the

Europeanists group, we focus on France and Italy, and for the Atlanticists group on Poland, Denmark, and Hungary. We first look at the preferences of governments of selected member states regarding ESA prior to the outbreak of the Russian war in Ukraine. We then consider briefly how this geopolitical shock has shifted their attitudes.

France is the clear leader of the Europeanist camp. French President Emmanuel Macron continues to call for a boost to ESA and urges member states to reduce the Union's dependence on third countries, including the US, for its security provision (Andrelini & Caulcutt, 2023). Several factors influence French visions of ESA as the answer to a fragmented LIO. Among the external ones, there is the Gaullist legacy according to which France shall not be subjected to the influence of any other country, in particular the US.

The mistrust towards Washington was to some extent displayed during Trump's presidency, which called into question the US commitment to transatlantic relations. Paris, fearing the outcome of the 2024 elections, believes that ESA should be the ultimate goal of EU security policy. As far as relevant internal factors are concerned, a highly developed defence industry plays a major role: it makes Paris not only less dependent on US military equipment than other EU countries, but it would also benefit most from the integration of the European defence industry. Italy, in turn, provides an example of yet another Europeanist member state government that values its relationship with the US while pushing for a "transatlantically sustainable" understanding of ESA (Cristiani, 2021). Due to the relative strength of the Italian defence industry, the Italian government traditionally supported the development of CSDP (Marrone & Ungaro, 2013) and ESA as a potential way of further advancing its industrial capacities via various EU joint procurement tools. Also, since the 2015–2016 migration crisis, Italy has recognised that achieving ESA can help Italy to address security challenges in the Mediterranean by countering terrorism and managing migration (Grigoriadis, 2021).

Most representatives of the Atlanticist camp are governments of countries on NATO's Eastern flank, with Poland at the forefront. Given the historical experience of being a victim of hostile cooperation between two neighbours (Germany and Russia), the US support shown to Poland in the aftermath of the attacks by Nazi Germany, and Poland's geographic proximity to Russia, the US (and NATO) remains the key ally as Warsaw believes that only the US can militarily counter the Russian threat

(Jankowski, 2015; Sus, 2018). This makes Poland, and other countries on the Eastern flank (Jakob et al., 2021), opposed to the French vision of ESA, revolving around independence from the US. Still, Polish governments have supported the development of EU defence capabilities, but only if it happens in a complementary manner to NATO, as the latter is perceived as the main guarantor of collective and territorial defence (Barigazzi, 2023; Bazovský & Legrády, 2018).

The Europeanist camp extends beyond NATO's Eastern flank, with Denmark being an interesting example. Until June 2022, Danish governments decided to remain outside the Union's CSDP and channelled its "military activism" via NATO and bilateral cooperation with Germany (Rahbek-Clemmensen & Rynning, 2015). At the same time, Danish governments have seen new threats such as disinformation and cyber-attacks and critical infrastructure as a priority, and in these areas, it supports the enhancement of the EU's operational capabilities. Also, despite the previous defence opt-out, Denmark had been allowed to participate in a range of EU defence-related activities such as EDF and PESCO projects on Military Mobility and EPF (Jakob et al., 2021, p. 22). It has also closely cooperated with France, perceiving Paris as the "carrier of the CSDP" (ibid.) and as one of its three strategic partners, next to the US and UK. Notwithstanding these developments, Copenhagen remains sceptical towards ESA, seeing no credible alternative to the US collective defence guarantee. Another puzzling case is Hungary, which opposes ESA, but for different reasons than Poland. The government in Budapest recognises the need to enhance EU defence capabilities and to enforce the Union's interest instead of following other global players (Szijjártó, 2023), while deliberately opposing reforms, and political decisions that would enable progress towards ESA (Varga, 2022). Also, neither the conflict between Prime Minister Victor Orban and the European Commission over the rule of law nor Hungary's conciliatory policy towards China and Russia, contribute to the strengthening of the Union's global actorness. Interestingly, however, Hungary's relationship with the US and NATO is equally difficult. Budapest instrumentalises the Alliance for its internal political purposes, the most recent example being the delay in accepting the membership of Finland and Sweden (Gyori & Than, 2023). Thus, Hungary appears to be following an isolationist path, which puts the country close to the nationalist camp. At the same time, Hungary prioritises close relations with the US Republicans, which was

evident during Trump's first presidency and is also apparent now with Orban rooting for Trump to get re-elected.

Russia's war in Ukraine has sparked debate in both Brussels and member states over calls to revitalise ESA (Damen, 2022; Fiott, 2023; Strategic Europe, 2023), as EU dependence on the US became apparent when seeking to provide Ukraine with the necessary weapons to defend itself. On the one hand, this dependency provides a strong argument for the Europeanist camp to increase the EU's defence capabilities, especially in light of the uncertainty around the upcoming US elections. While France recognises the advantages of NATO in terms of territorial defence, especially in the short term, it still sees ESA as the only legitimate medium and long-term objective of EU security and defence policy. On the other hand, the war has shown how far the EU is from putting ESA into practice, despite the abovementioned progress with the development of its defence capabilities. This observation ultimately confirmed the beliefs of the Atlantic group countries that ESA must not imply a disengagement from the US, as it would mean undermining the security of the European continent. "Strategic autonomy is dead", as some declared (Erlanger, 2023). Against these prevailing differences in national perspectives on ESA, Germany remains a particularly interesting case. Before the Russian invasion, governments in Berlin moved between the Atlanticist and Europeanist camps: they supported President Macron in promoting ESA and advocated for an increase of the EU's defence capabilities. But they also attached great importance to the transatlantic alliance, which for decades had provided Germany with a security umbrella, including a nuclear one. Since the outbreak of Russia's war in Ukraine, Berlin has begun to step up as a security actor, increasing its defence spending, becoming more committed to defending NATO's Eastern flank and strongly contributing to the military support of Ukraine. At the same time, the war showed how dependent Berlin was on the US, as exemplified by the slow process of announcing the delivery of Leopard 2 tanks to Ukraine and making this conditional on the US decision to send Abrams tanks (Erlanger, 2023). Considering the significance of Germany within the EU, ESA without Germany would be impossible to implement.

## CONCLUSION

This chapter analysed how EU actors responded to the fragmentation of the LIO through common EU security and defence measures. To this end, we focused on the Union's main response to the geopolitical challenges—the concept of ESA. We have traced the development of EU security and defence policy since its inception in the late 1990s, both at the ideological level, captured through the process of strategic adaptation to changing geopolitical realities, and at the operational level, examining the development of the EU's defence capabilities. We also explored national differences among EU member states concerning their support for ESA.

Three strands of findings need to be highlighted here. Firstly, our study demonstrates that the quest for ESA, and stumbling blocks along the way, are best explained through a realist-constructivist explanation. From a realist perspective, ESA is driven by global power dynamics and security considerations of member states, whereas the constructivist perspective views ESA as shaped by evolving norms and practices and changing beliefs about Europe's capacity as a security and defence actor in a fragmented LIO. Together, these two perspectives explain the process behind the pursuit of strategic autonomy at the EU level and in member states.

Secondly, our analysis shows that the slow progress towards autonomous thinking and acting in EU security and defence is attributed to national differences in political beliefs, perceptions and goals between Atlanticists and Europeanists. The Union as a security community tends to defy theoretical expectations but we found that in-depth engagement with national perspectives allows for a nuanced explanation of progress and regression in EU security and defence cooperation.

Finally, this chapter demonstrates that despite prevailing national differences, significant progress has been made regarding both ideational and material aspects of EU security and defence policy. This progress was driven by various endogenous factors, such as Brexit removing British opposition to deeper EU defence integration, or the important role of national and EU leaders taking the lead and pushing for change. Also, exogenous factors such as the deterioration of the EU's security environment, and here specifically Russia's war in Ukraine, have contributed to the development of EU defence capabilities and sparked calls to revitalise ESA.

Against the backdrop of the war in Ukraine, EU members need to decide whether they want to respond to the fragmentation of LIO through the implementation of ESA. The EU is slowly gaining confidence in terms of what strategic autonomy means and where its limitations are, but national differences regarding both the content and the long-term goal of ESA still exist. Whether another exogenous shock, such as Donald Trump's victory in the 2024 US presidential election could provide further impetus to reach a consensus on the scope of ESA remains to be seen. We can therefore expect the debate to continue.

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# The European Union and the Fragmentation of the International Human Rights Regime: The Case of Violence Against Women

*Diego Badell and Esther Barbé*

## INTRODUCTION

Three out of the five permanent members of the Security Council, which have the right to veto resolutions, have challenged to a different extent the universality of human rights. On one hand, China attempts to modify international human rights obligations by emphasizing the importance of state sovereignty (Chen Weiss & Wallace, 2021). On the other hand, Russia has launched a campaign to redefine human rights based on what the country defines as traditional values (Horvath, 2016). In a similar vein, the US under Trump embraced the existence of a hierarchy of human rights (US State Department, 2019). Such a diverse and plural understanding of what human rights are echoes the definition of norm

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fragmentation put forward by Terman and Búzás (2021). Norm fragmentation is characterized by a departure from a unified community bound by a common standard, revealing instead a multitude of communities with distinct combinations of normative positions (Terman & Buzás, 2021, p. 497).<sup>6</sup>

Delving into human rights areas, women's rights<sup>1</sup> arise as one that has attracted the attention of diverse actors with the aim of breaking down the existing unified community (Roggeband & Krizsán, 2020; Sanders, 2018). Relevant to this book chapter is the issue of combatting violence against women.<sup>2</sup> Indeed, the area had long been considered an area impervious to fragmentation. Yet, some cracks have taken place at the international level. In November 2017, the US, in a resolution presented to the UN General Assembly's Third Committee, attempted to replace the condemnation of "all forms of violence" against women and children with the phrase "unlawful violence", suggesting the possibility of violence being considered permissible under certain circumstances (Sanders, 2018). In the same year, Russia enacted a law that decriminalized certain forms of violence against women (Walker, 2017). Significantly, the cracks have also reached the pan-European level. In 2021, Türkiye withdrew from the Council of Europe Convention on preventing and combating violence against women and domestic violence, the so-called Istanbul Convention. Therefore, it can be posited the existence of an ongoing transformation of the existing liberal international order when it comes to combatting violence against women that is marked by diversity and plurality (Flockhart & Korosteleva, 2022, p. 466).

Against this backdrop, the European Union (EU) and its Member States have clearly rejected the possibility of having an international order that fails to uphold the universality of human rights. Indeed, human rights is a cornerstone of the EU foreign policy, to the extent of speaking the language of normative power (Manners, 2002). Thus, it can be inferred that an inevitable normative confrontation between the EU and the rest is

<sup>1</sup> We consider gender equality to have two dimensions. On one hand, it encompasses women's rights. On the other hand, it encompasses sexual orientation and gender identity (SOGI) rights.

<sup>2</sup> The United Nations in the 1993 Declaration on the Elimination of Violence against Women defined violence against women as "any act of gender-based violence that results in, or is likely to result in, physical, sexual, or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life" (UN, 1993).

very likely to take place. Significant to this book chapter is that the EU has presented itself as the main actor willing to combat the ongoing fragmentation in the area of violence against women. Along these lines, the Union has firmly rejected the US attempts to water down the existing consensus on combatting violence against women by launching, in 2017, in partnership with the UN, the Spotlight Initiative focused on ensuring that women and girls live free from violence and harmful practices. Narrowing down the focus to the case study of this book chapter, the Istanbul Convention, we find a similar readiness coming from the EU to halt the contestation<sup>3</sup> of the rights enshrined in the Convention. To begin with, President Von der Leyen has declared that the EU accession to the legal instrument is a priority for the Commission (European Commission, 2019); while the European External Actions Service's (EEAS) High Representative, Borrell, has stated the EU's willingness to reject any action challenging the Convention. Along these lines, Borrell expressed regarding Türkiye's withdrawal that "[the EU] cannot but regret deeply and express incomprehension towards the decision of the Turkish government [pulling the country out of the Istanbul Convention]" (EEAS, 2021).

Despite this, within the EU, some actors, mainly in Central and Eastern Europe, have started to see the Union as a vehicle for the imposition of "gender ideology" on sovereign states (Barbé & Badell, 2022, p. 10; Graff & Korolczuk, 2017). The Istanbul Convention has become the focus of widespread opposition in Poland, Bulgaria, and Hungary, among other Member States (Kırzsán & Roggeband, 2021). That is why, in this book chapter, our central objective is to develop a comprehensive understanding of the Istanbul Convention in the context of the EU. We posit that the Convention has become a site of conflict as some proponents push for a shift toward a less universalistic conception of human rights. The opposing force that consists of both civil society and Member States has, during the process of ratification, revealed a growing divide within the EU. On the one hand, we have a constellation of actors, upholding the claim that human rights are universal, that wants the EU to ratify the Istanbul Convention. On the other hand, we have a constellation of actors that opposes the EU ratification of the Convention by stating that the implementation of the Convention shall only take place at the level of

<sup>3</sup> In this book chapter, we consider contestation to be the main causal mechanism leading to fragmentation (c.f. Garcia-Duran et al., 2023, p. 2).

Member States and/or others considering that the values enshrined by the Convention are colliding with their national traditional values. On top of that, the process of regionalization in the context of the Istanbul Convention is actually strengthening the existing international regime (i.e. the Convention on the Elimination of All Forms of Discrimination Against Women) as connections between regional and international levels have been built.

The following section addresses the evolution of global governance related to violence against women. In the third section, the evolution of violence against women in the EU's agenda is examined, while the fourth section delves into the responses of EU actors to the growing concerns on this issue, with a particular emphasis on the Istanbul Convention. Finally, the last section presents the findings of this book chapter and suggests avenues for further research.

## FRAGMENTING THE GLOBAL GOVERNANCE OF VIOLENCE AGAINST WOMEN

As we proceed with our discussion, we will observe that the violence against women regime is characterized by a dense institutional framework and the diffusion of authority. While at first glance, one might agree with the assessment made in 2001 by the President of the International Court of Justice, who cautioned against the risk of fragmentation leading to a proliferation and overlapping of institutions, methods, and procedures, we will argue otherwise.

This section contends, following Peters (2017, p. 680), that the fragmentation observed in the field of violence against women has been welcomed from the international level, and, at the same time, a feedback loop has been built between the international level and the regional instrument, which has strengthened the international regime.

### *The Convention on the Elimination of All Forms of Discrimination Against Women and violence against women*

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is the backbone of the UN's gender architecture. Adopted by the General Assembly in 1979, the treaty has 189 state parties, being one of the few international human rights instruments

to have almost universal ratification. The US and Iran stand out as two of the most prominent states that have not ratified the Convention.

We consider that is relevant to delve into the US' characteristics, which will be later be useful to understand the role of some EU Member States (see section four). It is pertinent to note that during the tenure of the Carter Administration, the US signed the Convention in 1980. Yet, the Senate did not proceed to ratify the instrument. Placing this within a broader context, it becomes evident that the situation concerning CEDAW represents a not isolated case wherein the US has engaged in the signing of a human rights treaty without preceding to its ratification. When considering legally binding instruments within the realm of human rights, notable instances emerge such as the 1989 Convention on the Rights of the Child, which the country signed in 1995 but did not ratify, alongside the 1966 International Covenant on Civil and Political Rights, which the US ratified in 1992. This behavior does not preclude the US from retaining significant influence during the negotiation phases of such treaties. However, domestic factors curtail the country's international agency within the realm of human rights. This observation leads to the assertion that the US operates as a nationalist actor, as it abstains from transferring its authority to the international arena. Put differently, the nation opposes the adoption of hard law instruments that entail sovereignty costs. Significantly, this pattern of behavior remains consistent across administrations, irrespective of whether under Democratic or Republican leadership.

Furthermore, pertinent to the focus of this book chapter, it is of significance to highlight that the US has abstained from both signing and ratifying its regional instrument addressing violence against women. This instrument, negotiated during the Clinton Administration, relates to the 1994 Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women. As we shall explore, this hesitance to extend authority beyond its domestic jurisdiction resonates with certain Member States within the EU when deliberating on the feasibility of the Union's ratification of the pan-European instrument on violence against women.

Notwithstanding the aforementioned, the behavior of the US has not halted the emergence of a worldwide consensus regarding women's rights. Nonetheless, the CEDAW does not contain provisions explicitly addressing violence against women. Notably, the key articles of the convention, ranging from Article 6 to Article 16, do not make any

references to this issue. The CEDAW's pioneering contribution to the international human rights framework lies in its comprehensive cataloguing of civil, cultural, economic, and reproductive rights that must be guaranteed for women in both public and private spheres, as well as in its groundbreaking definition of discrimination against women. It is the CEDAW Committee, which is tasked with the evaluation of the extent of the convention's implementation by state parties, the institution that established a connection between discrimination against women and violence, despite the absence of any specific provisions on the latter issue.

With this in mind, it is worth noting the significant changes that the Committee established by CEDAW has undergone before delving into its crucial role in linking discrimination against women and violence. Indeed, the Committee has undergone three significant changes. During the first era, which commenced in 1986, the Committee began adopting General Recommendations as permitted under Article 21 of CEDAW. These recommendations primarily addressed technical aspects related to the reporting and implementation of the Convention. In the second era, which started in the 1990s, the Committee began to acquire authority by interpreting themes or provisions of the Convention. Finally, in the third era, which is linked to the adoption of the Optional Protocol, the Committee now plays an increasingly intrusive and central role in the Convention's architecture. The Committee assumes the role of an arbiter or quasi-judicial body by issuing "views" and "decisions" on violations of the Convention in response to individual or state party requests.

Indeed, the Committee plays a vital role in addressing violence against women, a matter not covered by the CEDAW (refer to the sub-section below). To this end, the Committee has issued three General Recommendations: 12, 19, and 35.<sup>4</sup> General Recommendation 12, introduced in 1989, marked the first international acknowledgment of violence against women. It identified Articles 2, 5, 11, 12, and 16 of CEDAW as relevant to this issue, representing a pivotal moment in recognizing violence against women as a public concern rather than a private matter. However, it did not provide a clear explanation of how CEDAW was linked to violence against women. In 1992, General Recommendation 19 significantly expanded on the linkage between CEDAW and violence against

<sup>4</sup> The sub-section on the Istanbul Convention addresses General Recommendation 35, as the two are interconnected.

women. Issued in the context of a proposal for a Convention on violence against women, it is considered one of the most crucial recommendations by the CEDAW Committee. General Recommendation 19 detailed the obligations of States to prevent and address gender-based violence against women, establishing a legal foundation for understanding the link between discrimination and violence.

Notably, General Recommendation 19 jurisprudence has been developed in cases of violence against women under the Optional Protocol to CEDAW, as well as in the jurisprudence established by the European Court of Human Rights.

### *Violence Against Women: The International Normative Gap*

The existing framework for addressing violence against women, which includes both international and regional instruments, has been characterized by a normative gap resulting from a misalignment between different levels of governance. As noted by the UN Special Rapporteur on Violence against Women in 2017, this gap has contributed to a complex and fragmented regime, which has been convoluted in its implementation (UN, 2017). The concept of a normative gap highlights the challenges that arise when addressing complex issues such as violence against women, which require a coordinated approach across different governance levels. Following these lines of thought, fragmentation of the regime addressing violence against women further underscores the need for greater coherence and coordination in the development and implementation of legal and policy measures aimed at preventing and addressing violence against women.

According to the Rapporteur, a potential solution to the challenges confronting the regime addressing violence against women would be to propose a novel international treaty, which could take the form of a new optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), or alternatively, as an independent treaty (Manjoo, 2018, p. 210). Yet, the proposal for a new international treaty is not shared by all stakeholders. On the one hand, civil society organizations are firmly convinced of the necessity for a new treaty. On the other hand, the CEDAW Committee posits that the existence of General Recommendations is sufficient, and hence an additional treaty is deemed unnecessary (McQuigg, 2018, p. 310).

The rationale behind the CEDAW Committee position is two-fold. First, it points out that combatting violence against women has evolved into a principle of customary law. The consideration is based on the fact that the Committee's interpretation of violence against women was endorsed by all State parties to the Convention, of which all 27 EU Member States are part (UN, n.d.). Secondly, it can also be attributed to the unsuccessful attempt in the 1990s to negotiate an international treaty. In the UN Expert Meeting of 1991 in Vienna, the Canadian working paper entitled "Issues in the Development of an International Instrument on Violence Against Women" identified the need for an international treaty to address violence against women in a consistent and coordinated manner due to the absence of relevant international instruments. But this has not been the only unsuccessful attempt to provide the international system with a legally binding framework. Back to the 70s, the Belgian delegate during the CEDAW negotiations attempted to include an article addressing this matter, which was rejected as it was not deemed a relevant topic at the time (McQuigg, 2018, p. 307).

This last point paves the way to address the UN Member States' views on the need for an international treaty. At the present time, there is no critical mass of member states willing to push for a new international instrument in the area of violence against women. That is something that was recognized by the UN General Assembly in 1994 in the UN Declaration on the Elimination of Violence against Women (DEVAV). But critical to this book chapter is that the DEVAV was actually encouraging, in article 4.q, "intergovernmental regional organizations [...] to include the elimination of violence against women in their programmes, as appropriate" (UN, 1993). In other words, the international level was inviting regional organizations such as the EU, the Council of Europe or the African Union, to fill the existing gap. This implies assuming the risk of not having a unified community bound by a common standard (Terman & Buzás, 2021, p. 497). Even more relevant is the mention of "as appropriate," as it suggests that the international level is not only externalizing the responsibility to address the issue but also acknowledging the potential for diverse interpretations of what violence against women means in different regions of the world.

### *The Complex Regime of Violence Against Women*

A regime complex usually consists of multiple institutions governing a specific issue, with overlapping rules but no established hierarchy. Where decisions made in one forum do not automatically apply or override agreements from other forums (Raustiala & Victor, 2004, p. 279). This definition was revisited by Kissack (2023), considering that a regime complex is characterized, among other elements, by an intricate interplay of multiple institutions and the establishment of a feedback loop whereby institutions reference and rely on one another (Kissack, 2023, p. 24). As we will see in the following lines, the violence against women regime presents traces of this revisited definition, thus leading to characterize violence against women as a regime complex.

At the core of the regime lies international agreements that assume a crucial role in tackling violence against women by laying out principles, norms, and responsibilities for states to prevent, punish, and eliminate this form of human rights violation. The most important one is the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) as it acts as a compass of action for the rest of institutions and instruments (see Table 4.1). As it has been said in the abovementioned section on the CEDAW, the CEDAW Committee is responsible for overseeing the implementation of the Convention and issuing General Recommendations that offer guidance on various aspects related to women's rights, including violence against women. The Optional Protocol to CEDAW provides individuals with a mechanism to submit complaints to the Committee regarding violations of their rights under the Convention.

In addition to CEDAW, several other international treaties also recognize the vulnerability of certain groups to various forms of violence and discrimination, including women and girls. These treaties establish standards and obligations for states to prevent and address these violations, including the UN Convention on the Rights of the Child, the UN Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, the UN Convention on the Rights of Persons with Disabilities, or the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Therefore, at the international level, the issue of violence against women is characterized by



**Table 4.1** Examples of Regional Instruments Referring to the CEDAW

	<i>African Union-Maputo Protocol</i>	<i>Council of Europe-Istanbul Convention</i>	<i>Declaration on the Elimination of Violence Against Women in the ASEAN Region</i>
Preamble	RECALLING that women's rights have been recognized and guaranteed in all international human rights instruments, notably the Universal [...] the Convention on the Elimination of All Forms of Discrimination Against Women and its Optional Protocol	Having regard to [...] the United Nations Convention on the Elimination of All Forms of Discrimination Against Women ("CEDAW", 1979) and its Optional Protocol (1999) as well as General Recommendation No. 19 of the CEDAW Committee on violence against women	RECALLING the Declaration on the Elimination of Violence against Women adopted by the United Nations General Assembly in its Resolution 48/104 of 20 December 1993, and the Convention on the Elimination of all Forms of Discrimination Against Women

*Source* Own elaboration

an institutional density and overlap, indicating a complex network of interdependent institutions and actors.

Moreover, violence against women has been presented in different thematic international conferences, which have contributed to the recognition of violence against women as a cross-cutting issue part of the human rights and development agenda. For instance, the World Conference on Human Rights and the International Conference on Population and Development have both been crucial in the global fight against violence against women. The Fourth World Conference on Women in Beijing produced the Beijing Platform for Action, a comprehensive plan of action for gender equality and women's empowerment that includes a specific section on violence against women.

Also of greater importance, international courts, such as the International Criminal Tribunal for the former Yugoslavia, the International Criminal Tribunal for Rwanda, and the International Criminal Court, have all played a role in recognizing violence against women as a form of international crime. These courts have contributed to anchoring violence against women not only in the human rights and development agenda, but also as a matter of international peace and security. The courts have been instrumental to develop international jurisprudence on sexual

violence in conflict and have held individuals accountable for perpetrating acts of violence against women.

All of this is emanating from the work of the UN, which has been actively involved in addressing violence against women. For example, the UN General Assembly, the UN Human Rights Council, and the UN Security Council have adopted resolutions and appointed special rapporteurs to address this issue. The Commission on the Status of Women, a functional commission of the UN Economic and Social Council, has made violence against women one of its priority themes. And focusing on the executive level, the UN Secretary-General has also conducted a study on all forms of violence against women and appointed a Special Representative on Sexual Violence in Conflict to promote the prevention of such violence.

Regional initiatives have played a crucial role in strengthening the global efforts to address violence against women. These initiatives have built on the principles and norms set out in international treaties, such as the CEDAW, to promote greater cooperation among states and develop regional norms and standards. The Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará), and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) are examples of regional treaties. Other regional initiatives, such as the Association of Southeast Asian Nations' 2012 Declaration on the Elimination of Violence Against Women in the ASEAN Region, also contribute to the global efforts to tackle violence against women.

Overall, the existence of international treaties, conferences, courts, and organizations reflects the existing normative density, both horizontally (i.e. international level) and vertically (i.e. regional level) in the violence against women regime.

### *The Pan-European Response to Violence Against Women*

All of this leads us to the elaboration and drafting of the Istanbul Convention. On the one hand, it codifies General Recommendation 19 by establishing that violence against women is “violence that is directed against a woman because she is a woman or that affects women disproportionately”, while significantly expanding upon that recommendation. In

fact, the Istanbul Convention in the Preamble explicitly makes a reference to the CEDAW General Recommendation 19 (Simonovic, 2014).

Therefore, the Istanbul Convention represents a regionalized response to violence against women that is clearly connected with the international level (see Table 4.1). Evidence of this is found in the very close synergies generated between both levels, both at the level of Committees between the CEDAW Committee and GREVIO Committee (Istanbul), but also in how, while initially the CEDAW influenced the Istanbul Convention, now the Istanbul Convention repatriates advances at the international level. An example of this can be found in General Recommendation 35 of the CEDAW Committee, which is directly derived from the Istanbul Convention. On top of that, the similarities between Article 4 of the Istanbul Convention and Article 2 of the CEDAW are striking, particularly given that all EU Member States have ratified and signed CEDAW. Article 4 of the Istanbul Convention appears to be a restatement of the principles outlined in Article 2 of CEDAW.

Delving into the negotiating stage, between 2006 and 2008, an assessment was conducted to evaluate the effectiveness of non-binding recommendations in the area of efforts to combat violence against women. To that end, a task force was established to oversee the evaluation process. The task force ultimately concluded that non-binding measures were inadequate, and called for the adoption of a legally binding document to ensure consistency in the region's approach to combating violence against women. Meanwhile, a separate group also recommended the creation of a legally binding instrument focused on domestic violence. These recommendations were further bolstered by a request from the Parliamentary Assembly of the Council of Europe for the development of a legal mechanism to address gender-based violence. The three requests highlighted the pressing need for a comprehensive and binding approach to preventing and responding to violence against women and domestic violence across Europe.

At this point, a tension emerged since two groups had different ideas for a convention: feminists wanted one focused on violence against women, while criminal lawyers preferred one on domestic violence. This tension persisted throughout the negotiation stage, highlighting the complex and sometimes conflicting interests and perspectives involved in the development of international legal frameworks aimed at protecting women from violence. Ultimately, the Convention was adopted, but this historical tension between different stakeholder groups underscores the

ongoing challenges of balancing diverse viewpoints and priorities in the context of global legal and policy development in the area of violence against women.

Indeed, while some argued that all forms of violence should be covered, others believed that domestic violence should be specifically addressed, given its prevalence as the most common form of violence globally and as the number one human rights violation in the world. However, this decision to separate domestic violence from other forms of violence was also aimed at ensuring, for instance, that men who suffer from domestic violence are also protected under the Convention. As a result, the Convention incorporates both gender-specific and gender-neutral approaches in addressing violence against women and domestic violence, reflecting the complex and diverse perspectives that shape global efforts to protect women's rights.

And it is precisely this complexity of addressing two different yet interconnected themes, namely violence against women and domestic violence, coupled with the normative language of gender-specific and gender-neutral approaches, that ultimately laid the groundwork for normative contestation by actors opposed to the Convention.

## THE EUROPEAN UNION'S STRATEGIES AND VIOLENCE AGAINST WOMEN

The EU has recognized the issue of violence against women in different contexts since 2003. For instance, in the 2003 European Security Strategy, violence against women was mentioned in two contexts. The EU identified women as victims of cross-border trafficking for sex trade, which was a part of organized crime activities. The same strategy also acknowledged the role of women in building peace and recognized the UNSCR 1325 and 1820 as essential tools for effective implementation of the Women, Peace and Security (WPS) agenda. Yet, the 2008 report on the implementation of the European Security Strategy solely focused on the WPS agenda, with a specific emphasis on addressing sexual violence as a weapon of intimidation and terror in conflict and post-conflict zones.

However, in 2016, there was a shift in the EU's official position on the issue of violence against women, with the 2016 European Global Strategy taking a more inward-looking approach. While it acknowledged gender and women, the focus was on how the EU must integrate gender issues in terms of agenda and practices, promote gender balance, and mainstream

gender issues in EU policies. The strategy reinforced the transformative approach of the WPS agenda, emphasizing the empowerment and participation of women in peace efforts. But the 2016 European Global Strategy Implementation Plan on Security and Defense that followed suit explicitly mentioned gender sensitivity, UNSCR 1325, and the promotion of respect for international law, including human rights and humanitarian law, as integral to the EU's efforts to provide strategic advice, training, mentoring, and monitoring in CSDP civilian and military missions.

However, the issue of violence against women was not mentioned in the 2017 Implementing European Global Strategy Year 1. In 2018, the EU finally began to explicitly mention violence against women as such in its official position, with the start of the Spotlight Initiative, a partnership of the EU and the UN, which aimed to eliminate all forms of violence against women and harmful practices. This initiative signaled a more explicit commitment by the EU to address the issue of violence against women as a standalone issue, beyond its instrumental and neutral use in the context of security and defense. This war further advanced in the 2019 Implementing European Global Strategy Year 3. For the first time, the EU's focus on violence against women was upgraded, as it was mentioned as an objective of EU foreign policy. Also, the Spotlight Initiative was further advanced as it sought to include partnering with non-state actors to fight against violence against women. The EU also highlighted the role of women in peace processes, specifically in decision-making and mediation, citing Syria as an example.

More recently, the 2022 Strategic Compass for security and defense took a more comprehensive approach, addressing the issue from the basis of gender inequalities and values of gender equality to the normative framework of the WPS agenda, with a focus on both the transformative (women's empowerment) and preventive (prevention of sexual-based violence) dimensions. The document called for the systematic mainstreaming of human rights and gender perspectives in all civilian and military actions, and the increase in the number of women in leadership positions. Additionally, the EU emphasized the implementation of the WPS agenda in its strategic partnership with NATO and the EU-UN Framework Agreement on Mutual Support. The EU stated its commitment to promoting joint gender-responsive conflict analysis and political and operational coordination and cooperation with the UN.

All in all, violence against women has been implicitly addressed in EU documents since the European Security Strategy, particularly in the

context of sexual violence in conflict. And it was not until 2018 and 2019 that there was a direct mention of violence against women, which was linked to the EU-UN Spotlight Initiative and influenced by the context of the signature of the Istanbul Convention and the hostility of the Trump administration. Over time, EU documents became more operational, including the implementation of the Common Security and Defence Policy (CSDP), EU-UN cooperation, and the EU-NATO Partnership. Throughout these documents, the values of gender equality and strategies for women's empowerment underpin the issue, highlighting the double dimension of the WPS agenda: transformative approach to women, including human rights, gender equality, participation, and empowerment; and women as victims, including International Humanitarian Law and protection. The most comprehensive approach to the issue is presented in the Strategic Compass, which comprises values, instruments, and objectives. Overall, the evolution of the EU's official position on violence against women reflects a growing recognition of the importance of the issue and a commitment to take action to address it.

Given that the EU has recognized the UN as a crucial partner in the fight against violence against women, it is imperative to closely examine the addresses delivered by the President of the European Council at the annual session of the UN General Assembly. These speeches represent a prime opportunity for the EU to advocate for its priorities related to violence against women and to foster increased collaboration and action with the UN and its member states. Therefore, it is crucial to recognize the significance of these addresses in advancing the shared goal of eliminating violence against women.

Since in 2016, there was a shift in the EU's official position on the issue of violence against women, it is worth analyzing the addresses from that year to our days. Donald Tusk, president of the European Council (2014–2019), addresses to the United Nations General Assembly did not make any specific mentions of women's rights or gender equality in his speeches. The absence of any mention of women's rights in Tusk's speeches suggests that the issue was not among the top priorities during his tenure. Contrary to Tusk's addresses, Charles Michel, President of the European Council (2019–2023), addresses the United Nations General Assembly have systematically been focused on issues related to women's rights and gender equality. Indeed, Michel has been a vocal advocate for women's empowerment and the fight against discrimination, particularly in developing countries. In his 2021 UN General

Assembly address, Michel highlighted the prevalence of violence against women in conflict zones, citing examples from Iraq, Afghanistan, and the Horn of Africa, and called for immediate action to protect women's rights and ensure access to humanitarian aid. And in 2022 violence against women continued to be high on the agenda as Michel expressed the EU's solidarity with Afghan and Iranian women, and strongly condemned cases of violence against women in the conflict in Ukraine initiated by Russia. Overall, Michel's speeches at the UNGA underscore the European Union's major commitment to advancing women's rights and promoting gender equality as a critical element of global development and peace.

The European Commission has demonstrated a consistent commitment to the advancement of gender equality by means of producing annual reports, at least, since 2014, which have highlighted the pervasive issue of violence against women through dedicated chapters. Notably, in 2021, there has been an important shift in the reporting approach, as the reports no longer focus solely on the comparison between men and women, but instead address gender equality as a whole. This represents a positive step toward recognizing the multifaceted nature of gender equality. This goes in line with the 2019 Von der Leyen's opening statement as candidate for President of the European Commission, where she proposed to "add violence against women on the list of EU crimes defined in the Treaty" as well as proclaiming that "the EU should join the Istanbul Convention". In other words, Von der Leyen made of gender equality and combatting violence against women a top priority of the 2019–2024 European Commission (Von der Leyen, 2019).

## THE EUROPEAN UNION AND VIOLENCE AGAINST WOMEN: THE ISTANBUL CONVENTION

As of December 2023, the Convention has been signed by all European Union Member States, while 22 of them (Austria, Belgium, Croatia, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Latvia,<sup>5</sup> Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovenia, Spain, and Sweden) have ratified it. On the other

<sup>5</sup> In 2022 the Latvian Constitutional Court declared that the provisions of the Istanbul Convention comply with the Latvia Constitution. In October 2023, the Latvian government supported the legislative draft for the ratification of the Convention. The Convention will enter into force on 1 May 2024.

hand, Bulgaria, Czechia, Hungary, Lithuania, and Slovakia have not yet ratified it. Poland declared its intention to withdraw from the Convention in July 2020, but the decision was withdrawn in January 2024.<sup>6</sup>

More to the point, the mapping of EU Member States ratification of the Istanbul Convention is intrinsically linked with the emergence of the communitarism vs. cosmopolitanism cleavage in European politics (Zürn & de Wilde, 2016), denoted as nationalists and Europeanists in the following lines. In this vein, nationalist opposition to the Istanbul Convention is characterized by a rebuttal of transferring authority from states to international institutions as well as a lesser acceptance of liberal/intrusive norms (see nationalists' column in Table 4.2).

**Table 4.2** Reactions to the Fragmentation of Violence Against Women

	<i>Nationalists</i>	<i>Atlanticists</i>	<i>Europeanists</i>
Reactions	EU cannot ratify the Istanbul Convention (Poland with PiS, Bulgaria, Hungary) a. Poland has been willing to withdraw from the Istanbul Convention b. Hungary has not ratified the Convention c. Bulgaria declared the Istanbul Convention unconstitutional	Nationalists are blended with atlanticists: rejection of a regional hard law instrument (i.e. rejection of supranational authority) Nationalists collaborate with the US under Trump in reframing of gender equality along the lines of biological distinction: the Geneva Declaration (i.e. rejection of liberal intrusiveness)	EU could ratify Istanbul Convention (European Court of Justice) EU should ratify the Istanbul Convention (European Commission, European Parliament) EU should go further: EU Directive on violence against women (European Commission)

*Source* Own elaboration

<sup>6</sup> On 30 January 2024, the new elected Polish government headed by Donald Tusk decided to withdraw the request to examine the constitutionality of the Convention from the Polish Constitutional Court.



*Nationalism Blended With Atlanticism: Opposition to the Istanbul Convention*

During the European Parliament's consent vote to ratify the EU's accession to the Convention in May 2023, all major far-right parties, including Fidesz (ruling party in Hungary) and Law and Justice (ruling party in Poland until December 2023) voted against. Their opposition to EU's accession is based on two major points that led to label such political forces as nationalists. First, by referring to the EU's subsidiarity principle they argue that ratification of the Istanbul Convention is a matter of national sovereignty. They despise the potential involvement of a European level. Second, they frame the Convention as part of the so-called gender ideology that seeks to erode traditional values (Berthet, 2022). In other words, they contend that gender is not a socially constructed concept, as codified in the Convention, but rather a biological designation that determines the distinction between a man and a woman. Moreover, to exert such opposition to the Istanbul Convention, such political parties count on the support of a transnational network, mainly based in Central and Eastern Europe, consisting of 333 illiberal NGOs (RISU, 2019).

Returning to the initial point regarding the invocation of the subsidiarity principle and its correlation with the analytical framework outlined in this edited volume, it could be posited that we are witnessing a confluence of characteristics typical of nationalists and Atlanticists. Thus, we are encountering a case of nationalism blended with Atlanticism tendencies. Indeed, there exists a resonance between arguments rooted in the subsidiarity principle and the positions adopted by American administrations regarding their regional initiative on violence against women.

In this context, nationalists echo the assertions of US administrations that the acceptance of sovereignty costs should remain within the domain of national governments, leading to hesitancy in relinquishing such authority. A sharp contrast emerges clearly when juxtaposing the nationalist perspective, permeated with Atlanticism as captured in the Geneva Consensus Declaration—emphasizing “the importance of national ownership and the primary role and responsibility of governments at all levels”—against the Europeanist ethos of “a Europe that protects all of its citizens in their diversity”. Essentially, both nationalists and US administrations are inclined toward fragmenting the regime addressing violence against women, as fragmentation manifests in the non-acceptance of their

respective regional instruments. In other words, given that the regime is constructed upon regional instruments, the rejection of these instruments by an actor contributes to the fragmentation of the regime itself.

Examining the nationalist advocacy for traditional values, we discern not only a willingness to replicate the US stance on the regional instrument concerning violence against women but also a readiness to foster close collaboration. The concept of traditional values, which delineates gender solely based on biological distinctions, finds champions not only among nationalist Member States such as Poland and Hungary but also within the Trump Administration. Significantly, there has been substantial collaboration among these actors, as emphasized by the US ambassador to the UN, referring to them as “our like-minded partners” (UN, 2020). This collaboration was particularly evident in the case of the 2020 Declaration on the Geneva Consensus, which exclusively defined gender in biological terms. This document, sponsored by the US, received sponsorship or endorsement from Hungary and Poland.

Delving into the case of Poland, at first, the Polish government supported the ratification of the Istanbul Convention, but later yielded to pressure from conservative factions. For instance, in July 2017, a bill was presented to the Polish parliament by a group of MPs, seeking to retract Poland’s signature from the Convention. An important development occurred in July 2020, when the Polish government declared its intent to initiate the process of withdrawing from the Convention. Despite this announcement, the withdrawal has yet to materialize; instead, the opposite seems to be occurring. But such opposition in Poland is coming from various groups, including the Catholic church and conservative groups. The groups’ opposing narrative is often framed around a perceived threat to traditional values, family structures, and national identities.

A similar pattern can be observed in Hungary. The issue of gender equality was not at the forefront of Hungarian politics until 2017, when the process of ratifying the Istanbul Convention was initiated. Indeed, Hungary’s signing of the Convention in March 2014 was not contentious. Yet, actors such as the Hungarian Center for Fundamental Rights have portrayed the monitoring body of the Istanbul Convention, GREVIO, as a body designed to criticize the country.

Opposition to the Convention is often centered around the protection of national sovereignty<sup>7</sup> and the preservation of traditional national values. Numerous opposing organizations have affiliations with religious traditions and churches, while others are primarily concerned with the protection of men's rights or the safeguarding of the family unit.

### *The EU Process of Ratifying the Istanbul Convention*

While some Member States opposed to the EU's accession to the Convention, the Istanbul Convention includes provisions that permit the EU to join, to the extent of its competences. To that aim, the Commission released a roadmap in 2015 to facilitate EU accession to the instrument. Based on the argument that EU accession would engender a consistent EU-level framework to counteract violence against women, the Commission issued, in 2016, two proposals for Council decisions. One relating to the Convention's signature, and the other on its ratification on behalf of the EU. Subsequently, in May 2017, the Council adopted two signatures' decisions, the first covering articles of the Convention on criminal cooperation, and the second covering articles on asylum and non-refoulement, based on different legal grounds. The EU signed the Istanbul Convention on 13 June 2017; however, progress toward ratification has encountered major obstacles, mainly coming from a few Member States and illiberal civil society.

In front of all of this, the European Parliament became the main institutional actor protecting and pushing forward policies addressing violence against women. As a matter of fact, the Commission<sup>8</sup> released the EU's Istanbul Convention roadmap after the Parliament urged to do so in its

<sup>7</sup> In 2022, the UK formally ratified the Istanbul Convention but expressed similar concerns about the need to safeguard its sovereignty. The primary concern for the country revolved around a specific provision concerning migrant women. Ultimately, the UK Government chose to exercise its right to reserve Article 59 of the Convention, opting out of the commitment to protect migrant women.

<sup>8</sup> The Commission, in March 2022, adopted a proposal for a directive on combating violence against women and domestic violence. The proposal seeks to secure a consistent level of protection against violence across all Member States, which applies to all forms of violence regardless of whether they transpire through online or offline means. It is worthy to note that the Commission is using the Istanbul Convention as a reference point to put forward the directive, but also filling voids that were not covered by the Convention such as online sexual harassment.

Resolution on Combating Violence against Women of 25 February 2014 (European Parliament, 2014). And while the EU was only granted accession to the Convention regarding the chapters on criminal cooperation and asylum and non-refoulement, the Parliament was advocating for a comprehensive and unrestricted accession of the EU (European Parliament, 2017). Such advocacy reached its height in 2019. With a mounting mobilization against the Convention, which included Member States, Members of the European Parliament, and transnational civil society organizations, the Parliament decided to request an opinion from the European Court of Justice (ECJ) regarding the appropriate legal basis and the scope of EU accession to the Istanbul Convention and the ratification procedure. Resorting to the ECJ is a crucial step since it has the authority to interpret Treaties, national laws, and national courts. That is why the ECJ's ruling in October 2021 stating two main points was so relevant for the fate of the Convention. Firstly, it clarified that the appropriate legal basis for accession is Articles 78(2), 82(2), 84, and 336 TFEU. Secondly, it considered that unanimity was not a prerequisite, and therefore the ratification could be based on qualified majority (European Court of Justice, 2021).

This paved the way for the Council in a meeting held on February 2023 to seek the consent of the European Parliament regarding the ratification of the Convention. In other words, all pertinent EU institutions were mobilized, united in their assessment that the EU's ratification of the Convention should or could occur. Yet, the Council's draft decisions on the finalization of the ratification procedure emphasize the EU's commitment to accede to the Convention solely with regard to the areas falling within its exclusive competences, as defined by the agreed common rules pertaining to judicial cooperation, asylum, non-refoulement, and the Union's institutions and public administration.

Nevertheless, Bulgaria did not support the decision due to a ruling by its Constitutional Court in 2018 that deemed certain legal concepts related to "gender" in the Convention incompatible with the country's constitution. But the Bulgarian government and civil society expressed a strong commitment to combating domestic violence and violence against women, albeit in a manner consistent with its constitutional framework. Hungary has emerged as another prominent opponent of the Istanbul Convention, with its opposition being one of the primary factors prompting the EU to pursue ratification through a qualified majority

rather than unanimity. This development underscores the broader divisions within the EU regarding the Convention, where Member States such as Bulgaria and Hungary remain cautious about embracing its provisions fully. More importantly, such consent was given by the Parliament in May 2023.

The two tables show the results of the votes held in the European Parliament on two provisions of the Istanbul Convention. The first resolution the EU accession to matters related to institutions and public administration of the Union (A9-0169/2023), which is relevant given that certain areas within the Convention fall under the exclusive jurisdiction of the EU, the ultimate objective of this resolution is to guarantee the EU's adherence to the Convention. The second resolution grants access to the EU's exclusive competence in the areas of judicial cooperation in criminal matters, asylum, and non-refoulement (A9-0170/2023) (Table 4.3 and 4.4).

In the first table, 607 Members of the European Parliament (MEPs) participated in the vote, with 472 MEPs (78%) in favor of granting the EU accession to the provisions related to institutions and public administration of the Union. Meanwhile, 62 MEPs (10%) voted against, and 73 MEPs (12%) abstained. In the second table, 590 MEPs participated in the vote, with 464 MEPs (79%) in favor of granting the EU accession to

**Table 4.3** EU  
Accession: Institutions  
and Public  
Administration of the  
Union

<i>Resolution A9-0169/2023</i>	<i>MEPs</i>	<i>Percentage</i>
In favor	472	78
Against	62	10
Abstention	73	12
Total	607	100

*Source* Own elaboration

**Table 4.4** EU  
Accession: Matters  
Related to Judicial  
Cooperation in Criminal  
Matters, Asylum, and  
Non-refoulement

<i>Resolution A9-0170/2023</i>	<i>MEPs</i>	<i>Percentage</i>
In favor	464	79
Against	81	14
Abstention	45	8
Total	590	100

*Source* Own elaboration

the provisions related to judicial cooperation in criminal matters, asylum, and non-refoulement. On the other hand, 81 MEPs (14%) voted against, and 45 MEPs (8%) abstained. Delving into the deputies that opposed the ratification, from the Identity and Democracy group we can find deputies from Rassemblement National (France), Lega (Italy), Alternative für Deutschland (Germany), Vlaams Belang (Belgium). Concerning the European Conservative and Reformists, we can identify Vox (Spain), Sweden Democrats (Sweden), and Law and Justice (Poland). In the group of non-inscrits we find Fidesz (Hungary). All things considered, the results of the votes suggest that the majority of MEPs support the EU's accession to both provisions of the Istanbul Convention. The successful ratification of the Convention is of great significance given that it emerged as a hot topic during the 9th legislative session. Notably, the Polish delegation of Law and Justice actively made resisting the Convention's ratification a primary objective during their tenure (Ahrens et al., 2022, p. 813).

All in all, the ratification of the EU's accession by the Council took place in May 2023, completed with the deposit on 28 June 2023, and entering into force on 1 October 2023. But the process to ratify the document proved to be challenging. The decision to abandon the common accord, which required unanimous agreement among all Member states, has been met with criticism from several countries, such as Italy, Spain, France, and Germany (Council of the EU, 2023). Conversely, other Member states, including Bulgaria, Poland, Hungary, and Slovakia, have voiced objections not only to the EU's accession itself but also to a perceived intrusiveness resulting from this decision (Ibid.).

Poland raised objections, contending that the Istanbul Convention "imposes a different perception of traditional social institutions" (Council of the EU, 2023). Poland heavily criticized the EU's accession, arguing that it would grant exclusive powers to the EU in external relations and impose international obligations "against the will of the Member states" (Ibid.). Hungary expressed similar concerns, stating that the Hungarian Parliament opposed the ratification of the Convention and, therefore, the country was "not in a position to support the accession of the European Union to that Convention" (Ibid.). On top of that, Hungary emphasized that the EU's access to the Convention should only occur once all Member states have ratified it at the national level. Also, Bulgaria's opposition was particularly vehement, explicitly asserting that the country "is under no obligation to report to the GREVIO report group" and did not

agree to have third parties (i.e. the European Union) report on its behalf (Ibid.).

Overall, within the EU, it becomes apparent that a distinct division is emerging when analyzing the responses to the Istanbul Convention. This fracture occurs between Europeanist actors, including a vast majority of EU Member states and European institutions, and nationalist actors, a considerable minority of Member states' governments. The Hungarian case is particularly notable as it explicitly stated during the ratification process of the Istanbul Convention by the EU that the decision was in stark opposition with “the National Assembly of Hungary proclaiming that it opposes the ratification of the Council of Europe Convention on preventing and combatting violence against women and domestic violence”, therefore, pitting the national level against the European level. The case of Bulgaria differs significantly as the country explicitly stated its refusal to allow third parties to report on its behalf. In essence, Bulgaria's stance allowed the EU to become a party to the Convention with the stipulation that no reports containing Bulgaria's data would be released by the Commission. Delving into the Convention content, opposing forces vividly challenge the notion of gender as a social construct, as exemplified by Poland and Hungary, who refer to “traditional social institutions” (Council of the EU, 2023). While manifestations have succeeded in slowing down the process, ratification talks started in 2016, they have not been able to halt the EU's accession to the Istanbul Convention.

### *The EU's International Actorness in the Field of Violence Against Women*

The increasing divergence within the EU has been noted as an explanatory factor paving the way for Türkiye's decision to withdraw from the Istanbul Convention (Bodur Ün, 2022, p. 958). Indeed, both conservative religious group and the AKP (the ruling party) have favored rolling back existing gender equality legislation, including the Convention. In line with Hungarians claims, the AKP has stated that the Convention is undermining traditional family values and promoting same sex marriage (Ibidem).

Such a decision was rapidly responded to by the EU's High Representative/Vice-President, Josep Borrell, but also by the US President Joe Biden. Both statements expressed deep concern over Türkiye's withdrawal from the Istanbul Convention, highlighting the importance of

the Convention in combating violence against women and girls.<sup>9</sup> Borrell emphasized the legal protection the Convention provided to women and girls across the world, while also noting the increased levels of violence against them due to the COVID-19 pandemic. Finally, the High Representative urged Türkiye to reverse its decision and recommit to defending the rights of women and girls (EEAS, 2021). Similarly, Biden's statement also expressed disappointment in Türkiye's withdrawal, noting the rising domestic violence incidents and femicide in Türkiye (The White House, 2021). While the US President emphasized the importance of renewing commitments to end violence against women and protecting women from abusers, no roadmap was presented to ratify the pan-American instrument on violence against women.

The Biden Administration's forceful condemnation of Türkiye's withdrawal from the Convention stands in stark contrast to the Trump Administration's hostile stance toward gender equality and combating violence against women. Trump's tenure was marked by a regressive approach to women's rights, with his administration taking steps to roll back progress made in this area. An internal memo underscored the Administration's reluctance to support a resolution at the UN equating physical violence against women with sexual harassment. To achieve this goal, there was an emphasis on addressing various categories of harassment, arguing that not all forms of sexual harassment reach the threshold of criminal offense (Badell forthcoming). Aiming to do so, the US under Trump, during the bi-annual resolutions on violence against women in the UN General Assembly, was systematically putting forward amendments to narrow down the scope of violence against women. In response to such pushback, the EU took a firm stand and decided to counter the US actions. Firstly, the EU Member States voted at the UN in a cohesive manner against the US amendments, none of them passed. Secondly, the EU together with the UN launched the Spotlight Initiative, a multi-year initiative specifically focused on eliminating all forms of violence against women and girls. The Initiative was a clear and forceful response to the US, and marked a watershed moment in the EU's commitment to combatting gender-based violence as it resulted in violence against women being explicitly mentioned in the EU's official position.

<sup>9</sup> The European Commission's enlargement report on Türkiye has also deemed the country's withdrawal from the Convention, while lawful, as a case of serious backsliding (European Commission, 2023, p. 40).



On a final note, it is also worth highlighting that prior to Russia's war of aggression, Ukraine also opposed the Istanbul Convention, with opposition coming from the Orthodox Church and conservative groups. However, the ongoing conflict with Russia has shifted Ukraine's stance on the Convention. The country has since taken steps toward ratification and implementation of the Convention, recognizing its importance in protecting the rights and safety of women and girls in the face of conflict and violence. Ukraine's stance on the Istanbul Convention has undergone a noticeable transformation, particularly in relation to its bid to join the European Union. It has been noted that ratification of the Convention has been made a condition by some EU Member States for granting Ukraine candidacy status (The Kyiv Independent, 2022). This was recognized by the EU ambassador to Ukraine in June 2022 when he celebrated the decisions made by the Ukrainian Parliament to adopt the convention as part of a "dynamic reform cycle to mark the decisive week on Ukraine's EU candidate status" (Maasikas, 2022).

All in all, the EU presents an autonomous voice in the area combatting violence against women. The Union has not acted as a laggard or follower when US actions were clearly targeting policies in the area of violence against women. On the contrary, when this was the scenario, the EU counterbalanced the US actions by not accepting the fragmentation of the issue to the point of becoming a leader as shown with the EU-UN Spotlight Initiative. Such a leadership in the area of combatting violence against women has led the EU to become a somewhat reference point to justify either withdrawing from the Istanbul Convention as in the case of Türkiye or the ratification of the Convention as in the case of Ukraine.

## CONCLUSIONS

This chapter has addressed the question of the fragmentation of the violence against women regime, with a specific emphasis on the role of the EU. As we have seen, fragmentation is occurring due to a departure from a unified community, resulting in the emergence of multiple communities addressing the issue of violence against women. This departure within the EU is rooted in the existing push for a less universalistic understanding of human rights.

Additionally, violence against women has been considered a complex regime. It involves, at the international level, a dense and overlapping network of international institutions that cover the three UN

agendas: peace and international security, human rights, and development. However, the international level has not been able to deliver an international legal instrument that addresses violence against women. Indeed, the international level has externalized such as a responsibility by inviting the regional level to present its own instruments that consider its own set of values. The externalization has not hindered the international regime of violence against women. The regional level has consistently produced instruments that tackle violence against women while reinforcing the role of the CEDAW, to the point of making the CEDAW the compass for such regional instruments.

More to the point, the evolution of the EU's official position on violence against women has been gradual. The EU has recognized the issue of violence against women since 2003, but it was not until 2018 and 2019 that there was a direct mention of violence against women, linked to the EU-UN Spotlight Initiative. The EU's position on violence against women evolved from addressing it mainly in the context of sexual violence in conflict to taking a more comprehensive approach that addresses the issue from the basis of gender inequalities and values of gender equality. The most comprehensive approach to the issue is presented in the Strategic Compass, which comprises values, instruments, and objectives.

However, the EU's engagement with the issue of violence against women is convoluted. The Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) has resulted in the emergence of a fracture within the EU. This dynamic arises from certain Member States adopting a nationalist blended with atlanticism stance against the Convention, while others, including EU institutions, adopt a Europeanist stand in favor of it. Nationalists, aligning with the US argument on their own regional instrument regarding violence against women, believe that the national level is the appropriate governance level to address violence against women. Additionally, in close collaboration with the US under Trump, nationalists sought to reframe the issue in line with traditional values, where gender equality just refers to equality between men and women.

All of it, did not prevent, in May 2023, after a prolonged six-year delay, the EU ratified the Convention. This achievement is particularly significant as the EU not only considers itself but is also perceived as a highly relevant actor in the realm of combating violence against women. In this regard, the EU serves as a reference point for external actors, who

either reject or embrace the Convention (e.g. Ukraine in its quest to join the EU). On one hand, the EU has established itself as an autonomous actor in this area, independent of the US. Notably, the EU remains, at large, unaffected by the shifts in the stance of various US administrations. By bolstering the EU's influence in addressing violence against women and maintaining its autonomous role, there is potential to strengthen the existing regime dealing with this issue. Nevertheless, the EU is faced with navigating opposition from Hungary and other Member States, but there are some indicators suggesting that the Union has already acquired the skills to navigate these challenges (c.f. Badell, 2024).

Finally, despite persistent challenges to the universality of human rights both within and outside the EU, the moral authority of human rights as the benchmark for societal norms remains unquestioned. Therefore, further research should put the focus on the political and theoretical implication of human rights fragmentation for gaining insights into the stability of the international order (c.f. Costa et al. Chapter 1).

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# The European Union's Role in Global Health: Embracing Governance Complexity?

*Óscar Fernández and Robert Kissack*

## INTRODUCTION

In the wake of the COVID-19 pandemic, the importance of global health as an area of global governance and European Union (EU) external action requires no elaboration. The pandemic will likely be remembered as a 'critical juncture' (Wolff & Ladi, 2020), directing significant attention and resources to global health (IHME, 2023, p. 49) and galvanising a more unified health policy within the EU. However, when it comes to the fragmentation of global governance and its manifestation in the domain of global health, COVID-19 generally consolidated existing trends, rather than instigating a radical paradigm shift. The pandemic further challenged the global authority of the World Health Organization (WHO), which got caught in the crossfire of great-power competition. It also spurred

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the development of innovative governance mechanisms involving public and private actors, such as the Access to COVID-19 Tools Accelerator (ACT-A) and its ‘vaccine pillar’, COVAX (Storeng et al., 2021). Before the outbreak of COVID-19, nevertheless, the global health landscape was already populated by an extensive and diverse range of actors, and barriers separating it from other policy realms had crumbled (Guilbaud, 2023).

This chapter scrutinises the EU’s consolidation as an actor amidst a disjointed global health governance architecture, which has been referred to as a ‘regime complex’ (Fidler, 2010; Leon, 2015) or a ‘hybrid institutional complex’ (Abbott & Faude, 2022). We will focus on two drivers of fragmentation. The first relates to the appearance of new players in the field—e.g. intergovernmental organisations, non-state actors and public–private partnerships (PPPs)—that, while being largely complementary through functional differences, have nevertheless eroded the WHO’s centrality. The second emanates from the ‘power transition’ from the West to the East, which is discussed at length in other chapters of this volume and has had some incipient repercussions in global health, as became evident during the COVID-19 pandemic. Both of these dynamics will be assessed from the perspective of their impact on the Liberal International Order (LIO)—which, as we argue, interacts with global health governance in a *sui generis* and somewhat counterintuitive manner.

In our analysis of the EU’s role in global health, we examine the most noteworthy political and institutional developments that have taken place over recent decades as a result of policy spill-overs and health crises, identifying some external ramifications of these developments. By adhering to the theoretical framework informing this edited volume, we explore how these stepping stones, together with the increased complexity of the global health architecture, are interpreted from three different normative standpoints—namely, nationalism, Atlanticism and Europeanism. To do this, we focus on key strategic documents adopted by EU institutions and Member States; most prominently, on the 2022 EU Global Health Strategy. Member State reactions to this strategy are reviewed, as are the positions of some relevant EU civil society organisations. We find Europeanism in all selected documents, but a distinctive form of nationalism manifested as patriotism is also common, while mixed messages are sent about the desirability of governance complexity in global health.

The chapter will proceed as follows. The next section describes the fragmentation characterising the global health architecture, as well as its implications vis-à-vis the LIO. Section three provides an overview of

the EU's health policy, with special emphasis on its outward dimension. In the fourth section, we conceptualise the three 'ideal-type' responses of European actors to the fragmentation of global health governance, analysing the different categories in practice. The final section offers some concluding remarks.

## THE FRAGMENTATION OF THE GLOBAL HEALTH ARCHITECTURE

Unlike many of the policy areas discussed in other chapters of this volume, global health governance did not become fragmented recently; it *has been* fragmented for over two decades. The established United Nations (UN) Specialised Agency in the health field—the WHO—has faced encroachment from other institutions (policy-capture) and the emergence of new actors seeking to shape governance (agenda-setting). For example, the World Bank's health portfolio has grown considerably since the 1980s, rivalling and at times surpassing the WHO as a channel of Development Assistance for Health (DAH) (IHME, 2023, p. 51).<sup>1</sup> Meanwhile, private philanthropic organisations—chief among them, the Bill and Melinda Gates Foundation—have gradually eclipsed national governments as sources of DAH (IHME, 2023, p. 49). Innovative PPPs have mushroomed, such as Gavi, which relies on its pooled procurement mechanism to scale up access to new and underused vaccines in developing countries.

As some authors have argued (Fidler, 2010; Leon, 2015), contemporary global health governance resembles a 'regime complex' (Alter & Meunier, 2009; Raustiala & Victor, 2004), because of the increasing density of actors involved and decentralisation of authority among them. More accurately, however, global health governance today can be described as a 'hybrid institutional complex' (HIC) composed of 'heterogeneous interstate, infra-state, public-private and private transnational institutions, formal and informal' (Abbott & Faude, 2022, p. 264). The fragmented and diverse nature of HICs is not a problem per se, because 'for governance to be effective, the complexity of governance

<sup>1</sup> Tellingly, the World Bank became the host organisation of the 'Pandemic Fund', set up in 2022 under the initiative of G20 countries. The WHO is involved as technical lead.

needs to match the complexity of the system being governed' (Biermann & Kim, 2020, p. 301; as cited by Abbott & Faude, 2022, p. 278). In global health governance, functionality is even more discrete than in other HICs because many global health actors specialise in vertical policy initiatives, i.e. the eradication of specific diseases. While it may be inferred from this that the fragmentation of today's global health landscape implies a rather innocuous 'functional differentiation' (Abbott & Faude, 2022, pp. 271–272), overlaps and inter-institutional competition do occur (Guilbaud, 2023, p. 49). A widely held view is that the global health HIC would benefit from further coherence (in policy and epistemic terms) and focality, e.g. around the WHO (Gostin et al., 2020; Spicer et al., 2020). This, however, may be difficult to reconcile with an ever-expanding ontology of global health. As shall be argued below, the EU is at the forefront of promoting both 'One Health'—which unites human, animal and environmental health—and 'Health in All Policies'—which acknowledges the impact of multiple policy domains on human health. Returning to the observation by Biermann and Kim (2020) above, efforts to advance more sophisticated, interdisciplinary and elaborate approaches to global health will certainly increase the complexity of the system being governed. This raises a number of key questions: is fragmentation an essential part of the governance solution and, if so, what sort of fragmentation are we speaking of, and what does that mean for the LIO?

Compared to trade, human rights promotion or the architecture of collective security, health fits less neatly into the conceptualisation of LIO. Ikenberry's (2020) broadest definition states liberal internationalism is 'the permanent activity of internationally organised problem solving' (Ikenberry, 2020, p. 17), against the backdrop of increasing modernity and interdependence between states. He thus inverts his previous position grounded on a teleological progressive refinement of Westphalian constitutionalism (Ikenberry, 2001) to one in which liberal democracies throughout the twentieth century have been consistently threatened and their survival in doubt, forcing them to seek mutual defence from opponents and mutual support for their outward orientation to trade and investment. In a sense, the WHO can be seen as part of a post-World War II multilateral system built under the auspices of '*American hegemony*', not '*American hegemony*' (Ruggie, 1992, p. 568, emphases in original). That said, Ikenberry rightly notes that 'countries of many types worked together to combat health pandemics in the post-1945

era, succeeding, for example, in a global campaign to eradicate small-pox' (Ikenberry, 2020, p. 77). At times, the WHO became a site for the partisan politics that dominated many other UN institutions, be it across the East–West divide or the 'developed'–'developing' worlds divide, using the terminology of the era (Gostin et al., 2023). But this partisanship did not reach the levels that hamstrung the Security Council, the General Assembly, human rights promotion or other Specialised Agencies like the International Labour Organization (ILO) and UNESCO.

Rather, the WHO was a formal intergovernmental organisation (FIGO) closely approximating Mitrany's theory of functionalism (1948), where welfare gains from cooperation were sufficiently salient to states to put aside the political differences manifested in other dimensions of their diplomatic relations. Thus seen, the WHO and health governance appear on the periphery of the LIO during the Cold War, distanced by the relative neutrality of politics in the field and the credibility of the claim that health was a universal right of all individuals—even if the WHO never pursued an ambitious 'human rights' agenda (Gostin et al., 2023, p. 8). However, as discussed above, global health governance in the post-Cold War era has become populated with a diverse range of actors, including private philanthropic foundations based to a large extent in the United States (US) and operating transnationally within many countries of the Global South. On the one hand, this expansive HIC seems normatively consistent with the universal right to health, whose fulfilment calls for mobilising all actors (public and private) in fighting preventable diseases, particularly in vulnerable populations. On the other hand, the work of organisations like the Gates Foundation fuels widespread concerns that foreign aid from private donors can undermine government capacity and autonomy, thus replicating the worst excesses of neoliberalism (Blunt, 2022; Jones & Hameiri, 2022).

This leads us to a third point of divergence between this chapter and many others in this volume. The editors associate fragmentation with dismantlement, decline and demise of institutions over which the US and its Global North allies have enjoyed hitherto disproportionate influence and power. These institutions gave authority to the arrangement of international politics that privileged Western ideas and perpetuated their hegemony over local, indigenous and Global South worldviews. The EU has been affected by the hubris for many years, noted in Diez's (2005) critique of Manners' (2002) 'Normative Power Europe' thesis as being really about US hegemonic power permitting the EU to engage with

the world on the terms that it did. Oftentimes, the fragmentation of other parts of the LIO, in trade for example, results from the contestation of rules and norms upon which the order is based. In the specific case of multilateral trade governance, epitomised by the World Trade Organization (WTO), the challenge has come primarily—although not exclusively—from the Trump administration in the US and from some emerging powers, with China following ‘a pattern of selective contestation’ (Weinhardt & ten Brink, 2020, p. 260). Obvious parallels can be drawn to the field of health. The Trump presidency caused serious risk to the WHO through the termination of US support and funding, including an attempt to withdraw from the organisation,<sup>2</sup> reversed by President Biden. All the while, China has exerted increasing influence over the WHO, which seemingly restrained the organisation in its criticism over the management of the COVID-19 outbreak in Wuhan (Schuette & Dijkstra, 2023, p. 12) and led to other forms of accommodation, such as the inclusion of Traditional Chinese Medicine in a WHO global diagnostic compendium.<sup>3</sup>

However, a closer look reveals a number of significant peculiarities and caveats in the case of global health governance. Firstly, the contestation recently seen in the WHO occurred long after fragmentation made its way into global health as a result of a different kind of contestation, less geopolitical and more technical in essence. Secondly, vertical governance institutions in the global health HIC are generally differentiated from each other with regard to role, operation or membership and therefore cannot be coerced so easily by powerful states through either side-payments and log-rolling (as is possible in broad-mandate institutions) or the creation of alternative institutions (as regime complex theory would suggest). Thirdly, institutions that are imbued with markedly liberal characteristics, such as Gavi, are likely to have strongly internalised norms and rules that are difficult to overturn for political reasons. Finally, while greater attention is being paid to non-Western medical traditions, they are not displacing modern, scientific and pharmaceutical-based technologies

<sup>2</sup> Throughout much of 2020, rumours circulated about the possibility of the US leading the creation of an alternative organisation to the WHO (Toosi, 2020).

<sup>3</sup> The risks of this inclusion were highlighted, for instance, by the journal *Nature* (‘The World Health Organization’s Decision about Traditional Chinese Medicine Could Backfire [Editorial]’, 2019).

and therefore fragmentation does not mean a different vision of health is being propagated.<sup>4</sup>

To conclude this discussion of fragmentation in the global health architecture, three key points have been raised that problematise the position of health policy within the LIO, while drawing attention to some assumptions of the edited volume's theoretical framework. The first point is that fragmentation is not new in global health governance and instead we see a mature HIC with very diverse institutions integrated into it. Secondly, despite the WHO being part of the post-WWII multilateral system created under US leadership, it was more peripheral than other organisations such as the GATT/WTO and the Bretton Woods Institutions. Paradoxically, we believe that fragmentation has brought health governance closer to liberal international order, albeit in a different way from how this concept is usually depicted. Lastly, and building on these points, it is highly plausible that fragmentation is compatible with the LIO and that a priori one cannot say whether it is normatively desirable or not for the purpose of sustaining Western authority over health governance.

## THE EUROPEAN UNION IN GLOBAL HEALTH

The EU has an important—yet often overlooked—impact on public health. At first glance, the EU's treaty-based competences in this policy realm are rather limited, with EU institutions being mostly circumscribed to a supporting role and Article 168 of the Treaty on the Functioning of the European Union (TFEU) laying most of the explicit legal foundations.<sup>5</sup> However, Article 168 has been referred to as 'a gate with no fence' (Greer et al., 2022, pp. 31–32), and with good reason: while Member States have generally kept the gate closed, the EU's health integration has circumvented it through spill-overs from other policy areas (e.g. agriculture, competition, environment) as well as provisions related to fiscal governance or the integrity of the single market. Health crises, such as

<sup>4</sup> One caveat came from the West itself, in the form of President Trump's multiple anti-scientific statements during the COVID-19 pandemic.

<sup>5</sup> A few other treaty provisions touch upon health more tangentially (Greer et al., 2022, 121–140). Beyond their supporting role in the 'protection and improvement of human health' (Article 6, TFEU), EU institutions have shared competence in addressing 'common safety concerns in public health matters' (Article 4, TFEU).

COVID-19, have provided additional impetus to health integration, occasionally opening the ‘gate’ of Article 168 (or its pre-Lisbon counterparts). Although levels of integration remain modest, these mechanisms explain why the EU’s health policy is often presented as a poster child of neofunctionalist theory (Brooks et al., 2023; Greer, 2006), with its emphasis on the role—and frequent success—of supranational policy entrepreneurs.

The intersectoral nature of health is encapsulated by the ‘Health in All Policies’ approach, which the EU adopted during the 2006 Finnish presidency and has since featured prominently in its official discourse on health (Godziewski, 2022). This approach drew on the WHO’s notion of ‘Health for All’, included in the 1978 Declaration of Alma-Ata. Both the ‘Health in All Policies’ and the ‘Health for All’ frameworks constitute important vehicles for mainstreaming health promotion, akin to the ‘One Health’ approach. The EU treaties themselves include provisions related to health mainstreaming,<sup>6</sup> but actual practices seldom live up to them. It has been claimed that ‘the EU institutional context is not particularly favourable for implementing HiAP [“Health in All Policies”] in a normatively meaningful way’ (Godziewski, 2022, p. 124). Lack of horizontal coherence between EU institutions and policy areas is usually presented as a major hurdle, both with respect to the EU’s internal promotion of public health and to its external role as a global health actor.

Although the EU is well aware that its health-related policies have an external dimension, its first explicit recognition of it came quite recently, through some passages in its 2008–2013 Health Strategy (European Commission, 2007). In 2010, the European Commission released a Communication on ‘the EU role in global health’ (European Commission, 2010), which was jointly drafted by the Directorates-General (DGs) for health and consumers, international development, and research, and is usually seen as the EU’s first global health strategy. However, both the 2008–2013 Health Strategy and the 2010 Communication came up short in their goals of propping up the EU’s health action and mainstreaming health at all levels. Budgetary austerity and other policy priorities, combined with rising Euro-scepticism, relegated health once again to an afterthought in the EU’s agenda and financial programmes (Aluttis et al., 2014; Emmerling, 2016). The 2014–2016 Ebola outbreak opened up another policy window, but it produced few concrete advances.

<sup>6</sup> See Article 9, TFEU, and Article 168, TFEU.

Calls for the EU to adopt a nominal, ambitious ‘global health strategy’ (Speakman et al., 2017) were ignored by the Juncker Commission, whose public health record elicited severe criticism (Greer et al., 2022, p. 19). An analysis of State of the European Union speeches given by Juncker and his predecessor, José Manuel Durão Barroso, revealed little emphasis on health (Fernández, 2024), although Barroso’s actual efforts are widely regarded as more substantial (Greer et al., 2022, pp. 19, 248).

Soon after the von der Leyen Commission took office, COVID-19 made its game-changing appearance. The EU’s initial response to the pandemic was discouraging, as the Commission found itself unable to prevent Member States from pursuing ‘go-it-alone’ strategies (Brooks & Geyer, 2020). However, once the scope and depth of the crisis became evident, Member States realised that a joint response at the EU level was required on all fronts. When it comes to health policy *stricto sensu*, the Commission spearheaded the procurement of COVID-19 vaccines and personal protective equipment, through a mechanism established in 2014 to prevent a reoccurrence of the inter-Member State stockpiling race during the 2009 swine flu pandemic (Greer et al., 2022, pp. 104–106).<sup>7</sup> Beyond this supportive activity, a wide-ranging set of legislative measures was put in place, including the empowerment of the European Centre for Disease Prevention and Control (ECDC) and the European Medicines Agency (EMA), as well as the creation of the Health Emergency, Preparedness and Response Authority (HERA) within the Commission. These and other responses were framed as drivers of the ‘European Health Union’, officially launched in late 2020 (Brooks et al., 2023).

Two years later, the Commission unveiled a brand-new Global Health Strategy (GHS), drafted by the DG for health and food safety and the DG for international partnerships. The strategy ‘represents the external dimension of the European Health Union’ and declares global health as ‘an essential pillar of EU external policy, a critical sector geopolitically and central to the EU’s open strategic autonomy’ (European Commission,

<sup>7</sup> Early criticism of the Commission’s centralising role played into fears that it would be scapegoated and contribute to vaccine hesitancy (van Schaik et al., 2020, pp. 1155–1157). However, despite the controversy over the transparency of negotiations between the Commission and Pfizer (Bauer-Babef, 2023), the joint approach was gradually acknowledged to have paid off, at least domestically (Deters & Zardo, 2023).



2022, p. 4). It has been argued that COVID-19 represented a watershed moment in the EU's self-perception as a global health actor and spurred a greater willingness to embrace a leadership role, at least rhetorically (Bergner, 2023; European Commission, 2022; Kickbusch & de Ruijter, 2021). This sudden prioritisation of global health is not devoid of ambiguities, dilemmas and contradictions. On the one hand, the 'health security' approach that COVID-19 fomented may cement global health's prominence on the EU's agenda (Kickbusch & de Ruijter, 2021, p. 1). On the other hand, despite the GHS's holistic understanding of health promotion, there are some signs that this emphasis on health security moved the spotlight away from horizontal, systemic approaches (Bergner, 2023; Veron et al., 2022). In addition, the EU has been accused of short-sightedness in its pandemic management and of failing the Global South—for instance, through 'vaccine hoarding' and its arduous defence of the Intellectual Property (IP) rights of pharmaceutical companies in WTO negotiations (Bergner, 2023; Deters & Zardo, 2023; van Schaik et al., 2020). To be sure, an emphasis on self-interest is not normatively incompatible with global health (Steurs et al., 2017, p. 437), nor should EU solidarity be underestimated, with 'Team Europe'—EU institutions and Member States combined—emerging as the top donor of COVID-19 vaccines worldwide (World Health Organization-EMRO, 2022). But it is still fair to conclude that, in the EU's quest for 'open strategic autonomy' (European External Action Service, 2022b), 'autonomy' has taken precedence over 'openness'.

The EU's securitisation of global health is not a new phenomenon: in fact, it precedes COVID-19 (Bengtsson & Rhinard, 2019). However, it would also be a mistake to overstate this trend, as the mainstreaming of health in the EU's major strategic documents on security and defence has been modest (Fernández, 2024). In the 2003 European Security Strategy (ESS), the first of its kind, the only direct recognition of health-related challenges came in a brief passage addressing the spread of diseases in developing countries and beyond, which singled out the HIV/AIDS pandemic (Council of the European Union, 2003, p. 4). The successor of the ESS, the 2016 Global Strategy, made more explicit references to health, but almost always in connection with other socioeconomic priorities such as employment, education and environmental protection. Only once did this strategy provide more specificity on its health-related goals, and even then through a rather superficial pledge to 'work for more effective prevention, detection and responses to global pandemics' (European

External Action Service, 2016, p. 43). The more recent and defence-oriented Strategic Compass (European External Action Service, 2022a) did not pay greater attention to global health, despite the fact that its drafting began in 2020 and finished in March 2022, a period during which COVID-19 was the most salient issue across the EU.

In contrast to the 2003 ESS and its fervent endorsement of ‘effective multilateralism’, both the 2016 Global Strategy and the 2022 Strategic Compass espouse bleaker worldviews that are more grounded in *realpolitik*, underscoring the need to develop a European ‘strategic autonomy’. This transition is also evident when comparing the 2010 Commission Communication on the EU’s role in global health to the 2022 GHS. While the former is more development-focused, with a predominant ‘social justice’ frame (Steurs et al., 2017, p. 438), the latter is more security-driven, inward-looking and pragmatic (Fernández, 2024). That said, the term ‘multilateralism’ is still very much present in the most recent strategic documents. In the context of the pandemic, the EU has occasionally failed to live up to this commitment—for example, when pursuing advance purchasing agreements with pharmaceutical companies and bilateral deals for vaccine donations, rather than the multilateral COVAX mechanism (Deters & Zardo, 2023; Storeng et al., 2021). But there are more positive examples: EU institutions and Member States rallied around the WHO when it fell under attack by the Trump administration and were proactive in identifying potential reform avenues (Kickbusch & de Ruijter, 2021; Schuette & Dijkstra, 2023; van Schaik et al., 2020). The EU has also been one of the most prominent sponsors of a potential accord on pandemic prevention, preparedness, and response (European Commission, 2022, p. 16; Guilbaud, 2023, pp. 62, 66).

More generally, the EU’s engagement with the WHO has garnered some scholarly praise. Leaving aside some post-Lisbon hiccups (van Schaik, 2011), the EU and its Member States have gradually improved their coordination within the WHO and devised a clearer arrangement regarding the thorny issue of external representation (Battams & van Schaik, 2016, pp. 337–341). The EU’s informal observer status at the WHO has been an obstacle, but it has not precluded its active involvement in key negotiations—for instance, when it came to the 2003 Framework Convention on Tobacco Control (the first and only treaty adopted under WHO auspices) and the 2005 update of the International Health Regulations (IHR) (Gehring et al., 2013, pp. 857–858). However, a dose of nuance is once again prescribed, as it would be

misleading to suggest that the EU displayed an impeccable multilateral track record in global health before the COVID-19 pandemic. Most glaringly, the EU and its Member States failed to counteract the alarming rise of specified voluntary contributions relative to flexible funding (i.e. assessed contributions and core voluntary contributions), at least until the 2022 World Health Assembly, where an agreement was reached to this end in the name of financial flexibility and sustainability (World Health Organization, 2022). At times, the EU has also adopted an overly passive role within the WHO, as was apparent during the IHR review process in response to the West African Ebola outbreak (van Schaik et al., 2020).

While the EU has often channelled its efforts towards other multilateral or *multistakeholder* entities like Gavi and the Global Fund, it has not shied away from pursuing markedly different courses, such as bilateral frameworks. This has come via its enlargement agenda, the European Neighbourhood Policy (e.g. through the 2021 new Agenda for the Mediterranean) and other trade, investment or development agreements, where public health is always impacted even if not always prioritised (Rollet & Chang, 2013). Furthermore, an important dimension of the EU's influence in global health tends to fly under the radar: its unilateral action. This can take the form of intentional or unintentional norm externalisation, by virtue of the EU's significant market size and regulatory capabilities—in other words, through a manifestation of the 'Brussels effect' (Bradford, 2020) in health-related domains such as food safety, chemical and pharmaceutical regulation, environmental protection and data privacy. When it comes to upholding its own health standards, the EU has leveraged its clout within the WTO, but bypassed WTO multilateral rules when they were deemed an undesirable straitjacket. As a way of example, the WTO Appellate Body ruled in 1999 against EU bans of food imports grounded on its 'precautionary principle', and the EU chose to ignore this ruling, thus inviting retaliatory measures by the US (Pollack, 2003, p. 126). It must be noted that the EU's comparatively high regulatory stringency is not a permanent historical feature and should not be taken for granted (Vogel, 2012). Even so, all signs indicate that norm externalisation through unilateral, bilateral or multilateral means—in areas directly or indirectly concerning health—will continue to be a key catalyst of the EU's global health action after the COVID-19 pandemic.

## RESPONSES OF EU ACTORS TO FRAGMENTATION

The conceptual framework of this volume identifies the categories ‘nationalist’, ‘Atlanticist’ and ‘Europeanist’ in reference to an actor’s view on two interrelated issues: which other entities should constitute governance actors, and which of these entities they would like to engage with. On the subject of health policy, we have nuanced these definitions in response to our survey of (1) the EU’s GHS, (2) the national strategies of France, Germany and the Netherlands, (3) selected national parliamentary reporting on country positions on the GHS and (4) civil society ‘shadowing’ of the GHS. We expect to find evidence of nationalism when Member State governments define their contribution to global health through the prism of national actors (public and private, state and non-state) and national preferences (prioritising domestically salient issues on the international agenda). Nationalists, according to this interpretation, advocate neither isolation nor competition, but instead seek to showcase national status and influence within the global health HIC, and pursue innovative bilateral agreements promoting national firms. Atlanticism is the position found least frequently. President Trump’s position on the WHO’s handling of the COVID-19 pandemic, as well as his scepticism towards medical science, resulted in the US being frequently sidestepped in post-COVID-19 discussions concerning global health governance. In lieu of explicit references, we propose that strong endorsements of market-oriented solutions to health governance—as generally advocated by philanthropic organisations, PPPs, the World Bank and innovative finance mechanisms, such as the International Finance Facility for Immunization (IFFIm)—or condemnations of China as a ‘systemic rival’, could serve as indicators. Lastly, Europeanist sentiment is expressed in recognition and promotion of ‘doctrinal’ EU positions (such as ‘Health in All Policies’ and horizontal approaches emphasising health systems strengthening), support for a greater EU role in multistakeholder institutions—whose membership base tends to be more flexible than that of FIGOs (Kissack, 2023)—or commitment to Team Europe initiatives. As shall be demonstrated below, states often exhibit multiple tendencies at once: a case in point is the French goal of promoting ‘French-speaking and European expertise’ (Government of France, 2023, p. 56).

Responses to fragmentation in health governance differ from those seen in the policy areas discussed in other chapters because, as argued above, this particular fragmentation has been underway for over 20 years.

Therefore, the HIC governing health in the present day is the baseline from which ‘acceptance’ and ‘rejection’ must be measured. Prior to the detailed analysis, we remain normatively agnostic regarding the benefits and costs of fragmentation, granting space to actors to determine their own assessment of the trade-off.

### *The European Union*

To infer the EU’s views on global health governance, we draw extensively on the European Commission’s GHS, published on 30 November 2022. The document sets out the nature of the problem and response as follows: ‘a new global health order is emerging – and the EU must contribute to shaping it through a more strategic and effective engagement’ (European Commission, 2022, p. 6). From the perspective of satisfaction or frustration with the *status quo*, this statement suggests that the Commission sees an opportunity for change arising and is keen on steering its trajectory. But, on a more substantial level, a reading of the whole document reveals mixed messages, ranging from seeking to work with existing actors in the HIC to reasserting the control of the WHO as the FIGO with authority and leadership in the area. For the sake of brevity, we focus on two core issues: (a) the role of the EU, and (b) the role of the WHO.

According to the GHS, the EU intends to ‘deepen its leadership’ in global health governance (European Commission, 2022, p. 4). Leadership is understood in terms of agenda-setting, capitalising on the EU’s position as a donor in many health institutions, promoting its own model (including its COVID vaccination digital certification system) and fostering rights, equity and equality. The Commission affirms this leadership role by speaking of ‘the EU’s unique potential to drive international cooperation’ (European Commission, 2022, p. 23) and ‘to drive the essential process of filling the existing gaps in global governance, avoiding duplication and ensuring coherence of action’ (European Commission, 2022, p. 7). Thus, the EU is positioning itself as the actor best able to address some governance shortcomings stemming from the global health HIC, such as overlap and conflict (Abbott & Faude, 2022, p. 284). On the one hand, this can be justified on the basis that the EU has sufficient power to exert influence across the whole HIC (Drezner, 2009). On the other hand, it leaves in question the role of the WHO, which

might otherwise be expected to assume that very role.<sup>8</sup> The GHS calls for 'strengthen[ing] engagement with key global health stakeholders', listed as 'civil society organisations', 'philanthropic organisations', 'global health initiatives', 'other UN bodies', 'multilateral development banks' and 'private stakeholders' (European Commission, 2022, p. 25). The stated purpose of this is 'avoiding fragmentation' (European Commission, 2022, p. 26), but committing to engage with the actors that constitute *existing* fragmentation may well produce the opposite effect.

Defending the WHO as the leading FIGO in the field of global health governance signifies rejecting fragmentation. There are various statements in the GHS supporting this position, including a commitment to 'strengthen the WHO's leadership, effectiveness, efficiency, [and] accountability' and to 'align EU and WHO priorities' (European Commission, 2022, p. 21). In its quest to reinforce the WHO as the 'core' or the 'cornerstone' of global health governance (European Commission, 2022, pp. 7, 21), the GHS identifies three main levers. Firstly, the GHS calls for more 'sustainable' funding to provide the WHO with greater autonomy in its operation (European Commission, 2022, p. 14). Secondly, the EU—or, more precisely, the Commission—seeks full membership of the WHO as a long-term goal, with an intermediary step of 'formal observer status with full participation rights' (European Commission, 2022, p. 21). While some Member States raise objections (see below), this demonstrates that the EU still sees value in solidifying its links with the WHO and does not content itself with embracing other organisations where attaining membership status has proven to be easier.<sup>9</sup> Finally, the EU has sponsored a new legal agreement on pandemic prevention, preparedness and response to be adopted under the umbrella of the WHO (European Commission, 2022, p. 16). The negotiating text of this agreement that was available when the present analysis was conducted (World Health Organization, 2023) had a number of provisions related to regional economic integration organisations (REIOs). Sections on voting rights (article 22), signature (article 31), formal confirmation or accession (article 32) and entry into force (article 33) stipulate that REIOs

<sup>8</sup> According to its Constitution, the WHO is supposed 'to act as the directing and co-ordinating authority on international health work' (World Health Organization, 1948, p. 2).

<sup>9</sup> For example, the European Commission is formally represented at the boards of both Gavi and the Global Fund.

such as the EU may join, while demarcating their capacity to act independently of their Member States. These inclusions in the draft text signal the EU's intent to be fully integrated into the future framework of pandemic governance, as well as its preference for a FIGO—the WHO—and (hard) international law as the governance *modus operandi*.

In summary, with regard to the question of which type of actor the EU is, while the GHS contains more references to Atlanticist signifiers than the three national strategies examined below (it mentions private foundations, the World Bank, innovative vaccine financing and even the EU's strategic partnership with the US), it is unequivocally Europeanist in its perspective. The GHS sends somewhat contradictory messages about the EU's position vis-à-vis a fragmented global health landscape. This paradoxical approach was already identified by previous literature, which found that the EU generally spoke in favour of the WHO and felt most comfortable in that setting, but also provided funding to WHO competitors and might actually benefit from more plurilateral forms of governance (Battams & van Schaik, 2016; Battams et al., 2014; van Schaik & Battams, 2014).

### *France, Germany and the Netherlands*

We now turn to analyse global health strategies published by EU Member States. At the time of writing, only three Member States had undertaken this initiative. The latest German strategy was published in the midst of the COVID-19 crisis (German Federal Government, 2020), while the first Dutch strategy (Government of the Netherlands, 2022) and an updated French strategy (Government of France, 2023) were published a few years later. Rather than summarising the documents individually, we compare them across four dimensions: (1) degree of nationalism expressed, (2) support for the EU, (3) support for the WHO and (4) position on fragmentation.

Looking first at the degree of nationalist sentiment expressed in the documents, while it is present in all three, it is most pronounced in the French strategy and least in the German one. All exhibit patriotic support for national achievements and flag-bearing firms and institutions, thereby demonstrating to domestic (and foreign) audiences the strengths each state brings to global health governance. Thus, while not expressed in the way foreseen by the editors—that is, as a rejection of internationalism and a retreat towards isolationism—each of the

three strategies makes a strong ‘nationalist’ case based on a significant and unique contribution of their respective countries in global health. While all three mention European cooperation, much more attention is paid to the individual state. France underlines its links to the Francophone world, profusely mentioning the African continent and some of the African states in which French is an official language. It also promotes its extensive research capabilities in providing healthcare and its economic clout as a major donor to many of the vaccination finance initiatives. The Netherlands takes a different approach to national projection, framing the country as a connector, an innovator, and an advocate. These three roles are the leitmotiv of the whole strategy across all of its policy goals. The ‘Dutch Diamond’ of collaboration between the government, private firms, knowledge institutes and civil society (Government of the Netherlands, 2022, p. 14) is trumpeted as a successful national model that is scalable to the international level (such as in the global health HIC) and suitable for practical application in local contexts. In addition, the Netherlands seeks to export its expertise in water management, zoonotic diseases, antimicrobial resistance and ‘issues that are most under pressure or that other donors sidestep, such as safe abortion, comprehensive sexuality education and SRHR [Sexual and Reproductive Health and Rights]’ (Government of the Netherlands, 2022, p. 15). In contrast to the strong cultural/linguistic message of the French strategy, the Dutch claim that ‘as a trading nation [the Netherlands has] a strong international outlook’ (Government of the Netherlands, 2022, p. 15). Finally, the German strategy gives examples of governance and research innovation. The Global Health Hub Germany (GHHG) ‘serves as a networking and exchange platform for non-state actors, promotes informal and interdisciplinary exchange and facilitates the initiation of new projects and partnerships on global health’ (German Federal Government, 2020, p. 37). Meanwhile, the German Alliance for Global Health Research ‘focuses on a new generation of researchers’ with the aim to ‘build an interdisciplinary German global health research community [and] strengthen the German contribution to global research’ (German Federal Government, 2020, p. 28).

Turning to these national strategies’ support for the EU, we see this manifested in two ways: (1) shared views on what Europe’s contribution to global health governance must entail and (2) demonstrations of support for EU coordination processes and joint initiatives. A common concern of France, the Netherlands and Germany is prioritising the rights



of women and girls, not only by promoting SRHR, but also by countering their exclusion from other policy initiatives and by mainstreaming gender in all areas of health governance. All three strongly support universal health coverage (UHC) schemes in line with WHO goals, and each draws attention to their national health systems and what best practices they can demonstrate. All three also reference the importance of European cooperation, with the French and Dutch strategies explicitly mentioning post-COVID-19 Team Europe initiatives (the German strategy preceded those efforts). Furthermore, France acts as the coordinator of the European Joint Action on Global Health Impact, seeking to improve cooperation between EU Member States and the Commission (Government of France, 2023, p. 15).

What do the three strategies say about the WHO? As discussed above, clear support for the WHO can signal an acknowledgement that fragmentation in global health governance needs redressing. One way to strengthen the WHO is to increase its funding, especially to its core budget. Both Germany and the Netherlands explicitly commit to increasing flexible funding facilitating WHO autonomy, but France does not. Support for the WHO is also highlighted in specific projects and initiatives, such as the WHO European Centre for Environment and Health in Bonn (German Federal Government, 2020, p. 17), the WHO Academy in Lyon being inaugurated in 2024 (Government of France, 2023, p. 25), or the Netherlands' role as co-chair of the Intergovernmental Negotiating Body (INB) for a WHO international pandemic instrument (Government of the Netherlands, 2022, p. 18). Is unequivocal endorsement of the WHO tantamount to unequivocal opposition to the current HIC? There are some reasons to think so, such as the French call to reduce fragmentation (Government of France, 2023, pp. 53–54), the Dutch statement that the current governance system is 'fragmented and unfit for purpose' (Government of the Netherlands, 2022, p. 17) and the German plea to 'avoid duplicating existing structures' (German Federal Government, 2020, p. 12). Yet inconsistent messages are sent. Through engagement with the diverse range of institutions in the HIC, all three states indicate that the future of global health must involve complexity—in fact, the decentralised and diverse nature of global health governance receives praise in both the German and French strategies (German Federal Government, 2020, p. 31; Government of France, 2023, p. 51). Overall, the three Member States are closely aligned with the EU insofar as their position on fragmentation is ambiguous: in principle, it is a scenario to

be avoided if it means a greater hollowing out of the multilateral core of health governance (the WHO), yet there is no visible appetite for dismantling the HIC that constitutes fragmentation to date.

### *National Positions on the EU GHS*

Since only three EU Member States had published global health strategies at the time of writing, we also examined national positions towards the EU GHS.<sup>10</sup> In March 2023, an exchange of views on the GHS was held in the Council with the aim of preparing potential conclusions. But, as of early 2024 (when this analysis was finalised), conclusions were yet to be adopted because of Hungary and Poland's objections to language on SRHR.<sup>11</sup> In the absence of this, we searched for documentation of national positions on the GHS. Extensive searches on the websites of the national parliaments of Denmark, Estonia, Hungary, Poland and Slovenia, however, yielded no relevant documents. In the case of Slovakia, the March 2023 Council meeting partly devoted to the GHS was found, but no mention of the GHS was recorded, and direct communication with the parliament's European Affairs committee secretariat revealed that because the GHS had no legislative component, it was not to be scrutinised. As for Germany and the Netherlands, parliamentary committee evidence was identified (Eerste Kamer der Staten-Generaal, 2023; German Bundestag, 2023), but their respective global health strategies were analysed instead because they were deemed to depict the national position more comprehensively and accurately. This leaves us with two countries: Finland and

<sup>10</sup> We used a representative sample of EU Member States (10) based on geographical location, as well as prior knowledge of the authors on which national parliamentary websites contained detailed reports on EU activities. The authors used Google Translate functions to access the national parliament websites of the selected countries: Denmark, Estonia, Germany, Finland, Hungary, the Netherlands, Poland, Slovakia, Slovenia and Sweden. This permitted searches of the website content in the national language. Searches targeted records and reports of European Affairs and/or Health parliamentary committees, based on the keywords 'EU Global Health Strategy' (in the national language), its reference number (675 2022) and the meeting date of the pertinent Council meeting (13–14 March 2023).

<sup>11</sup> Conclusions were eventually adopted on 29 January 2024 (Council of the European Union, 2024).

Sweden.<sup>12</sup> As neighbouring Nordic countries, it is no surprise that their respective national positions are largely similar. Both praise the GHS for its concern for SRHR, as well as for its One Health perspective. Neither make any mention of the identified indicators of support for Atlanticism, although it is important to note that these parliamentary reports are extremely brief compared to strategic documents. Despite their brevity, both reports do include guarded responses to the idea of EU membership of the WHO. The Swedish report states that ‘the division of competencies between the EU and the Member States in the area of health must be respected, also within the framework of the WHO’ (Government of Sweden, 2023, p. 5), while the Finnish stance is that the EU’s ‘full membership of the WHO requires further discussions’ (Government of Finland, 2023, p. 25). While the EU has become more directly involved with the WHO and with transnational pandemic control, including a potential WHO agreement on the matter, the evidence here shows Member States’ reluctance remains consistent with long-established positions resisting expanding the number of FIGOs to which the EU is a full member (Kissack, 2010). We conclude that both documents are moderately Europeanist, but there is insufficient information to ascertain exactly where they stand on fragmentation.

### *Civil Society*

Civil society contributed to the GHS by producing a ‘shadow health strategy’ titled *Towards a New EU Global Health Strategy* and published by six development and health NGOs (Global Health Advocates, 2020). The paper identifies three priorities: ‘strengthening resilient health systems to deliver universal health coverage; tackling health inequity and addressing health determinants; and addressing neglected issues within the health sphere’ (Global Health Advocates, 2020, preface). This shadow strategy anticipated a number of priorities of the GHS related to UHC and horizontal policy-making, strongly focuses on Africa, and gives great importance to the WHO and much less to other parts of the global health HIC. Given that the purpose of the paper was to ‘step[...] into the shoes of the EU when writing the shadow strategy’ (Global Health Advocates,

<sup>12</sup> Finland, Sweden and the other Member States found to have established positions were also identified by van Schaik and Battams (2014, pp. 36–37) as being most active in WHO reform debates.

2020, preface) there is little surprise in finding it strongly Europeanist, while also rejecting fragmentation.

Common to all the positions explored in this chapter is the core message that global governance needs to pay more attention to health and that more funding is always better than less. Through this, the tensions between nationalist, Atlanticist and Europeanist positions, as well as between acceptance and rejection of fragmentation, can be somewhat reconciled. Yet, pushing and funding the WHO to take on a greater role, while doing the same with other key institutions in the HIC of global health governance, can become unsustainable in the long term. This generalised stance also assumes that the global health HIC will not seek to expand into other areas of specialised governance, which is in no way assured, and remains very much open to further examination in the future.

## CONCLUSION

This chapter examined global health governance as an emerging field of EU external action. We argued that, relative to the governance realms dissected in other chapters of this volume, global health possesses some distinctive characteristics. For much of the Cold War, health was actually a peripheral policy area in the LIO. Although established concurrently with other components of the UN system, the WHO experienced a milder impact of the political rivalries between East and West, as well as North and South. Instead, the essentialist nature of human health prevented it from becoming an overtly partisan issue. After the end of the Cold War, efforts to instigate change in global health saw new actors enter the governance field, including other international organisations, private non-profit foundations and public–private partnerships, many based in the US. Drawing on Abbott and Faude (2022), we labelled the resulting governance landscape—highly dense and highly diverse—as a hybrid-institutional complex (HIC). This complexity precipitated a paradox unique in this volume; namely, that not only has fragmentation long been underway in global health governance, but also that it has arguably helped the West retain influence. Liberal values such as individualism, a rights-based understanding of health, market mechanisms and private care provision are prevalent in the Global South partly due to this new set of actors. The first conclusions we present are that in the

field of health (1) the baseline for assessing fragmentation must acknowledge that a great deal of it has existed for decades, and that (2) acceptance and rejection of fragmentation are relative to whether one is satisfied with said *status quo*.

We analysed the central role of the EU in the current HIC, as well as the internal politics of health policy within the EU and between its Member States. We noted that the Commission has been a strong advocate for broadening consideration of health policy transversally ('Health in All Policies') and in relation to macro climate and conservation issues concerning animal health, biodiversity and sustainability ('One Health'). The COVID-19 pandemic was a catalyst for thinking more strategically about interdependence, vulnerability and solidarity in health policy, sparking new efforts to coordinate EU actors, such as the Team Europe approach. The key document in this respect is the EU's Global Health Strategy (GHS), published in November 2022. We examined this document in detail, together with existing national strategies—published by France, Germany and the Netherlands—and selected Member States' positions on the GHS. Across the board, we found solid support for the notion of a stronger WHO, which points towards a rejection of further fragmentation. However, we also identified a clear commitment to keep working with the myriad institutions populating the global health HIC, suggesting acceptance of current fragmentation levels. Turning to the issue of Europeanism, we saw widespread endorsement of the Commission's global health agenda and willingness to participate in Team Europe initiatives when necessary. But we also detected some Atlanticist elements—such as advocacy of market-oriented solutions—and nationalist traits, ranging from reservations about EU membership of the WHO to patriotic promotion of national strengths and contributions to global health governance. While this does not constitute an isolationist form of nationalism, it is strongly branded and competitive in spirit. In conclusion, we find that both the Commission and Member States that show a deep concern about global health accept fragmentation in practice, at the same time as signalling their rejection. Likewise, Member States exhibit all three orientations to varying degrees, the most pronounced being those that are most oxymoronic: nationalist and Europeanist. This occurs in a context of increased resource mobilisation in global health governance, which allows the HIC to grow while reducing perceived trade-offs. Future research may examine actors' behaviour when competition for resources becomes more acute and choosing between the WHO and rival institutions, as well as national assets and European ones, is necessary.

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# Looking for Resource Sovereignty in a Fragmenting Global Order: The EU's Response to Critical Raw Materials Challenges

*Martijn C. Vlaskamp*

## INTRODUCTION

The Russian invasion of Ukraine and the subsequent hasty move away from Russian energy sources illustrated the risks for the European Union (EU) in depending on natural resources from abroad. These risks are not

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limited to oil and gas. There is a clear awareness of the EU's dependency on critical raw materials. "Lithium and rare earths are already replacing gas and oil at the heart of our economy" declared Commission President Ursula von der Leyen in her 2022 State of the Union Address, warning that "we have to avoid falling into the same dependency as with oil and gas" (von der Leyen, 2022, p. 13).

These issues are not new; in 2008 the European Commission adopted the Raw Material Initiative as an integrated policy response to ensure "sufficient access to raw materials at fair and undistorted prices" for the EU (European Commission, 2008, p. 5). The supply chain disruptions during the COVID-19 pandemic, the Russian invasion in Ukraine, and the increasingly complicated relationship with China have put the issue of critical raw materials even more prominently on the EU's political agenda (Council of the EU Official, personal communication, November 2023; European Commission Official, personal communication, November 2023). While a secure supply of critical raw materials was in 2008 mainly seen as an economic issue driven by global price dynamics that was an "important factor for the EU's competitiveness", now "access to resources is a strategic security question for Europe's ambition to deliver the Green Deal" (European Commission, 2008, p. 5; 2020, p. 1). This perception is not unique to the EU and ensuring the security and control of critical raw material supply chains is seen by most major economies, including the United States, as an important "non-traditional security" issue (Shiquan & Deyi, 2023, p. 401).

Under critical raw materials this chapter understands "those raw materials which are economically and strategically important for the European economy but have a high-risk associated with their supply" (CRM Alliance, n.d.). For example, a strong concentration of production in one or few countries, or political instability in main supplier countries can be risk factors. It is important to note that the criticality of a raw material is not a static concept and is regularly reassessed. In 2011, the European Commission deemed 14 materials as "critical", while in 2023 the list had grown to 36 materials (Grohol & Veeh, 2023, p. 7). In most cases, this does not mean that these resources have become scarcer, but rather that they have grown in economic importance for the EU and/or the risk concerning their supply has increased.

Many of these critical raw materials are crucial for the renewable energy transition, the digital transition, and the defense/aerospace agenda. The expectation is that demand for them will continue to grow. To give an

example: a 2023 study from the EU Joint Research Center projected that—compared to 2020—lithium demand for batteries in the EU would be 12 times as large in 2030 and 21 times as large in 2050. Lithium is essential for the batteries of electric vehicles and hence necessary for the electrification of car mobility. Globally, the increase with respect to 2020 is projected to be 18 times in 2030 and 90 times in 2050 (Carrara et al., 2023, p. 8). The situation with lithium is no exception and both EU and global demand for most of the other critical raw materials on the European Commission’s list is projected to increase steeply over the next decades (Carrara et al., 2023, p. 189).

This situation—an increasing demand for limited resources—leads almost naturally to global competition. Numerous papers have already discussed the changing geopolitical constellations that the renewable energy transition will bring (Bordoff & O’Sullivan, 2023; Kalantzakos, 2020; Leonard et al., 2021). The competition for these critical raw materials is increasingly a subject of resource nationalism and export limitations. Between 2009 and 2020, export restrictions on critical raw materials increased more than five-fold. In the past couple of years, about 10 percent of global value of exports of critical raw materials was subject to at least one export restriction measure, ranking from taxes to complete export bans (Kowalski & Legendre, 2023). In other words, there are fractures emerging in the global trade regime for these raw materials.

In particular China is very well-positioned in this issue area, as it controls directly or indirectly large parts of the global supply for numerous raw materials. It was the largest EU supplier of eleven critical raw materials in 2023, either in extracted stage or in processed stage (Grohol & Veeh, 2023, p. 11). Globally it accounted for the largest share of twenty-five critical raw materials (Grohol & Veeh, 2023, p. 7). It is in this context worth mentioning that influence in the supply chains of raw materials cannot simply be measured by looking at the places where these natural resources are extracted, but it is also important to see where the processing facilities are located. Australia is, for example, the largest supplier of extracted aluminum (28 percent), but 56 percent of processed aluminum that can be used in industrial processes comes from China (Grohol & Veeh, 2023, p. 7). By controlling a bottleneck in the processing chain of raw materials, countries can have substantial leverage over downstream actors.

With memories of the energy crisis after the Russian invasion still fresh in mind, the dependence on external actors is perceived as risky for the

EU's raw materials sovereignty (von der Leyen, 2023). In the remainder of this text, I will understand raw materials sovereignty as the ability of a political community, in this chapter the EU, to have the authority to control, regulate, and manage their own raw materials supply<sup>1</sup> (NEU, 2019). A new dependence on critical raw materials from China and other actors sabotages the ambitions of strategic autonomy and European sovereignty.

The chapter will address the question of how EU actors have reacted to the (possible) fragmentation of the liberal international order with respect to the trade in critical raw materials. Utilizing both primary and secondary sources, the analysis will be supported by three semi-structured interviews conducted with EU officials to validate the findings. The structure of the chapter is as follows. Section 6.2 will describe in more detail the events that have raised alarm among EU policymakers. As this section will explain, it is not so much the existing fragmentation that triggered EU actions, but rather the anticipation of further fragmentation due to broader geopolitical trends. Section 6.3 will explain what the EU has done in the past with respect to critical raw materials. Section 6.4 discusses the responses by different EU actors to the potential fragmentation of global trade in natural resources. Special attention will be given to the discussions during the policy process that resulted in the 2024 Critical Raw Materials Act. Finally, Sect. 6.5 will summarize the findings and answer the main research question.

## FRAGMENTATION OF THE INTERNATIONAL ORDER

Before delving into the discussion of whether and how the international order in the issue area of critical raw materials trade is fragmented, it is probably useful to provide an overview of this order. In many respects, this chapter addresses similar developments as Eliasson and García-Durán's (2024) chapter in this volume. A liberal international order, characterized by "economic openness, multilateral institutions, security cooperation, and democratic solidarity" (Ikenberry, 2018, p. 7), is increasingly facing challenges from different sides. In the context of trade in critical raw materials, this order was characterized by free trade, transparency, non-discrimination, and adherence to decisions made

<sup>1</sup> This definition was adapted from a definition of "energy sovereignty".



by multilateral institutions, including the World Trade Organization's dispute settlement system. However, today it is under pressure from the rise of state capitalist economies, protectionist policies, and anti-globalist populism (Alami et al., 2022; Kolben & Rioux, 2023). Roberts et al (2019) identify this period as a transition toward a new "geoeconomic order", marked by an increasing securitization of economic policy and the integration of strategic policy into economic considerations.

EU concerns about its dependency on critical raw materials are not the result of one or two specific events, but rather the product of this slow fragmentation process over the past 10–15 years. The main fear is that this fragmentation process will continue and will culminate in a situation in which states use their raw material exports aggressively as tools of geopolitical power.

A number of recent developments have significantly reinforced this perception. Firstly, the 2016 election of Donald J. Trump as President of the United States highlighted the vulnerability of the United States as a guardian of the liberal trade order. His administration pursued a protectionist approach, characterized by tariffs and trade disputes, which posed a challenge to the conventional principles of international free trade (Eliasson & García-Durán, 2024). This experience, along with the potential for his return to the Presidency, underscored for the EU how fragile the order can be. In fact, while the Biden administration has employed a less aggressive rhetoric than the Trump administration, in the area of trade, most of the protectionist policies were continued and, in some cases, even intensified (e.g., export restrictions on technology related to the production of semiconductors) (Eliasson & García-Durán, 2024).

Secondly, the early days of the COVID-19 pandemic in 2020 underscored the perils of relying on external producers. While face masks had been a relatively underappreciated medical product until that point, they suddenly became a matter of national interest amid the pandemic. The majority of the world's masks were manufactured in China, which prioritized their own population. Consequently, Europeans found themselves in a vulnerable position, having to resort to makeshift homemade masks, purchasing costly supplies on the open market, and hastily establishing their own production facilities. These experiences, together with other trade disruptions due to the pandemic, highlighted the risks associated with global supply chains and how easily countries could disregard the

principles of free trade when they perceived it as being in their own self-interest (Council of the EU Official, personal communication, November 2023).

Third, the Russian invasion of Ukraine in 2022 also demonstrated the potential weaponization of interdependence (Farrell & Newman, 2019). For a long time, EU–Russian energy relationships had been characterized by a liberal paradigm: economic interdependence was seen as a stabilizing factor (Siddi, 2017). This paradigm had already been under pressure after the 2009 Ukraine transit crisis and the 2014 occupation of Crimea. EU–Russia energy relations became securitized, but until the beginning of the Russian invasion, many policymakers and observers still thought that the prospect of significant harm to its own economy would restrain Russia from a direct invasion of their western neighbor (Driedger & Polianskii, 2023; Tichý & Dubský, 2024). According to some accounts, however, the opposite happened. Instead of being deterred, Russian President Vladimir Putin was emboldened in his actions because he thought that Europeans would not come up with a strong and coordinated reaction in the context of high energy prices. (Haines, 2023). It turned out that interdependence was not inherently a stabilizing factor; instead, it could also be weaponized (Farrell & Newman, 2019). A crucial lesson learned from this experience was that countries might be willing to exploit their raw materials as leverage and assume high costs if they consider the issue to be of sufficient importance (Driedger & Polianskii, 2023).

In the area of critical raw materials, in geopolitical terms the main concern for the EU—and its western allies—is China. There is a widespread perception among US, EU, and other western policymakers that China uses the exports of these natural resources to give its own industry a competitive edge. In the 2010s, the European Commission went twice—successfully—to the World Trade Organization (WTO) dispute settlement mechanism to complain about Chinese export limitations on raw materials (European Commission, 2012, 2019). In these cases, China followed the WTO decisions, but there is a concern that an increasingly powerful and assertive China would not do so in the future anymore. Moreover, there is the worry of a direct weaponization of critical raw material exports for geopolitical aims by China. In 2010, after the Senkaku boat collision incident, China—supposedly—banned rare earth exports to Japan as a way of political pressure. While it is disputed to what extent such a state-sanctioned ban really took place, this episode

has since then been frequently used as a cautionary tale about the willingness of China to use its raw materials for political purposes (King & Armstrong, 2013). China's ability to weaponize critical raw material supplies is also strengthened by the role of the state in the mining sector. Nine of the world's forty largest mining companies are based in China, of which are five state-owned enterprises<sup>2</sup> and in two other cases the state is the largest shareholder<sup>3</sup> (pwc, 2023, p. 38). Furthermore, the state can also take direct measures. In 2023, China implemented restrictions on the export of gallium, germanium, and high-grade graphite. These restrictions were commonly viewed as a response to previous actions that had disrupted semiconductor exports to China from the United States, Japan, and the EU. As of the time of writing, the actual impact of these restrictions remains uncertain. However, they have added weight to the argument that China is willing to utilize its critical raw material exports for geopolitical purposes (Blakemore, 2023).

Besides these concerns about China's reliability as a supplier of critical raw materials, there is also a broader trend toward more resource nationalism. As written in the introduction, the past decade has witnessed an increase in export restrictions on natural resources. The top six countries in imposing export bans were China, India, Argentina, Russia, Vietnam, and Kazakhstan (Kowalski & Legendre, 2023). A notable case is Indonesia, which banned its nickel exports to stimulate investments in its processing facilities. In 2022, the WTO ruled in favor of the EU, who had claimed that this ban was in violation of WTO regulations. However, Jakarta has lodged an appeal and maintains this ban in the meantime, knowing that a resolution of the case may take its time as long as the appellate body stays dysfunctional (Nada Shofa, 2023). As this episode illustrates, violators of the liberal international trade order currently feel no pressure to follow these rules if they do not deem them in their national interest.

This context of geopolitical rivalry has contributed to a starting fragmentation in the trade in raw materials. Driven by geopolitical motives and concerns about China, the United States has taken the lead in

<sup>2</sup> China Shenhua Energy, Jiangxi Copper Corporation Limited, Shaanxi Coal and Chemical Industry, Shandong Gold Mining Company Limited and Yankuang Energy Group Company Limited.

<sup>3</sup> China Coal Energy Company Limited and Zijin Mining Group Company Limited. The two exceptions are CMOG Group Limited and Tianqi Lithium Corporation.

creating new supply chains for its industry to “decouple” from China. Washington D.C. established with their allies in 2022 a “Mineral Security Partnership”, sometimes dubbed “Raw Materials NATO”, to build “robust, responsible critical mineral supply chains to support economic prosperity and climate objectives” (US State Department, 2022). Besides the G7, the European Commission, Australia, Finland, South Korea, and Sweden are also partners in this initiative. The idea is to create alternative supply chains that bypass or at least limit their exposure to geopolitical rivals and import more critical raw materials from geopolitical allies. At the September 2022 convention of the Mineral Security Partnership, Argentina, Brazil, the Democratic Republic of the Congo, Mongolia, Mozambique, Namibia, Tanzania, and Zambia could be found in the audience. This concept is sometimes dubbed “friendshoring” and some studies argue that the United States and its allies could—at least theoretically and with a large effort—fulfill their critical raw materials needs by only trading with other—more or less—free countries (Allan et al., 2023). In other words, western trade relations in the area of critical raw materials would run in parallel to the trade of China and other authoritarian systems.

In sum, in the issue area of raw materials trade, the international order is not very fragmented yet—the trade runs most of the time rather smoothly—but there is a large shadow of fragmentation looming over it. Increasing resource nationalism, the use of export restrictions for political purposes and growing mistrust between key actors have created an environment in which the EU feels that they have to be already ready for a scenario of even more fragmentation to not get caught unprepared—again—in a moment of crisis.

## THE EUROPEAN UNION AND CRITICAL RAW MATERIALS IMPORTS

In the early 2000s, most attention of the EU with respect to raw materials went to energy. The 2003 European Security Strategy dedicated a section to energy security, and called for “greater diversification, of fuels, sources of supply, and transit routes” combined with “good governance, respect for rule of law and investment in source countries” (European Council, 2003). The tone in the 2008 report on the implementation of the European Security Strategy was still very cooperative, also with an eye on the renewable energy transition: “With our partners, including

China, India, Japan and the US, we should promote renewable energy, low carbon technologies and energy efficiency, alongside transparent and well-regulated global markets” (Council of the EU, 2008). Critical raw materials were not mentioned in these documents. Overall, this document was still formulated in a context in which free trade was seen as the adequate response for global natural resource governance.

Around this time, however, the issue of critical raw materials started to attract more attention. Since the early 2000s, raw material prices had steadily grown into a “commodity super-cycle”, mainly due to increased demand from emerging economies, such as China. In parallel, China also became the world’s largest producer of many minerals and metals. Initially, the EU did not pay particular attention to this development and argued that stimulating free trade would be enough to ensure a stable and secure supply of raw materials. However, with increasing prices, the issue started to draw the attention of western policymakers. The G-8 Heiligendamm Summit in 2007 included in the Chair’s summary a full section on “Responsibility for Raw Materials: Transparency and Sustainable Growth” that stated that the participants “discussed the situation on world commodity markets and recent price increases and reaffirmed (their) commitment to free, transparent and open markets” (G8 Summit, 2007, p. 2).

One year later, in 2008, the European Commission launched the Raw Materials Initiative. In the accompanying document, the Commission acknowledged that the high dependence of the EU on certain non-energy raw materials had not yet received full attention. The Raw Materials Initiative was still thinking in terms of free trade and global cooperation. One of the EU’s declared goals was to “ensure access to raw materials from international markets under the same conditions as other industrial competitors” (European Commission, 2008). It called for dialogue with resource-rich countries, such as China and Russia, so that they would remove distortive measures, and for cooperation with other resource-dependent countries, such as the United States and Japan, to identify common interests. The guiding principle of the policies was that companies were primarily responsible for securing their raw materials supply and that the task of the EU was to provide political support by working on removing trade barriers and similar steps. Besides the promotion of free trade, the document called for the creation of a framework to increase domestic mining of raw materials in Europe to increase supply, and a more efficient use of resources and more recycling to decrease demand.

However, in terms of concrete policies, little progress would be made over the following years. An EU Commission official interviewed for this study confirmed that officials at the Directorate-Generals responsible for trade and industry were aware of the issue but struggled to bring it to the larger Commission agenda until the 2020s (European Commission Official, personal communication, November 2023).

One of the outcomes of the Raw Materials Initiative was the development of a list of critical raw materials (2011). This list has been updated since then periodically (2014, 2017, 2020, and 2023) and has grown longer with every version: the 2023 list contained 36 materials as compared to 14 materials in 2011, 20 materials in 2014, 27 materials in 2017, and 30 materials in 2020 (Grohol & Veeh, 2023, p. 7).

In the 2016 Global Strategy for the EU's Foreign and Security Policy, again a section was dedicated to energy security (European Union, 2016, p. 22ff). Under the influence of the 2014 Russian annexation of Crimea, the tone was already more defensive: "through our energy diplomacy, we will strengthen relations worldwide with *reliable* energy-producing and transit countries" (emphasis added) (European Union, 2016, p. 22). In a similar vein, in the paragraph on raw materials, Russia and China were conspicuously absent, while potential trade agreement with the United States, Japan, Mercosur, India, ASEAN, "and others" were mentioned by name: "new generation trade agreements which include services, the digital economy, energy and raw materials can reduce legal fragmentation and barriers, and regulate access to natural resources" (European Union, 2016, p. 41). In other words, the Japanese–Chinese feud and the events in Ukraine had already left their mark on the EU's trust in free trade with China and Russia.

The next core document, the 2020 Action Plan on Critical Raw Materials, was written under the influence of the COVID-19 pandemic, the European Green Deal with its Fit for 55 package, and the debates about strategic autonomy. It explicitly stated that "the COVID-19 crisis has revealed just how fast and how deeply global supply chains can be disrupted" (European Commission, 2020, p. 1) and underlined that "the EU's open strategic autonomy in (the sectors related to the Green Deal) will therefore need to continue to be anchored in diversified and undistorted access to global markets for raw materials" (European Commission, 2020, p. 1). The need for critical raw materials was mainly justified with the twin green and digital transitions.

The action plan announced that the EU should engage in strategic partnerships with resource-rich third countries, making use of all external policy instruments and respecting its international obligations. With resource-rich developing and emerging countries in particular, the EU wanted to differentiate itself by contributing to sustainability and local value addition. Critical raw material projects could be supported by the Global Gateway initiative (Soler i Lecha, 2024). The EU relationships with many African countries, for example in the areas of cooperation in the extractive sector, and the creation of strategic corridors, are already influenced by their mineral resources (Amoah Awuah, 2019; Baranzelli et al., 2022). Over the past years, the Commission has established on behalf of the EU strategic partnerships on raw materials with Canada, Ukraine (2021), Kazakhstan, Namibia (2022), Argentina, Chile, the Democratic Republic of Congo, Greenland, and Zambia (2023) (European Commission, 2024). These recent agreements, however, are not legally binding, not very specific in their plans, and explicitly declare that there is no exclusivity to the EU for resource exports.

The tone in EU policy documents got grimmer after the 2022 Russian invasion in Ukraine. In the March 2022 Versailles Declaration, formulated as a common response to the war, a section states: “We will secure EU supply (in critical raw materials) by means of strategic partnerships, exploring strategic stockpiling and promoting a circular economy and resource efficiency” (European Council, 2022, p. 7). The REPowerEU proposal by the European Commission proposal to end reliance on Russian fossil fuels before 2030 gave the renewable energy transition—and the related demand for certain critical raw materials—a new push. The 2022 Strategic Compass for Security and Defence, revised under the impression of the Russian invasion of Ukraine, details how the EU and its Member States want to strengthen their security and defense (European External Action Service, 2022). It acknowledges the importance of critical raw materials for the EU’s security: “Decarbonising and making our economies more resource-efficient and circular come with specific security challenges, including access to critical raw materials, value chain management and sustainability, as well as economic and political shifts caused by the transition away from fossil fuels” (European External Action Service, 2022, p. 23).

The overall gloomy tone of the state of the world can also be noted in the sections, referring to raw materials. Reducing strategic vulnerabilities in supply chains is seen as crucial both for economic but, and this

is different to the previous documents, also for military motives. There is no mention of global structures anymore: China is described as “a partner for cooperation, an economic competitor and a systemic rival” (European External Action Service, 2022, p. 18), whereas Russia is seen as a “long-term and direct threat for European security, which we will continue to face resolutely” (European External Action Service, 2022, p. 18). At the same time, “cooperating with like-minded partners around the world, on a reciprocal basis, is essential for enhancing the EU’s resilience and security of supply, while reducing strategic dependencies and increasing mutual benefits” (European External Action Service, 2022, p. 43).

The significance of the issue, and the fact that it had finally reached the highest echelons of power within the EU, became evident through its prominent placement in the 2022 State of the Union Address. In her speech, Commission President Ursula von der Leyen announced a “European Critical Raw Materials Act” and declared that the EU would secure its supply by means of strategic partnerships, exploring strategic stockpiling and by promoting a circular economy and resource efficiency (von der Leyen, 2022). Commissioner Thierry Breton elaborated the same day on the idea of a European Critical Raw Materials Act and argued that “we need to be more assertive and less naïve in defending our economic interests and our values. Including when it comes to strategic raw materials” (Breton, 2022). In his statement, he took a zero-sum game approach and explained that there were simply not enough critical raw materials for everyone: “We know it. Our systemic rivals know it. So do our partners. And, most of all, our industry has come to realise it too. Our twin green and digital transition will live or die through the functioning of our supply chains” (Breton, 2022). As this martialist language indicates, for the European Commission a stable and secure supply of critical raw materials was not anymore “just” an economic issue, but an essential security issue.

Currently, the EU is caught somewhat in the middle of the increasing US–China rivalry and the issue of critical raw materials also plays a role in it. Generally, the EU takes a less confrontational approach and “has pushed back against bipolar geopolitics by utilising its normative, economic and regulatory power and strong networks of global institutional relations to maintain a competitive but working relationship with the People’s Republic of China” (Kalantzakos et al., 2023, p. 3). Kalantzakos and her co-authors argue that “breaking ties of interdependence jeopardises the urgently needed decarbonisation and digitalisation



transition that constitutes an important part of our response to the climate emergency” (Kalantzakos et al., 2023, p. 22). As the EU had not fallen yet completely for the US discourse of securitizing critical raw materials supply from China, it was an ideal candidate to foster global solutions. However, the EU stance toward China is debated within EU Member States. In her March 2023 speech on EU–China relations, in which she introduced the concept of de-risking, Commission President von der Leyen referred various times to the risks of depending on China for numerous raw materials and reminded that the EU was “deeply mindful of what happened with Japan’s imports of rare earths from China a decade ago when foreign policy tensions between the two in the East China Sea became acute” (von der Leyen, 2023). It is important to note that a crucial difference between the dependence on, for example, rare earths from China and oil from Russia lies in the fact that there is simply no other supplier for these raw materials. In 2022, the EU could react to the Russian invasion by buying (steeply priced) oil and gas from other suppliers. But if China were stopping their exports of some critical raw materials, or the EU would like to impose import sanctions, there would only be very few other supplies available in the world.

At the same time, the relationship with the United States in this area is somewhat ambivalent. As an interviewed EU official said, “our political relationship with the United States hasn’t been that good as it is now for a long time...but they are of course also an economic competitor” (Council of the EU Official, personal communication, November 2023). On the other hand, Washington D.C. seeks to use raw materials as a way of getting the EU in its camp with an eye on its rivalry with China. Besides the European Commission, EU Member States Finland, France, Germany, Italy, and Sweden also are partners in the “Mineral Security Partnership”. However, at the same time, the United States caused a lot of bad blood in Europe with the 2022 Inflation Reduction Act (IRA). The IRA seeks to support the US industry by investing in domestic energy production, especially clean energy (The White House, n.a.). Part of this package are subsidies for US companies. However, there are concerns that the IRA will disadvantage European companies and create subsidies incentives for European companies to produce in the United States. The IRA requires, for example, that a certain number of components or critical minerals for electric vehicles be sourced in the United States or from countries that have a free trade agreement with it. After the failure of the Transatlantic Trade and Investment Partnership (TTIP), this is not

the case for the EU. As a response the EU has proposed the Net-Zero Industry Act to retain firms and green investment within the EU.

In principle, there is willingness on both sides of the Atlantic to find a solution to the issues related to the IRA: “both sides want a green transition. Both sides want to keep in check non-market economies”, was an EU official anonymously quoted in *Politico* (Lynch et al., 2023). In the short run, the objective is to find an agreement that the EU will be treated as an equal partner in an equivalent of a free trade agreement, which would qualify the EU for certain tax credits for electric vehicles in the IRA. Critical raw materials that were mined or processed in the EU would be equivalent to critical raw materials from the United States (Malmström, 2023). Once this issue is resolved, a club could be established that could also include other allied actors such as the United Kingdom or Japan, and then negotiate together with third countries. The shared market power of these countries is expected to give them more leverage globally.

In March 2023, the European Commission published a proposal for a Critical Raw Materials Act that formulated the objective of “(1) developing the critical raw materials value chain in the EU, (2) boosting the diversification of supply and partnering in a mutually beneficial manner in support of global production, and (3) fostering sustainable sourcing and promoting circularity” (European Commission, 2023a, p. 3). Besides critical raw materials, it also included the concept of strategic raw materials, which were essential for the twin transition or defense and space purposes. In less than a year, the Critical Raw Materials Act was adopted in February 2024, a time span which was described by most involved parties as “record speed” (Council of the EU Official, personal communication, November 2023; European Commission Official, personal communication, November 2023). The main reason for this success was the sense of urgency that all involved institutions and actors, across the political spectrum, felt to address this issue (Assistant of MEP, personal communication, December 2023; Council of the EU Official, personal communication, November 2023).

According to the Act, at least 10 percent of the EU’s annual consumption of strategic raw materials must be mined domestically; moreover, the Union should increase its processing capacity along the value chain to be able to produce at least 40 percent of its annual consumption of strategic raw materials. The EU’s recycling capacity should be able to produce at least 25 percent of the Union’s annual consumption of

strategic raw materials (European Parliament, 2023c, p. 13). Another stipulation, sometimes dubbed the “China clause” formulates the ambition to not be dependent on a single third country for more than 65 percent of its supply of any strategic raw material, unprocessed and at any stage of processing (European Parliament, 2023c, p. 13; Noyan, 2023). If a country is a strategic partner or if there is a free trade agreement, it is seen as less concerning when this number is surpassed.

This said, it is worth noting that these ambitious objectives run—at least in the short term—in significant practical problems. While Europe has some critical raw materials reserves, opening new mines takes on average between 10 and 15 years, partly for technical and partly for regulatory reasons. Mining projects frequently encounter resistance from local communities and environmental organizations, which can delay or even halt the projects through protests and legal battles concerning the permitting process. The Critical Raw Materials Act permits fast-track projects that help achieve its objectives with respect to strategic raw materials, such as easing permission procedures for new mining or processing projects. But, even under these circumstances, new mining operations will take their time and can only cover a fraction of the EU’s demand. Increasing the number of domestically processed critical raw materials also meets the problem that this industry is very energy intensive, and Europe is currently struggling with high energy prices. Furthermore, while increasing the recycling rate is possibly a long-term solution, currently there is only a limited collection infrastructure and also not enough recyclable critical raw materials circulating in the EU to use for the enormous demand needed. Hence, due to these practical issues, at least in the short term, the fastest fix is diversification where possible (Righetti & Rizos, 2023).

In terms of diversification, the European Commission’s proposal calls for (1) a Critical Raw Materials Club to bring together consuming and resource-rich countries, (2) investments in resource-rich countries, (3) bilateral strategic partnerships with resource-rich countries, (4) using the Global Gateway initiative, (5) lowering the risk of investing abroad, and (6) combatting unfair trade practices and pushing harder on enforcement to promote the secure and sustainable supply of critical raw materials. (European Commission, 2023a, pp. 7ff.). Part of this approach is also to look for strategic partnerships with producing countries, for example in Latin America and Africa.

In conclusion, over the past 10–15 years the EU position has shifted from being a fierce promoter of global free trade to a more interest-driven position and in search of “strategic partnerships” with selected countries to ensure its resource sovereignty. Moreover, the issue of critical raw materials has moved from a pure trade topic—which would be an exclusive EU competency—to a topic that also has a security dimension—which touches upon EU Member States competencies.

## RESPONSES OF EU ACTORS TO THIS FRAGMENTATION

This volume’s analytical framework establishes three different reactions to the fragmentation of the liberal international order: nationalist, Atlanticist, or Europeanist. This section will go through them one by one, to show what implications they have—also in terms of strategic autonomy—and who supports them (Costa et al., 2024).

The first possible reaction to the fragmentation would be a nationalist response. This could translate itself in some form of resource nationalism by EU Member States: national raw materials should go firstly to the country’s national industry. However, given the characteristics of raw materials, in reality this argument is rarely used. First and foremost, because most EU Member States only have very limited critical raw material reserves on their territory. The EU Member States that have some noteworthy reserves (e.g., Sweden, Finland, or Spain), have also never voiced any plans in these directions. Imposing export restrictions on raw materials would violate the Single Market provisions and is therefore also legally impossible within the framework of the EU. Moreover, these reserves are, globally seen, very limited and not enough to strengthen an argument to leave the EU for economic reasons. In the debate on the Critical Raw Material Act some members of the European Parliament (MEP) made references to the mining potential of their home region and celebrated that the provision on mining would be a boost for their national industry.<sup>4</sup> The Polish Government had heavily lobbied for the inclusion of coking coal in the list of strategic raw materials, as Poland is the EU’s top coking coal producer (Krzysztozek, 2023). Not

<sup>4</sup> Anna-Michelle Asimakopoulou (EPP) remarked, for example, that Greece had the potential to produce enough gallium to cover the entire needs of the EU. Jessica Polfjård (EPP), stated that “mines were once one of the basic industries that made Sweden wealthy, and if managed correctly, they will help Europe on its journey into the future”.

surprisingly, the Polish MEPs referred to this issue in their contributions and Izabela-Helena Kloc, speaker of the European Conservatives and Reformists Group, literally greeted the coal miners from Silesia during her intervention in the debate on the Critical Raw Materials Act<sup>5</sup> (European Parliament, 2023b). However, this was seen as not only a Polish issue and, for example, Łukasz Kohut (Progressive Alliance of Socialists and Democrats) argued in the same debate that “including coking coal on the EU’s critical raw materials list (was) both a Polish and European national interest” (European Parliament, 2023a).

Besides the supply side, a nationalist response could also manifest itself in an aggressive policy to obtain the required raw materials for the national industry outside the framework of the EU. Some EU Member States have national raw material plans and signed bilateral agreements with countries related to natural resources (Bundesministerium für Wirtschaft & Klimaschutz, 2020; Rijksoverheid, 2022). However, these national plans usually refer explicitly to EU plans and are not in competition with them. The Critical Raw Materials Act leaves a lot of decisions about its specific implementation in the hands of the Member States. Moreover, in reality, it is also questionable how much sense they make given the global dimension of the issue. Kullik and Schmid (2021), who reviewed the 2020 German Raw Materials Strategy argued that almost all the issues the document identified could be better addressed on the European level. If this was already the case for the strategy of the EU’s largest economy, the strategies of smaller Member States are probably even less relevant. An alternative strategy is pursued by France, which has presented a plan to launch a 2 billion Euros investment fund, with 500 million Euros of public money, to support French companies in complying their needs for lithium, cobalt, and nickel. The plan is that this fund will also be open for non-French companies that need these raw materials (Egloff, 2023). In conclusion, due to the characteristics of this case and EU legislation, a nationalist response is rarely seen so far.

The second, and more frequent reaction, is the Atlanticist response. As written above, the role of the United States is somewhat ambivalent from a European perspective. Some Member States push for closer relations with the United States. In a February 2023 meeting in Washington, D.C. between US and German and French officials, the German Vice

<sup>5</sup> Izabela-Helena Kloc, Grzegorz Tobiszowski.

Chancellor and Minister of Economic Affairs and Climate Change Robert Habeck advocated creating a US–EU “critical minerals club” to diversify supplies of critical raw materials and to reduce reliance on countries such as China (Hayashi, 2023). This is also the position of the European Commission and currently, the EU and the United States are negotiating such an agreement (Duehren, 2023). During the negotiations of the Critical Raw Materials Act, in particular, the European People’s Party had pushed for the inclusion of the term “like-minded” countries in the text, in allusion to—for example—the United States, but this term did not make it to final document. According to participants, the negotiators of the European People’s Party never really specified how they understood this term and therefore it was abandoned (Assistant of MEP, personal communication, December 2023). The Critical Raw Materials Act did not close the door to cooperation with the United States and included provisions that allowed the aforementioned policies.

Finally, there is a Europeanist response to this challenge. Here Europe should look for their own supply and find its place between the United States and China, without getting dragged into their rivalries. One key element of this approach is included in the proposal for a Critical Raw Material Act and is the creation of a centralized purchasing mechanism for critical minerals (European Commission, 2023b, p. 37). This process would be similar to the joint vaccine purchasing arrangements during the COVID-19 pandemic. The underlying idea of such a buyers’ cartel would be to shift power from producers to consumers. It could prevent “outbidding between EU-based purchasers, sending more accurate and transparent demand signals, and facilitating coordination with broader economic and security priorities” (Hendrix, 2023, p. 4). This cartel would also be open to non-European like-minded states but would be primarily EU-led.

Generally, there is relatively limited disagreement within the EU about this issue. All major EU actors acknowledge that having a stable and secure supply of critical raw materials is of imminent importance for the EU. The European Commission has underlined this in countless policy papers since the first decade of the 2000s. An indicator of the limited degree of fragmentation is the speed and, relative, consensus with which the European institutions agreed on the Critical Raw Materials Act: the Commission published its proposal in March 2023, and already in November 2023 the Trialogue between Commission, Council, and Parliament came to an agreement. In December 2023, the Critical

Raw Materials Act passed the European Parliament with an overwhelming majority of 549 to 48 votes (24 abstentions): all party groups, except the Left group in the European Parliament (GUE/NGL) voted with a clear majority of their MEPs for the proposal (see Table 6.1).

The main reason for this success was that almost all major parties agreed on the diagnosis of the problem that Europe needed a stable supply of critical raw materials for its twin transition. The Europeanist sentiment was summarized by the liberal MEP Nicola Danti, who stated that “in the face of climate change and the challenges that await us, we cannot act like nationalists, denying the problems and denying the solutions, because the greatest vulnerability we have comes from those who think that each small state can tackle the challenges of the future without understanding that multilateralism and global cooperation are essential elements for addressing the problems of our time” (European Parliament, 2023b).

Even the Euroskeptic groups (European Conservatives and Reformists Group, and Identity and Democracy Group), that could have been expected to be promoters of nationalist responses, backed overwhelmingly this proposal. Alessandro Panza of the *Lega* called it one of the “few common-sense measures from this Commission” (European Parliament, 2023b) and Maxette Pirbakas (*Rassemblement National*) stated

**Table 6.1** Vote in European Parliament on Critical Raw Materials Act (European Parliament, 2023a)

<i>Party group</i>	<i>In favor</i>	<i>Against</i>	<i>Abstention</i>	<i>Votes</i>
European People’s Party	99%	1%	0%	160
Progressive Alliance of Socialists and Democrats	99%	1%	0%	125
Renew Europe	100%	0%	0%	86
Greens/European Free Alliance	71%	18%	11%	62
European Conservatives and Reformists	93%	3%	3%	61
Identity and Democracy	84%	16%	0%	49
The Left in the European Parliament—GUE/ NGL	16%	44%	41%	32
Non-attached members	83%	13%	5%	40
<b>Total votes</b>	<b>549</b>	<b>43</b>	<b>24</b>	<b>615</b>
<b>Total (in percentage)</b>	<b>89%</b>	<b>7%</b>	<b>4%</b>	<b>100</b>

*Source* Own elaboration based on voting records

that this policy was what she called “the right Europe (...) the one that seeks solutions for our future industries, the one that serves large projects of common interest” (European Parliament, 2023b). For various speakers of the *Rassemblement National*,<sup>6</sup> the Critical Raw Materials Act was also a long due move away from a belief in complete free markets to a more interventionist industry policy (European Parliament, 2023b). These parties were less motivated by concerns for the green transition but saw a stable supply of critical raw materials as essential for the competitiveness of Europe (and that of their countries). Only the MEPs of *Alternative für Deutschland* voted almost entirely against the proposal, but their vote was less motivated by the content of the Act, but more by a fundamental critic that “ideology” was trumping industrial interests (European Parliament, 2023b).<sup>7</sup>

National concerns explain also some of the votes against the proposal from the “Greens/European Free Alliance”. One of the most contentious issues in the process was the Indigenous peoples’ right to consultation and free, prior, and informed consent. In the EU, this issue played almost exclusively with the Sami people in northern Sweden and Finland. In the initial Parliament proposal, there had been more binding stipulations on this issue, which would have given—de facto—the Sami a veto over mining establishments in their traditional territories. These parts of the Critical Raw Materials Act had been severely softened during the Tri-ologue due to opposition from the Swedish Government and now there was only an obligation to consult indigenous populations. For the Finnish Greens that was a dealbreaker and their speaker, Ville Niinistö, argued that “there is a kind of neocolonialism in the air when Germans and French tell Finns and Swedes that their nature can be destroyed in the name of mining because we need raw materials” (European Parliament, 2023b). So, perhaps somewhat surprising, the most “nationalist” opposition to the Critical Raw Materials Act came into the debate from green MEPs.

As said, the only party group that did not back the Critical Raw Materials Act was The Left in the European Parliament—GUE/NGL (16 to 44 with 41 abstentions). While their spokesperson Cornelia Ernst took a relatively moderate position, supporting the broader idea of the Act,

<sup>6</sup> Dominique Bilde and Marie Dauchy.

<sup>7</sup> Markus Buchheit.



but criticizing that the level of environmental and social standards, such as the right to consultation and free, prior, and informed consent for indigenous people, had been lowered in the Trialogue, some individual left MEPs took a more belligerent tone. Miguel Urbán Crespo argued that the solution was not “a new extractivist and neocolonial wave, but to consume less and share better”, and Mike Wallace called it a “a blank cheque for the mining and arms industries”. Yet, while there was substantial criticism from this group, in the end it was almost as many MEPs that opted for abstaining than for voting against the proposal (including MEP Ernst). An interviewed assistant of an MEP argued that the liberal rapporteur was relatively open to suggestions from left MEPs in order to reach a fast agreement. As a result, the final result was, given the political power relations in Parliament, seen as a reasonable compromise by most MEPs from the left and center-left parties (Assistant of MEP, personal communication, December 2023).

Also among Member States, there was little debate about the fundamental need for a European response to this issue. Some Member States with traditionally closer economic ties with China are more cautious about breaking any ties (e.g., Germany, Italy, or Spain), than countries who—also under the impression of the war in Ukraine—seek a closer relationship with the United States (most countries in Central and Eastern Europe). But since the Critical Raw Materials Act leaves essentially all options open—more Atlantic cooperation AND more European protagonism—there is not a direct conflict about this yet. A buyers club could set up conflicts between countries with significant mining industries for some critical raw materials (e.g., Finland, Poland, and Sweden) and countries that may look for inexpensive critical raw materials for their industries in electric vehicles and renewable energy technologies (e.g., France, Germany, or Spain) (Hendrix, 2023). The former group may be less interested in low prices than the latter group. But at this point, this dimension cannot be evaluated yet.

## CONCLUSION

The central question this chapter addresses is how EU actors have responded to the fragmentation of the liberal international order in relation to the trade in critical raw materials. Over time, the supply of these materials has evolved from being primarily an economic concern focused on removing trade barriers to becoming a matter fraught with

significant geopolitical and security implications. Of particular concern to policymakers is the EU's vulnerability to China and the potential for the weaponization of resource dependencies. The disruptions to global supply chains during the early days of the COVID-19 pandemic and the Russian invasion of Ukraine, which impacted European energy security, along with the resource demands driven by the digital and green transition, have highlighted this issue on the EU agenda.

This volume's analytical framework uses three concepts of strategic autonomy: autonomy to act, autonomy in case of emergency, and autonomy from external pressures. Each concept is relevant to the discussion on critical raw materials.

Firstly, securing a stable supply of critical raw materials is seen as vital for the development of future technologies in Europe, such as electric vehicles and semiconductor chips. The digital and green transitions are seen as critical junctures. For the EU to maintain its status as a leading political and economic power, it must not fall behind in these areas. Thus, achieving resource sovereignty is a prerequisite for the "autonomy to act".

Strategic autonomy is also seen as a form of hedging in this context (autonomy in case). Although the supply chains for critical raw materials are currently relatively stable, EU actors are striving for resource sovereignty to prevent new dependencies. The Chinese restrictions on gallium and germanium exports in the fall of 2023 illustrate that such concerns are not unfounded.

Furthermore, these policies aim to achieve "autonomy from" resource exporters like China, enhancing the EU's sovereignty. Research indicates that a green transition could reduce the EU's dependency on external resources compared to its current reliance on fossil fuels (Giuli & Oberthür, 2023).

Regarding the potential further fragmentation of the trade order in critical raw materials, nearly all EU actors favor a Europeanist approach. Atlanticists suggest the development of "Western" supply chains to reduce dependencies on China and other potentially unstable suppliers. Most EU actors see room for cooperation with the United States and other like-minded countries, albeit with caution against placing Europe's trust entirely in Washington, D.C. The possibility of Donald J. Trump or a similar protectionist candidate returning to the US presidency casts a shadow over any agreement.

Nearly all key EU actors recognize the threat of further fragmentation and acknowledge the need for a unified EU response. The Critical

Raw Material Act, adopted in February 2024 with remarkable speed, is a testament to this consensus. Its passage through the European Parliament with over 80 percent of the votes and the absence of nationalist opposition from Eurosceptic groups underlined broad support for a Europeanist stance on this issue. Discussions among Member States primarily focused on technical aspects of the legislation, with no objections to the need for a European solution.

In conclusion, this case exemplifies an unusually strong consensus in favor of a Europeanist response to a challenge that is viewed as a fundamental and shared threat to Europe's economic competitiveness and sovereignty.

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# The Global Gateway: Connectivity and Competition in the Global Race for Infrastructures

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## INTRODUCTION

Infrastructures can serve as a tool for power projection and great power competition as well as a means to foster cooperation, trade, people-to-people relations, and interdependence globally or regionally. The global race for building and financing them, thus reflecting a newfound interest in “geoeconomics” (Luttwak, 1990), has been the result of two main drivers: firstly, the shared understanding that there is a major investment and infrastructural deficit which may jeopardise development, trade, and globalisation; secondly, the strategic utilisation of infrastructures by great powers to project influence and status.

In an increasingly “connected, contested and complex world”,—the terms used in the diagnosis of the 2016 European Global Strategy (European Union, 2016, p. 7)—infrastructures are advancing positions on the

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agendas of the leading international actors and are part of what has been labelled as “connectivity wars” (Leonard, 2016). The Belt and Road Initiative (BRI), the global infrastructure mega-initiative launched by China in 2013, was a game-changer. It confirmed China’s ambition as a power with global reach and it made many rediscover infrastructures as a field for competition and even rivalry among great powers.

With the launch of the Global Gateway in 2021 the EU made its belated entry into this global race and the EU has claimed that it was embarking on this competition in a different fashion, one which the EU perceives to be right, better, and fairer than that of its competitors. The idea of an EU mega-initiative on infrastructures had been floating around in Brussels’ corridors but the final backing came with the July conclusions of the Council entitled “A Globally Connected Europe”. The EU was ready to pursue a geostrategic and global approach to connectivity, arguing that, the importance of connectivity and infrastructures is not only for economic growth but for diversification of value chains, reducing strategic dependencies and boosting competitiveness for the EU and its partners. Based on this diagnosis, the Council stressed the importance of investing in physical infrastructure and regulatory frameworks and called on the Commission and High Representative to coordinate with member states and European businesses, as well as with financial and development institutions. It also encouraged deepening partnerships with Japan and India and widening those efforts to include ASEAN, the United States, the G7 and G20 (Council of the European Union, 2021).

In December 2021 the President of the European Commission and the European External Action Service (EEAS) responded to this call and unveiled a new flagship initiative for the European Union: the Global Gateway. This initiative aims at scaling up investments in the period 2021–2027 to mobilise infrastructure development investments of up to 300 billion from EU, member states, financial institutions, and the private sector (European Commission, 2021, p. 8–9). The President of the Commission, Ursula von der Leyen, presented the Global Gateway as a “different approach” to “show that a democratic, value-driven approach can deliver on the most pressing challenges” (Von der Leyen, 2021), a statement that could be interpreted as an attempt to preserve and promote international cooperation, trade, investment and even globalisation. Yet, it could also be read as a message that the EU directed to those that would be promoting those undemocratic and non-value-driven models according to EU criteria. Von der Leyen did not specify who

she was referring to, but the European press unanimously depicted this initiative as “an answer to China” and a “rival to China’s infrastructure offer (Holslag, 2021), in reference to China’s controversial Belt and Road Initiative, which will be covered in subsequent sections. Equally relevant, the Chinese media reported on this project as “another rubber check from West” alluding to the EU’s “feeble credentials”(Qiaoyi & Fandi, 2021). In any case, the launch of the Global Gateway, adds new evidence confirming that the EU “is in the process of becoming a geopolitically and geoeconomically oriented infrastructural policy actor” (Abels & Bielings, 2023, p. 516).

The analysis of the launch and first steps in the implementation of the Global Gateway adds a relatively unexplored case study to the analysis of the European responses to the fragmentation of the liberal international order, exploring the different positions of several EU actors in the field of infrastructures. Do these positions reflect different degrees of concern regarding the geopolitical and geoeconomic competition with China and different appreciations on whether infrastructures could be an area for more robust transatlantic cooperation? Or, on the contrary, do they respond to bureaucratic inertia and inter-institutional competition within the complex EU decision-making process?

By focusing on these core questions, this chapter leaves aside other considerations such as the funding and governance of the initiative, the degree of novelty it represents vis-à-vis previous infrastructure and investment promotion schemes and the preliminary assessment of its implementation which have been analysed elsewhere (Olivie & Santillán O’Shea, 2023; Sauvignon & Benaglia, 2023; Tagliapietra, 2024, among others). The chapter starts with an overview of the global race for infrastructure and the extent to which it reflects broader dynamics of fragmentation of the LIO. The following section identifies the drivers of the EU decision to take part in this race, providing a genealogy of the Global Gateway and mapping those actors that were more impactful in its inception. This is the basis for an in-depth assessment of the motivations and priorities of key players within the EU, the uneven levels of support and involvement in the Global Gateway and the quest for partners within Europe and beyond. By tackling all those elements, the final section before the concluding remarks assesses whether the various views expressed by EU actors reflect alternative views on how to tackle the fragmentation of the LIO, namely whether they espouse nationalist, Europeanist or Atlanticist visions and whether they result from

an acceptance or rejection of the LIO. This assessment is based on public information available through official documents, speeches, statements and parliamentary debates and is complemented by information and opinions gathered in twelve anonymised interviews with relevant stakeholders.<sup>1</sup>

### MORE PLAYERS, MORE FRAGMENTATION?

Infrastructure encompasses a wide range of physical and digital systems, including ports, routes, railways, airports, and digital cables that connect countries and facilitate trade. Whereas infrastructures are made to connect and therefore are a natural driver for integration, be it globally or regionally, their (geo)political instrumentalisation by major international actors as part of a geoeconomics competition can turn them into a fertile field for fragmentation. These dynamics are not mutually exclusive and emphasis on one or the other will not depend on the needs and the priorities set by those actors as much as on whether competitive or cooperative dynamics prevail at the global or regional level. The more aggressive the geopolitical competition, the more likely it is for actors to approach infrastructures not only as a tool to improve their position globally but also as a means to outmanoeuvre or surpass rivals.

Infrastructures and connectivity are one of the many areas where the gradual shift towards a multipolar and competitive world is visible, chiefly because of a more assertive, ambitious, and well-funded policies by non-Western powers. This is epitomised by the Belt and Road Initiative, a Chinese infrastructure and development project that was officially launched in 2013. This project is partly driven by Chinese economic interests as major manufacturers and one of the largest importers of raw materials. Parag Khanna, an Indian scholar specialised in connectivity argued that the post-colonial states and former soviet republics desperately needed new infrastructure while China has the capacity to financially support “distressed neighbours to rebuild themselves—while buying up China’s over-production of steel and cement and employing its huge labour force” (Khanna, 2016, p. 104). It is also partly driven by China’s quest for partnerships and the recognition of a great power status in its

<sup>1</sup> Those interviews were conducted by the author in January–February 2023 with EU officials involved in the design and implementation of this initiative and other stakeholders associated to this process.

vicinity and at the global level. Therefore, the BRI results from both “domestic imperatives and global aspirations” (Peña, 2021: 101).

Although the BRI has been largely seen as the manifestation of a more assertive and ambitious China, when communicating about the initiative, Chinese leaders have emphasised the project’s potential to provide common goods and the fact that the project is open to anyone. For instance, Xi Jinping in his opening speech at opening of Belt and Road Forum in 2017 stated: “all countries, from either Asia, Europe, Africa or the Americas, can be international cooperation partners of the Belt and Road Initiative”, an initiative that he conceives “a new type of international relations featuring win–win cooperation” while also drawing on topics such as sovereignty, dignity and territorial integrity, thus acknowledging that the BRI is also normatively loaded (Xi Jinping, 2017).

The Chinese initiative is meant to channel massive investments (from \$1 trillion to \$8 trillion depending on the sources) in infrastructure projects across Asia, Europe, Africa, and beyond, including ports, railways, and highways. Some of the tools used to promote the BRI include concessional loans and preferential policies. Those loans include clauses foreseeing the control by China of critical infrastructures if the debtor cannot repay their debt. Exemplary of that was Sri Lanka’s handing over to China of the Hambantota deep seaport to pay off debt to repay the Chinese loans Sri Lanka took out to build the port infrastructure. Occasionally, the boost in infrastructure investment is preceded by political or security-related bilateral deals such as the one signed by China and the Salomon Islands in 2022.

At the multilateral level, these developments have been accompanied by a dynamic institutional expansion. Exemplary of this is the creation of a new financial institution: the Asian Infrastructure Investment Bank (AIIB) and the launch of new spaces for dialogue and international cooperation such as the Belt and Road Forum for International Cooperation, whose first meeting in Beijing was attended by 130 countries and 70 international organisations. Among those were several UN bodies such as the UN Environment Programme or the World Meteorological Organisation, which signed agreements with Chinese authorities during that forum.

The setting of those institutions and political platforms have steered a prolific debate among international relations experts as well as China specialists on what the AIIB and the BRI represent in relation to the liberal international order (LIO) connected to a broader discussion on

the implications for that order of China's rise which precedes the creation of the BRI and the AIIB (see, among others, Acharya, 2011; Ikenberry, 2008; Mearsheimer, 2010; Schweller & Pu, 2011). Overall, the AIIB and the BRI have added new cases that some authors had used to support previous arguments. For instance, MERICS, a think tank based in Berlin specialising in China, argued that Beijing has consistently implemented a "shadow foreign policy" consisting of building parallel institutions, among which it includes the BRICS New Development Bank (NDB) and the Asian Infrastructure Investment Bank (AIIB), which suppose a "direct alternative and challenge to the 70 years-old Bretton Woods system" (Heilman et al., 2014).

Other analysts hold a more nuanced position. For instance, Matthew D. Stephen & David Skidmore argue that in comparison with other Chinese-led institutions, the AIIB "may qualify as the least likely case of a substantive challenge to the LIO for two key reasons: membership composition and issue area characteristics" (Stephen & Skidmore, 2019, p. 91). In a similar line, Sung-han Kim and Sanghoon Kim argue that it can be seen as a contestation but not yet a challenge to the LIO (Kim & Kim, 2023). Riccardo Alcaro suggests that the AIIB is a "a way of restraining Western power [...] while remaining anchored in the liberal order structures" adding that "the AIIB has developed projects in cooperation with institutions dominated by the US and its allies, such as the World Bank and the Asian Development Bank" (Alcaro, 2018, p. 157). Amitav Acharya points out that the AIIB, among other institutional developments led by emerging economies, is a sign of dissatisfaction of those actors with the already existing mechanisms that sustain an "outdated system of privilege enjoyed by the Western countries and their abuse of existing rules and norms" (Acharya, 2016, p. 457). Shahar Hameiri and Lee Jones add an important nuance to the debate: despite initial expectations the AIIB is feebly associated with financing the BRI projects, somehow concurring with other analysts that suggest that the BRI is a more China-centric initiative than the AIIB (Hameiri & Lee, 2018).

China is not alone in having a renewed interest in infrastructure. In Asia, Japan launched in 2014 a new initiative to promote and finance infrastructure development: the Partnership for Quality Infrastructure (PQI). This initiative was aimed at mobilising new Japanese resources and increasing the collaboration between Japan and the Asian Development Bank (ADB). The timing, the emphasis on quality and the involvement of an already existing financial institution rather than the creation of a

new one suggests that although it was not openly presented as such, the Japanese initiative was also a reaction to the BRI (Yoshimatsu, 2017). India, the other major powerhouse of the Asian continent, is participating in the AIIB but has so far refused to get involved in the BRI. What is more, as a reaction to China's visible ambitions and some sensitive projects such as China's investment in the Gwadar Port in Pakistan, India has put more emphasis and resources on promoting infrastructures connecting India with its neighbours and more distant partners (Borah, 2019; Sachdeva, 2018). Both Japan and India perceive their own infrastructure projects in response to China's plans. Yet, Tokyo's answer is clearly aiming at reinforcing the institutions of the LIO, while New Delhi seems more open to accommodate its fragmentation.

Regarding Western nations, there is also a very visible link between China's BRI and the launch of infrastructural and connectivity projects by the USA, the UK, and the European Union. These include the 2019 launch of the Blue Dot Network, a mechanism to certify infrastructure projects that meet robust international quality standards which are led by the United States with the support of Japan, Australia, or the Build Back Better World (B3W), an initiative endorsed by members of the G7 and promoted by the USA. The United Kingdom also launched its "Clean Green Initiative" at COP26, whose declared goal is to "help developing countries take advantage of green technology and grow their economies sustainably" and which was framed as the UK's "contribution to the G7 Build Back Better World" (UK Government, 2021). The Global Gateway, which will be the object of a more detailed analysis in the following pages can be seen as part of the coordinated efforts by like-minded countries which share their willingness to preserve the LIO and to prepare themselves for a geopolitical and geoeconomic competition with China. The Global Gateway is ultimately aimed to "help the EU better position itself in the global infrastructure and connectivity race" by building a rules-based cooperation that could be "an attractive alternative to the BRI in several partner countries" (Tagliapietra, 2024, p. 10).

## THE EUROPEAN UNION (RE)DISCOVERS CONNECTIVITY AND INFRASTRUCTURES

Infrastructures have been part of the European integration process since the European Economic Community took its baby steps. Yet, over the past decade, the early focus on improving connectivity among EU



members and between them and their neighbours has expanded to new priorities: how to connect with the rest of the world and how to promote infrastructures far beyond the EU borders. Moreover, the EU is not only an actor but also the target of other actors' connectivity strategies. Europe holds an important position in the BRI as the Chinese initiative aims to connect with European markets. This has resulted in differing opinions, particularly among member states, on whether such plans pose a threat or an opportunity. In that vein, there is a growing concern within the EU over who is in control of critical infrastructures, such as ports and digital cables, particularly if China is the one purchasing or controlling those assets.

The 2003 European Security Strategy took early note of some of those challenges. It framed it as part of a post-Cold War environment and the confrontation between those that want to go further in terms of openness and interconnectedness, and those that aim at disrupting it, specifically mentioning non-state groups. In a context marked by globalisation and accelerated technological developments, progress and security were assessed as “indissolubly linked”, and the document took note of how the EU had increased its “dependence—and so its vulnerability—on an interconnected infrastructure in transport, energy, information and other fields” (Council of the European Union, 2009, p. 29). More than 12 years later, the 2016 European Global Strategy also elaborated on critical infrastructures and the vulnerabilities posed by technological developments. The document explicitly highlights the need for the EU to “pursue a coherent approach to China’s connectivity drives westwards” (European Union, 2016). This statement could be seen as an implicit acknowledgement that the EU had not displayed such coherence so far and that it was precisely China’s activism that triggered the embryonic interest of the EU on global infrastructures.

The analysis of the State of the Union addresses by Presidents of the European Commission, as well the opening speeches of the High Representative and Vice-President of the Commission in the European ambassadors’ annual conferences are an excellent indicator of how the issue of infrastructure and connectivity entered the political agenda and the ways in which changes at the global level modified the EU’s approach to this challenge.

In the State of the Union address in 2016 by Jean Claude Juncker, infrastructures were mentioned in relation to climate change and energy links, that is, disconnected from what is now approached as a global

race for infrastructure. However, in 2017 he argued that if a “foreign, state-owned, company wants to purchase a European harbour, part of our energy infrastructure or a defence technology firm” it “should only happen in transparency, with scrutiny and debate” (Juncker, 2017). Interestingly, although Juncker’s address in 2018 was entitled “the hour of European sovereignty”, infrastructures were not mentioned as part of the core priorities. Yet, Juncker referred to China’s growing trade with Africa and mentioned Japan as a partner with whom the EU is strengthening cooperation “for reasons as much economic as geopolitical” (Juncker, 2018). A few weeks later, the then Representative Federica Mogherini also referred to Asia in relation to connectivity in her opening speech of the EU ambassadors conference in September 2018, announcing that the EU was “working on new strategies for our partnership with India and for connectivity in Asia as a whole” (Mogherini, 2018).

These statements reflected the EU’s effort to engage with several Asian countries, namely Japan and India, to strengthen their cooperation within infrastructures, connectivity, and transport. In September 2018, the EU institutions released a joint communication entitled “Connecting Europe and Asia - Building blocks for an EU Strategy (European Commission, 2018), and signed the EU-Japan Partnership on Sustainable Connectivity and Quality Infrastructure on 27 September 2019 which, according to analysts, could be seen “an alternative model of governance to the Chinese Belt and Road Initiative” (Esteban & Armanini, 2020). Several officials and stakeholders highlighted the importance of this EU-Asia connectivity discussion in setting the direction of the future Global Gateway initiative.

In 2019 the EU held European Parliament elections and renovated the leadership of its institutions. The idea of a massive investment plan on connectivity and infrastructures with global partners around the world was neither mentioned in the speech by then President-elect von der Leyen in the European Parliament in November 2019, nor in the missions’ letters sent to the different commissioners that are now more actively engaged in the deployment of the Global Gateway. This fact becomes even more significant when considering that von der Leyen was insisting on the idea of setting up a “geopolitical Commission”.

In 2020, the outbreak of the pandemic altered the list of priorities and available instruments. For instance, von der Leyen’s State of the Union address referred to NextGenerationEU as “a unique opportunity to develop a more coherent European approach to connectivity and

digital infrastructure deployment” adding that it was not “an end in itself” but about Europe’s digital sovereignty, on a small and large scale (Von der Leyen, 2020). She also touched upon the idea of systemic rivalry—a concept which was first used in the 2019 EU-China Strategic Outlook—when arguing that “there is no doubt that we promote very different systems of governance and society. We believe in the universal value of democracy and the rights of the individual”. The speech also included a veiled nod to the Belt and Road Initiative when stating that, “The Western Balkans are part of Europe—and not just a stopover on the Silk Road” (ibid), a reference that must be framed in a context in which China and several Central and Eastern European Countries, including EU members and countries from the Western Balkans, had established since 2012 the 16 + 1 (currently 14 + 1) cooperation format to boost investments in several sectors.

Despite such early references to infrastructures, connectivity and China, it was not until 2021 when these notions materialised in concrete proposals, announced to the parliamentarians and the European public through the State of the Union address in September and to the EU ambassadors in their annual gathering in December. Von der Leyen’s State of the Union speech in September 2021 is noteworthy for three reasons. Firstly, it embraced a clear geopolitical vision of the connectivity agenda when stating “we are connected to the world by narrow straits, stormy seas and vast land borders”. In that vein, it presented the EU’s Indo-Pacific strategy as “a template for how Europe can redesign its model to connect the world”. Secondly, it reflected a clear attempt to differentiate it from other global infrastructure plans when stating that it aims “to create links and not dependencies” and that the EU will take “a values-based approach, offering transparency and good governance to our partners”. Thirdly, von der Leyen announced that this is an area in which the EU would apply the novel “Team Europe approach” explaining that the first opportunity to materialise would be the upcoming EU-Africa summit in February 2022. The Team Europe approach aims at pooling resources between a wide range of European actors (EU institutions, member states, and financial institutions such as well as the European Investment Bank (EIB) and the European Bank for Reconstruction and Development (EBRD) and was first tested in the response to COVID-19 pandemic. By invoking Team Europe, the EU leadership acknowledged that building and financing global infrastructures requires the concerted effort of many partners whose priorities may compete or even diverge.

One year later, in 2022, Russia's invasion of Ukraine in February altered once more the geopolitical context, the EU's threat perception and its assessment of rivals and partners. One of the EU's main concerns was whether non-Western countries would stand next to Ukraine or, on the contrary, tolerate Moscow's aggression, which was reflected in the way EU leaders approached connectivity and partnerships. For instance, in the State of the Union address the President of the Commission stated that "countries near and far, share an interest in working with us on the great challenges of this century" adding that the EU's future depends on "our ability to engage beyond the core of our democratic partners" (Von der Leyen, 2022b). In that speech, the President of the Commission also emphasised on the need to secure supplies, particularly in areas where the EU is very dependent such as rare earths and lithium which are mainly extracted in China. A few weeks later, speaking in front of the European Ambassadors gathering, HRVP Josep Borrell also elaborated on the EU's geopolitical landscape. He referred to a world "that is no longer there", one in which the EU based its prosperity on "cheap energy coming from Russia" and "access to the big China market, for exports and imports, for technological transfers, for investments, for having cheap goods" Instead, the new situation would require "a strong restructuring" of the EU's economy in an adjustment that "will be tough, and this will create political problems" (Borrell, 2022). Yet, he did not mention the Global Gateway explicitly as an answer to these challenges, somehow reflecting that he personally and the EEAS as an organisation were not among the leading actors in the implementation of this initiative.

One year later, in 2023, von der Leyen emphasised the importance of the EU's values, stating that "Europe is open for competition. Not for a race to the bottom", about China's unfair and "distorting" trade practices. When speaking on the Global Gateway, von der Leyen clearly rejected the fragmentation of the LIO when stating that "Europe will always work to reform and improve the international system", by "working with new and old partners to deepen connections". More specifically, she underscored ongoing projects around Asia, the Middle East, Africa and Europe, highlighting the "uniqueness" of Europe's offer regarding connectivity (Von der Leyen, 2023). Borrell's approach converged, even if he was less confrontational with China. When addressing the European ambassadors, the HRVP described the EU as "the keeper of global and shared values based on the United Nations

Charter” rather than a part of a “the West against the Rest” competition and specifically called for the need to preserve cooperation with China in many fields (Borrell, 2023). Regarding the Global Gateway, Borrell presented it as a foreign policy instrument that can contribute “to strengthen our security policy, not just military but economically”. He also defended the need to transform traditional trade relations into fairer links and partnerships, specifically referring to Latin America.

This discursive evolution shows how quickly and drastically the conversation on China and infrastructures had changed over a decade, partly because of China’s own assertiveness, partly because of a growing and evolving threat perception, reinforced by three consecutive external shocks Trump, COVID-19 and the Russian invasion of Ukraine. It is revealing that back in 2017, the then President of the Commission, Jean Claude Juncker, stated that “we welcome the opportunities created by the Belt and Road initiative – it will bring people and businesses in Asia and Europe closer together” and went as far as offering the EU could “help you build it” (Juncker, 2017). Infrastructures, once seen as a potential area for cooperation with China, have turned into a laboratory where the EU explores how to respond to China and tie new partnerships with like-minded countries in an increasingly fragmented and geopolitically driven international order.

## BUILDING STUFF OR BUILDING FRIENDS: MAKING SENSE OF THE MANY VOICES WITHIN THE EU

In parallel with the evolving focus of the EU conversation on connectivity and infrastructure, the number of actors participating in the debate, the decisions and the implementation of infrastructural policies has grown. In one of the very first analysis of the Global Gateway, Simone Tagliapietra wrote for Bruegel that “the problem is that EU action in the field is fragmented into countless initiatives, undertaken at both EU and national levels” and that this has led to “overlaps, gaps, inefficiencies and lack of geopolitical stance” (Tagliapietra, 2021).

In the framework of this edited volume, it is key to understand whether the different positions of this myriad of actors merely reflect bureaucratic interests, or they also espouse different views on the fragmentation of the LIO, on the willingness to reinforce the transatlantic alliance and on the classical debate between Eurosceptic nationalist, on one extreme, and European federalists, on the other. The following table summarises the

standard reactions to global infrastructures, and therefore to the Global Gateway, that actors could have to depend on their position within these cleavages (Table 7.1).

The mapping of the key players involved in the launch and implementation of the Global Gateway should take into consideration three elements: the uneven degree of involvement and ownership of this initiative, the fact that only a few of them approached it with geopolitical lenses and the fact the implementation of this kind of initiatives involves establishing partnerships with the private sector and with non-EU states and regional organisations. Considering those elements, this section starts with an identification of those actors within the EU's complex institutional architecture that steered the discussion on infrastructure and investment, followed by an analysis on how member states position in the broader conversation on infrastructures and ends outlining the partners that the EU is trying to engage with.

Previous sections have already highlighted the very visible ownership of Ursula von der Leyen's of this initiative. Within the Commission, three other Direction Generals and their corresponding Commissioners have had a more prominent role in the design phase and are more actively involved in the implementation of the Global Gateway. This includes: the Directorate General for Mobility and Transport (DG MOVE), Directorate General for Communications Networks, Content and Technology (DG CONNECT), which was pioneering the first steps of developing a new agenda of connectivity with Asian partners back in 2018, and, in the implementation phase, the department for International Partnerships (DG INTPA). Gradually, and largely due to the availability of funds, INTPA is the unit within the Commission apparatus that took the lead and placed the Global Gateway in a more central position within its policy action.

Other DGs and Commissioners also have a say on this initiative as it extends beyond transport and digital to include climate, energy, education, research and health. DG NEAR, which is responsible for the EU Commission's policies on enlargement and neighbour countries is also associated with the implementation of this initiative in the countries of the Mediterranean basin, Eastern Europe, the Caucasus and the Balkans.

Interestingly, the European External Action Service, which co-presented the joint communication, is less visible in the political communication and implementation efforts of the Global Gateway. As often happens in the complex EU decision-making system, different DGs

**Table 7.1** Standard EU positions on Global Infrastructures and the Global Gateway

	<i>Nationalist</i>	<i>Atlanticist</i>	<i>Europeanist</i>
Acceptance of a fragmented international order	<p>Distrust in the EU's capabilities to promote infrastructures globally, including the Global Gateway</p> <p>Exploring partnership with non-Western global powers</p> <p>Focus on national control on critical infrastructures</p>	<p>Building alliances with the US and other G7 actors to counter China's influence in the Global South and the Global North</p> <p>The Global Gateway as an asset in the transatlantic relation</p>	<p>Upscaling EU infrastructure and investment policies to preserve European sovereignty, preserving areas of influence, granting access to critical materials and mitigating disruptions in supply chains</p> <p>Establishing new alliances and partnerships with middle powers and regional organisations in the Global South</p> <p>The Global Gateway as an alternative not only to China, but also to the US</p>
Rejection of a fragmented international order	Does not apply	<p>Establishing partnerships with the US, other NATO allies and like-minded partners to coordinate efforts in infrastructure projects and reinforce global standards, norms, and institutions. The Global Gateway as a mean to achieve those shared goals</p>	<p>The EU as a champion of liberal values, standard-setter, and multilateral methods. The Global Gateway framed as Europe's contribution to a concerted effort to fill the investment gap and protect globalisation and free trade</p> <p>Privileging partnerships with global financial institutions and specialised agencies and open to partner with any state or regional organisation willing to espouse those values and respect those standards</p>

*Source* Own elaboration

and political personalities compete to make themselves more visible on “shining initiatives” and they must prioritise on which issues they should concentrate their capabilities.<sup>2</sup> So far, the EEAS has not been keen to compete to be a frontrunner, unlike INTPA who ostensibly sought visibility. But even if the prevailing perception in Brussels is that INTPA has overshadowed the EEAS, Delegations of the EU in third countries are meant to play a key role “in coordinating with all stakeholders on the ground and in reaching out to the partner countries, in order to identify projects, match them with financing, and follow up on implementation” (European Commission, 2021).

The dominant view within the expert community is that a project that was initially crafted as a geostrategic endeavour could become less of a foreign policy tool and more of a development one.<sup>3</sup> In other words, rather than using the Global Gateway to promote EU’s foreign policy interests or a distinct geopolitical vision in an increasingly competitive world, the initiative could mainly serve to substantiate and scale-up development plans and international cooperation with other regions, namely Sub-Saharan Africa, where INTPA has more expertise and budget. However, by working on this topic through the scheme that was set in the 2021 communication, INTPA has already been forced to adopt a new mentality, one which does not only take into consideration the development and humanitarian needs of beneficiary societies, but also the interests of the EU and of its private sector too.<sup>4</sup>

There are four exceptions to the bureaucratisation and “de-geopoliticisation” of the initiative. That is, actors that have mainly framed the Global Gateway as a geopolitical instrument. The first is President von der Leyen “enthusiastic promotion (...) both within the EU institutional apparatus and internationally” (Teevan & Bilal, 2023). The President of the Commission decisively contributed to putting infrastructure, investment and connectivity at the centre of the transatlantic conversation on China and the quest “like-minded” partners in the Global South.

<sup>2</sup> Interview with a member of the cabinet of one of the Commissioners involved in the design and implementation of the Global Gateway, February 2023.

<sup>3</sup> Interview with a member of a Brussel-based think tank, February 2023.

<sup>4</sup> Interview with a staff member of INTPA (European Commission), 2023.



The second exception is DG CONNECT. This DG was among the pioneers in calling for a more ambitious infrastructural policy and highlighting its potential in deepening and intensifying cooperation with some Asian countries, namely Japan. It frames the Global Gateway as a response not only to Chinese aggressive tactics and antagonist values by promoting an inclusive and citizen-centered digital policy but also to US protectionist industrial policies. According to EU officials, a European approach to the digital agenda that is alternative to that of China and more ethical and citizen-centred than the one promoted by the US could increase the attractiveness of the EU's offer among partners in other regions.<sup>5</sup>

The third is the EEAS headquarters, personified by then HRVP Josep Borrell. Although the Global Gateway had not been central in his speeches and political initiatives, he elaborated on the need for the EU to adapt to a changing geopolitical landscape and alerted on the EU's strategic vulnerabilities. For instance, in the 2023 Global Gateway Forum he presented the project as part of the EU's reach out strategy to the Global South, arguing that the EU should not only take part in a global "battle of narratives" with other powers but also in a "battle of offers" (Borrell, 2023). Had the EEAS had a greater political cloud in the intra-EU institutional architecture as well as a higher share of the budget, one could have expected the early implementation of the Global Gateway to respond more clearly to these geopolitical considerations.

The fourth one is the European Parliament. Several informants stated that the Parliament as an institution and some individuals MEPs played a significant role in shaping the first conversation on the need for the EU to prioritise the connectivity agenda in its external relations.<sup>6</sup> Central to the Parliament's stance was the conviction that the EU's priorities should extend beyond self-interest, aiming to bridge investment gaps while championing norms, rights, sustainability, and civil society engagement. This could be described as an ethical approach to the EU's

<sup>5</sup> Interview with two officials working for the European Commission, February 2023.

<sup>6</sup> This point was confirmed in the interviews with three different actors: a member of the European Parliament, an official from the Commission that had been involved in the drafting of the Joint Communication and an analyst closely monitoring the EU's policies in the domain of connectivity. All of them also point at Reinhard Bütikofer, a MEP from the Green Party, who contributed to early deliberations on the need for the EU to upgrade its infrastructural policy in its external action and who remaining actively involved in intra-institutional and political debates on the matter.

geopolitical challenges. However, subsequent debates revealed stark divergences among parliamentary groups. While members of the centre-right and centre-left parties agree on the Global Gateway as an instrument to achieve the EU's goals, different emphasis is placed in what these are and how to achieve it. The European People's Party and the Liberals tend to underscore the initiative's geopolitical significance, advocating for the EU role as a key player in managing systemic rivalries and reducing dependencies on competitors like Russia and China. On the other hand, both Socialists and Democrats and the Green Group tend to prioritise sustainability and view the Global Gateway as a means of transformative change, highlighting cooperation and aligning the initiative with the EU's multi-lateral commitments. On the political extremes, opinions diverge sharply: the European Conservatives and Reformists and Identity and Democracy groups framed the initiative as a response to China's Belt and Road Initiative, while the United Left criticised it as serving neo-colonial and neoliberal agendas, the same argument that has supported the group's reluctance towards the Critical Raw Materials Act (Vlaskamp, 2024). These differences underscore ideological divides in interpreting the rationale behind EU infrastructure investments and the perceived competition with China.<sup>7</sup>

Thus, when it comes to analysing how different actors within the European institutions have approached the Global Gateway there is a mismatch between discourse and implementation. In political debates within the Parliament and in high-level political contacts with leaders of third countries, geopolitical arguments remain central, and the EU seems set to project infrastructures as an area in which it seeks partners with whom to promote values, institutions and norms that could be at risk by alternative infrastructural projects led by China and broader challenges to the LIO. Additionally, EU representatives have also highlighted the need to control critical infrastructures or the need to avoid losing influence in other regions in front of China. Yet, when it comes to the implementation, debates on strategic autonomy or European sovereignty are diluted and the focus is moved to more technical discussions on how to promote development in third countries. Should this trend consolidate,

<sup>7</sup> These positions were clearly reflected in the Parliamentary debate that took place on 19 January 2023 regarding the Global Gateway Initiative. Available at: [https://www.europarl.europa.eu/doceo/document/CRE-9-2023-01-19-ITM-005\\_EN.html](https://www.europarl.europa.eu/doceo/document/CRE-9-2023-01-19-ITM-005_EN.html).

bureaucratic politics and institutional inertia are likely to become the most relevant drivers to understand where this flagship project will be going.

In contrast with the activism of Brussels-based institutions, member states have been slow to engage with the Global Gateway and integrate it into national development policies. Even if they have repeatedly backed the initiative in the Foreign Affairs Council and the General Affairs Council, their participation of European leaders and foreign ministers at the 2023 Global Gateway Forum was assessed as “disappointing” and analysts pointed at notable absences from key states like France and Germany (Teevan & Bilal, 2023). Beyond the Global Gateway, it is key to understand significant differences among EU capitals on how to approach the global race for infrastructure and those differences reflect different understandings of the broader geopolitical competition at the global level as well as uneven individual capabilities and infrastructural needs, which can be attributed to both China’s proactive outreach efforts and the higher infrastructure deficits. In contrast, more wealthy or central states within the EU tend to perceive China as a competitor in geopolitical terms.

In the Eastern and Southern extremes of the Union, China’s initiatives have encountered mixed results. The 14 + 1 platform, promoted by China to foster business and investment relations with Central and Eastern European countries, struggled to deliver consistent investment. The Visegrád region and Serbia hold particular significance for China (Karásková et al., 2020), but the promised investments did not materialise uniformly. On the Southern flank and in the aftermath of the 2008 financial crisis, Greece and Portugal strengthened bilateral ties with China, exemplified by China COSCO Shipping’s ownership of Piraeus Port Authority (Mathews, 2017) and massive purchases of public debt. Spain, while desiring improved relations with China, remains cautious to maintain its standing as a reliable partner to major EU powers and the U.S. and has been a vocal proponent of the idea of an “open strategic autonomy” (Otero Iglesias, 2023) with obvious implications in the domain of infrastructure and investment. Italy, once part of the Belt and Road Initiative, reversed its stance, thus making it the most interesting case within the EU member states. Rome gradually distanced itself from this project and is far less enthusiastic about its burgeoning relations with Beijing. Instead, it is seeking stronger ties with other Asian partners, such as India’s Modi. The visible willingness of the Italian premier, Giorgia Meloni, to reaffirm her Atlanticist credentials and reach out to New Delhi, has accelerated a

process, which was initiated by her predecessor, Mario Draghi (Casarini, 2023). This has also translated into a more visible backing of the Global Gateway, illustrated by Antonio Tajani's participation and remarks in the Global Gateway forum, and the willingness to use the G7 presidency to promote cooperation with other like-minded states in this domain.

In the EU core, France and Germany exhibit distinct dynamics in their relations with China. France and China engage in visible competition in Africa, with China upscaling its presence in countries within France's sphere of influence. Germany, reliant on China as a top client for its exports, grapples with the challenge of economic overreliance. The German government is actively diversifying economic relations away from China, emphasising engagement with democracies and like-minded partners. However, internal divisions within the coalition government highlight differing opinions on how to approach this issue. The Chinese investment in the Hamburg port in 2022 became a focal point of domestic German debates (Hildebrandt, 2023), placing the issue of market imbalances and strategic dependences at the centre of political discussions.

Despite these diverse starting points, a converging trend has emerged among European countries: the willingness to reduce economic dependency on China and deepen transatlantic collective responses against threats to the LIO (Cai & Efstathopoulos, 2023). Although it is not the only driver, the war in Ukraine accelerated this trend, influencing the perceptions of countries that were once open to collaboration with China, as geopolitical considerations and security guarantees from the U.S. now take precedence and as Beijing's stance on Ukraine raised many suspicions in Central and Eastern Europe. Hungary stands as an exception as it remains committed to upgrading its cooperation on infrastructures and connectivity with China. Budapest's stance is not particular to infrastructures but reflects a peculiar position when it comes to the relationship with illiberal global powers such as China and Russia, also visible in other issue areas such as public health, and more specifically in the domain of vaccines.

Besides member states, the EU institutions also sought to engage European financial institutions such as the EIB and the EBRD as well as the national public investment banks and development agencies. Not only because they are part of the Team Europe approach, but because they are indispensable partners in funding the Global Gateway initiative. Representatives of those organisations are currently engaged but

when speaking publicly they elaborate on technical aspects rather than geopolitical consideration.

Beyond the Team Europe family, the reach of actors involved in the discussion and implementation of the Global Gateway has widened to include the business community and organised civil society and networks of local governments. Public–private partnerships are deemed crucial for the success of the Global Gateway, with relevant units within the Commission seeking to onboard these stakeholders. Engaging with as many actors as possible is meant to facilitate its implementation and increase its legitimacy. To facilitate this engagement, a Global Gateway Business Advisory Group and a Business and a Civil Society and Local Authorities Dialogue Platform have been launched. Analysts and opinion-makers, particularly within Brussels think tank community are also joining and shaping the conversation, advocating different priorities which build on their own backgrounds and interests, namely connectivity, investment, relations with Asia and development policies.<sup>8</sup>

The implementation of the Global Gateway also requires partners in the countries or regions where those projects are to be built. After unveiling the Global Gateway in 2021, the European Union swiftly moved towards demonstrating its readiness to tie these partnerships and bilateral or bi-regional summits emerged as key platforms for the EU to advocate for the initiative, solidifying relationships and validating the renewed investment momentum.

While initial discussions around connectivity with East Asian nations sparked the inception of the Global Gateway, it became evident that the EU's efforts to integrate infrastructure were notably swifter and more robust in Africa, notably showcased in the 2022 EU-Africa summit (European Council, 2022). Africa's pivotal role can be attributed to various factors, including the availability of funding, institutional momentum, the deficit in investments, and geopolitical competition with China.

Latin America began to garner attention for similar reasons, as demonstrated during the EU-CELAC summit (Council of the European Union, 2023). While recognising Latin America's strategic importance in upholding a rules-based multilateral order and addressing global challenges, the EU also acknowledge its interest in critical materials vital for the twin transitions of digitalisation and environmental sustainability

<sup>8</sup> Interview with a senior official from the European Commission and interview with a Brussels-based think tanker, Brussels, February 2023.

(European Commission, 2023). Although it remains premature to gauge partner reception, Europeans underscore their commitment to not only acquire these minerals but to also foster value creation to benefit Latin American societies, subtly alluding to China's historical interest in raw materials.

Interestingly, despite the proximity and identified investment needs outlined in the New Mediterranean Agenda of 2021, so far, countries in North Africa and the Middle East have not garnered much attention within the framework of the Global Gateway. Only three projects were announced: an optical fibre cable connecting North African shores with Europe; a high-voltage electricity line between Tunisia and Italy; and a desalination plant in Jordan. Analysts have argued that these levels of investment “fail to reflect the potential contribution the region can make to addressing European geoeconomic challenges, and by a significant margin” (Rizzi & Varvelli, 2023).

Among the potential partners, the EU also cultivates relations with global and middle powers whose infrastructural projects could align with or complement the Global Gateway. Two global fora have become the platforms for preliminary attempts to coordinate efforts. One is the G7, the gathering of mature industrialised economies. The communiqué of the White House in the 2021 G7 summit was quite explicit as it presents the infrastructural efforts of the G7 members as a “strategic competition with China and commit to concrete actions to help meet the tremendous infrastructure need in low- and middle-income countries”, adding that the B3W initiative is “a values-driven, high-standard, and transparent infrastructure partnership led by major democracies” (The White House, 2021). In 2022 the G7 members went a step further with the announcement of a Partnership for Global Infrastructure and Investment (PGII) and President von der Leyen clarified that the Global Gateway would “be under the roof of the PGII” (Von der Leyen, 2022a). The G20 summit in New Delhi was also the stage where the EU joined forces with India, the US and a few other states to launch a new initiative: the India-Middle East-Europe Economic Corridor (IMEC) intended to connect through maritime and new railway routes India to Europe through the United Arab Emirates, Saudi Arabia, Jordan, Israel and Greece. Both the PGII and the IMEC were widely received as initiatives countering China's BRI. While projects within the G7 could easily be presented as attempts to preserve the LIO in the domain of infrastructures, it would be far more

difficult to do the same vis-à-vis IMEC, if only because of the enthusiastic support of states that can hardly be described as liberal.

## CONCLUSIONS

Infrastructures have emerged as the new laboratory in which EU actors—member states, institutions, political groups, civil society, and business communities—are reacting to the fragmentation of the LIO. The Global Gateway, an initiative launched in 2021 to promote a “European way” to building and financing infrastructures globally, is a telling case study on European reactions to a fragmenting LIO. It is premature to assess the impact of the Global Gateway on this fragmentation, that is, whether it contributes to sustaining the old order or further fragmenting it. Nevertheless, assessing the motivations behind its inception and the divergent attitudes within the EU towards this project does offer valuable insights into broader political dynamics that are central to this collective research endeavour.

The launching of the Global Gateway has been shaped by both external and internal processes. Externally, it reflects global phenomena such as China’s proven ambition to become a major global power, fluctuations in transatlantic relations, the growing weight of the Global South, and concerns arising from the weaponisation of interdependencies and disruptions of supplies following the COVID-19 pandemic and the Russian invasion of Ukraine. Internally, the Global Gateway has also been shaped by intra-EU power struggles. Exemplary of that is Commission President Ursula von der Leyen promotion of the initiative to consolidate her position within the EU institutional architecture.

Although the Commission is in the driving seat of this initiative, its implementation requires the involvement of many other actors. Aware of the need to pool resources and avoid overlaps, this is one of the areas where the Team Europe approach is tested. However, not all the members of this “team” wield equal influence in shaping the direction of the Global Gateway and broader EU infrastructure debates. Interestingly, in the period studied (2021–2023), the HRVP and the EEAS headquarters played a secondary role, even though this project holds high geopolitical relevance. Member states have also been lukewarm in their involvement. Even if institutional inertia is difficult to break, this could change in the future. Some policy shifts, such as the distancing from China and the BRI by Giorgia Meloni’s Italy, exemplify the fluidity of these positions.

The stances of various EU actors in the field of global infrastructure reveal a spectrum of nationalist, Atlanticist, and Europeanist approaches to foreign policy. Sometimes, these positions blend both Atlanticist and Europeanist approaches to foreign policy, as exemplified by von der Leyen's framing of the Global Gateway as part of a concerted bid by G7 countries. Conversely, State nationalists can also invoke transatlantic solidarity, as shown by Giorgia Meloni's repositioning in the international arena. Therefore, this shows that the tests the European integration will be facing as well as the uncertainties around the degree of convergence with the US will be shaping the way Europeans position themselves in the domain of infrastructure. Additionally, this chapter reveals that ideological or geopolitical orientations alone do not fully account for variations in enthusiasm or implementation strategies. Bureaucratic interests, uneven budgetary capabilities and personalities of influential individuals are part of the equation.

The initial steps of the Global Gateway suggest that three tensions will continue to shape the deployment of the initiative and its relation to broader foreign policy debates. The first is between those who apprehend the Global Gateway as a collective effort to upgrade global investment in infrastructures through multilateral mechanisms and opened partnerships whereas others see it as a scenario set for geopolitical competition and areas of influence. The second is between those that prioritise partnering with the US and other like-minded partners and those for whom this cooperation is not central to the success of the initiative. The third, far less glamorous, concerns the battles for power within the intra-EU complex institutional architecture.

The narratives on infrastructures, the choice of partners, and priority projects will shed light on how these tensions are managed and on which of the alternative approaches to infrastructures (collaborative or competitive, Atlanticist or Europeanist, nationalist or not, politicised or technical) prevails. This will depend as much on internal dynamics within the EU as it will reflect changes at the global stage, including the solidity of transatlantic relations, the cohesion of the Global South, and the success of China's economic model.



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# The EU's Response to the Fragmented Emergence of Artificial Intelligence

*Giovanni Briganti Dini*

## INTRODUCTION

On March 13, 2024, The European Union (EU) celebrated bringing the Artificial Intelligence Act (AIA) policymaking process to a close: the Parliament had approved it and the AIA was on track to become the first comprehensive, horizontal Artificial Intelligence (AI) regulation globally. The winding road started in April 2021, with the Commission's AIA proposal, followed by public consultation, thousands of amendments from the Parliament, Council and Commission, significant corporate lobbying pressure and civil society scrutiny before and during the inter-institutional negotiations, to finally settle on the current text. During this time, the AI sector attracted evermore attention as Open AI released ChatGPT-3 to the public, and generative AI, natural language processing and machine learning became common terminology. The EU succeeded

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eventually in its objective of creating the first AI regulation of its kind and occupying the pole position to influence emerging global norms.

This was seen as a way to set benchmarks in an issue area that is widely perceived as geopolitically and economically crucial for the coming decades as it will influence the pathway of the “fourth industrial revolution”. According to the World Economic Forum (WEF), Industry 4.0 “represents a fundamental change in the way we live, work and relate to one another” indicated by the fact that technological “advances are merging the physical, digital and biological worlds in ways that create both huge promise and potential peril” (WEF, n.d.). AI is widely understood as transversally applicable to Industry 4.0 and is expected to grant economic and competitive advantages in given sectors or even disrupt the balance of power among states and between state and private actors (Horowitz, 2018; EC, Table 1; Vincent, 2017; Webster et al., 2017).

Due to the political importance of AI, the EU’s response to these emergent technologies is a reflection of broader external policies. The main aim of this chapter is to map the positions of different EU actors with respect to the regulation of AI. Using this volume’s analytical framework, it will explore whether they adopted nationalist, Europeanist or Atlanticist positions in relation to the regulation of AI, as expressed through the AIA negotiations and related statements and the framing of the EU’s flagship digital policy package by institutional leaders.

In addition, the EU is not an industry leader in AI development, barring exceptions in given sectors such as industrial robot production, and the research, production and marketing of AI applications are global endeavours conducted by multinational companies that control the necessary digital and physical assets: data, computing capacity and algorithms. In other words, the EU and its Member States have little direct power to shape AI’s future trajectory and how it in turn transforms wider society and impacts national and regional interests. The EU’s only practicable option at present is to leverage its normative power and internal market, or the Brussels Effect (Bradford, 2012) giving a large international dimension to the politics of AI: it is not just a question of what should be permitted in European AI development, but how to influence global norms so as to advance EU/Member State interests in a globalised yet fragmented market; moreover, how to do so while almost entirely dependent on US and Chinese technology.

Many of the other chapters of this volume discuss how EU actors have reacted to the fragmentation of the liberal international order, but this



chapter is in a certain sense an outlier as there are no global regulations and norms for AI, and consequently, there is no scope for rejection of or resistance to global fragmentation. The issue of AI is not detached from broader geopolitical trends and emerges in a context of increasing rivalry between great powers that also contributes to a wider fragmentation of the digital sphere. As a result, multilateral efforts by the United Nations have failed to gain traction, and UN General Secretary Guterres recently concluded that “in the face of the serious, even existential threats posed by runaway climate chaos, and the runaway development of AI without guardrails, we seem powerless to act” (WEF, 2024). Consequently, the EU is constrained to bilateral agreements with like-minded countries and any cooperation occurs within limited clubs such as the OECD.

Before turning to the analysis, it is probably helpful to define the term AI to make clear how it is understood in this text. The exact definition of AI systems is, in fact, a highly politicised issue and was hotly disputed in the policy process that led to the AIA. This paper will use the definition eventually agreed upon for the AIA:

An AI system is a machine-based system designed to operate with varying levels of autonomy and that may exhibit adaptiveness after deployment and that, for explicit or implicit objectives, infers, from the input it receives, how to generate outputs such as predictions, content, recommendations, or decisions that can influence physical or virtual environments. (Artificial Intelligence Act, 2024)

As mentioned above, AI models require three main elements to function: training and input data; algorithms that direct how data is interpreted and what outputs the model generates; and computational power for the model to conduct the required calculations and processes. Each of these is to varying extents reliant upon physical infrastructure and assets themselves subject of growing geopolitical rivalries. Moreover, the software algorithm and data layers are also the sites of ongoing normative contestation between states among themselves and between states and companies.

This chapter is structured as follows. The second section will discuss the broader international order in the area of AI (or the lack of it). Given that the issue cannot be seen independently from regulations for digital technologies, it will also cover broader issues such as the wider digital economy or the splintering of internet networks. Section three

will examine the EU's response to AI's emergence among growing international competition and connect it to the broader concept of digital sovereignty. In the fourth section of the chapter, the responses of different EU actors will be analysed. The concluding section summarises the findings and puts them in a broader context.

## DIGITAL CONSOLIDATION AND FRAGMENTATION

Due to the complexity of computation that AI requires, as well as its resulting resource intensity, a prior proliferation of digital technologies was necessary for its subsequent and ongoing emergence. This global digitalisation was enabled in part by the virtuous cycle of liberalism and connectivity, itself accelerated by US unipolarity, that each of the three constituent parts of AI benefited from and which further drove the opening of markets and global spread of connectivity characteristic of the LIO. The US thus fostered a minimally regulated global digital market and the passing of the 1996 Communications Decency Act, absolving digital platforms from liability for content posted therein by users, promoted a free speech and free-market model that spurred the rapid growth of today's digital giants.

The dominant neoliberal doctrine of the time also predicted that this liberalising US model of digitalisation would accelerate global democratisation (Ott & Rossner, 2000) and politically homogenise the world through connectivity. Such lofty goals appeared feasible at a time of minimal, if any, resistance or obstruction to the rapid dissemination of digital technology. Private sector-based standard setting and self-regulation remained largely unquestioned, including in the EU.

That said, two caveats are in order. First, on the reality of the liberal nature of US-led digitalisation, where government interventionism has increased in Western and emerging powers alike over time, the digital economy's initial emergence also depended on US government-funded infrastructure and research, as is well known (Mazzucato, 2018) and was understood by even prominent Liberal analysts as a means through which the state could exercise power, directly (Nye & Owens, 1996) or indirectly (Boyle, 1997), somewhat weakening the notion that technolibertarianism drove digitalisation.

A second caveat is on democratisation: anxieties about the risks that information technologies entail for democratic societies and individual well-being have long accompanied their development in academia and in

fiction. This was all the more the case for AI, with Alan Turing's (1950) "Computing Machinery and Intelligence" essay predicting machines would eventually dominate humanity from the very start of the pursuit to create artificial intelligence.

Thus, alongside the liberalisation and democratisation narrative, digital technologies were understood as providing strategic resources well before China began to erect the first meaningful state-based digital border that more recently set the stage for today's age of Digital Sovereignty. The digital sphere is today characterised by bounded and competing internet networks and markets shaped by government intervention alongside private initiative. The dominance of US companies, fast being caught up to by their Chinese counterparts, and the heavy subsidisation of these by the US and Chinese governments respectively (Mazzucato, 2018; Roberts et al, 2021) has today effectively developed into a form of neo-mercantilism (Farrand & Carrapico, 2022; Larsen, 2022; Mueller & Farhat, 2022) especially as the weaponisation of interdependencies becomes commonplace (Farrell & Newman, 2019).

In this light, the EU has gone from relatively uncritically taking the US model of limited government oversight in the 1990s and early 2000s to now employing its traditional market-creating mechanisms familiar to other sectors (Dosenrode, 2016) alongside a more recent market-directing turn. These efforts have in the first place created barriers to transatlantic cooperation on emerging technologies such as AI and will continue to do so barring concessions made by the US in the explicit interest of convergence or as a result of the ongoing techlash (Bradford, 2023).

Following Perarnaud and Rossi's (2023) approach in their European Parliamentary Research Service report that states "both internally and externally, the EU has repeatedly committed to promote the development of a single, open, neutral, free, secure and un-fragmented network, while adopting a more strategic approach to the making process of internet standards and protocols" (p. 1) we can take the US internet as the early digital sphere's status quo, and divergences, including those generated by EU policies, can be understood as fragmentary within the West, even while seeking global convergence. These are characterised as "geo-dirigiste" by Seidl and Schmitz (2023, p. 1), who assess a turn from concentrating on market creation and cohesion towards emphasising market direction, whereby policies that encourage the emergence of markets are now accompanied by regulations that guide said

markets towards given long-term goals and geopolitical benefits (p. 3). In the 2010s, the EU began to regulate the digital sphere in terms of privacy protections, content liabilities, enforcement of taxation and anti-trust legislation of large, mostly US-based, digital platform companies, a process that started in the wake of the Edward Snowden revelations and the Schrems saga on US-EU data transfer, with the latter still ongoing ten years later.<sup>1</sup>

The European Digital Compass published in March 2021 kicked off a decade of digital policies and objectives that are promised by policy-makers to cement the strategic or sovereign turn, as does the framing of the same by EU leaders in their speeches and statements. In contrast, the 2016 Global Strategy did not feature the terms “digital” or “artificial intelligence”, with only “cyber” featured in relation to cybersecurity gaining some attention. The overarching objective now goes further than mere internal cohesion and capacitation with the new stated aim being strategic digital autonomy, or digital sovereignty.

These are, unsurprisingly, contested terms that break with past notions of both the digital sphere and of the EU, both of which were previously thought of as emblematically post-national and thereby contrasting with the idea of sovereignty. The changes in political economy that digital or data economies of scale demand, namely the tendency towards ever larger and multifunctional platforms with client bases that dwarf most national populations, along with the transnationally networked nature of digital communities, create pressure on nation-states to compete to control or at least have access to larger polities and thus enable their respective digital markets’ competitiveness (Lehdonvirta, 2022; Spolaore, 2009). For these reasons, states aiming for digital sovereignty almost invariably seek to pool resources with others even as they pursue greater autonomy. In other words, digital sovereignty, especially as exemplified by the EU’s aim for digital “open” sovereignty, refers to shared control and regulation, pooled resources and networked spaces with varying degrees of enclosure. The pursuit of digital “open” sovereignty is a manifestation of exactly this.

<sup>1</sup> Max Schrems, concerned by the Snowden revelations of 2014 on US Intelligence Agency access to Europeans’ personal data, brought a series of cases to the European Court of Justice that led to the passing of the GDPR in 2016, the invalidation of the US-EU data transfer agreement known as the Safe Harbor Mechanism in 2020. See Case C-362/14 Maximilian Schrems v Data Protection Commissioner, CJEU.

The need to pool resources or sovereignty is exemplified by the EU Commission's bilateral digital cooperation agreements with Japan, Brazil, Singapore and South Korea, the Transatlantic Technology Council (TTC) with the US and the TTC with India. That is to say, it is not economically viable for the EU, or its Member States, to reshore entirely in this sector, and a degree of cooperation, even between direct rivals such as China and the US, remains the norm. While global fragmentation may be prevalent, there are also dynamics of convergence among clubs of countries and continued cooperation amidst growing tensions. This is most aptly demonstrated by the evolution that the EU Chips Act has undergone from aiming to "bolster Europe's competitiveness and resilience in semiconductor technologies and applications, and help achieve both the digital and green transition" (EC, n.d.a) to being coordinated with the US equivalent act through the TTC set up by the Biden and von der Leyen administrations.

In this context, several legislative acts have been approved in a second digital regulation wave following the 2018 implementation of the GDPR. The Digital Markets Act (DMA) and Digital Services Act (DSA), the Data Act (EDA), and the Data Governance Act (DGA) were passed in 2022 and can all be classified as "market directing" responses to US rights-infringing monopolistic digital platforms, as can the AIA described below.

## THE EUROPEAN UNION REGULATES ARTIFICIAL INTELLIGENCE

When formulating digital policy, EU actors navigate a complex landscape shaped by digital neo-mercantilism and evolving geopolitical dynamics. The AIA did not only have to address the immediate concerns surrounding AI ethics and regulation but also the broader implications for global power dynamics and sovereignty. The AIA debate process is therefore revealing as to EU reactions to AI's fragmented emergence as is the analysis of the market directing turn in wider digital policy outlined in the previous section.

Though now less discussed as AI applications proliferate, as do their accompanying risks, Lethal Autonomous Weapons emerged as the arena for the first meaningful debates among states on AI ethics and regulation (Amoroso, 2020; Asaro, 2012; Barbé & Badell, 2020; Roff, 2014), debates that have since moved to the wider array of AI applications with

LAWS contestation in the EU remaining very much unresolved (Badell & Schmitt, 2022).<sup>2</sup>

Preceding the AIA proposal, the April 2018 “Artificial Intelligence for Europe” Communication from the Commission (EC, 2018) opened with the phrase “Artificial intelligence (AI) is already part of our lives—it is not science fiction”, illustrating the urgency of catching up to competitors and setting a forecasting tone from the off while alluding to political and existential threats of familiar fictional takes on AI. This set the rationale for both market creation and market direction. Thus, market creation serves the pursuit of EU asset and operational autonomy while market directing regulations are employed to safeguard EU norms and values with the aim of achieving decisional autonomy.

Indeed, the 2018 Communication represented the EU’s entry into the race to define the norms that will shape AI development and followed US and Chinese publications of their national AI strategies in 2016 and 2017, respectively. The US National Science and Technology Council’s Strategic Plan (2016) stated its aim to “enable the United States to remain a world leader in AI” (2016, p. 3), while China’s AI Development plan states that “by 2030, China’s AI theories, technologies, and applications should achieve world-leading levels” (Webster et al., 2017, p. 6). The EU arrived late to the race but swiftly took the lead in developing legislation. This urgency reflected an effort to leverage the Brussels Effect and attempt to shape the emerging AI sector despite having fallen behind in AI development. Thus, the normative vision of EU market directing digital policies aims to safeguard the internal market and shape global AI development indirectly.

In fact, the EU market directing turn reflects anxiety about being digitally colonised by precisely the US and China via their digital giants, as expressed by the Special Rapporteur to the Committee on Artificial Intelligence Axel Voss in his report to the EU Parliament (EP, 2021). With power increasingly resting in the control of digital information—whether the capacity to produce technology or to store, process and generate economic and strategic value from data—the EU’s lack of digital asset and operational autonomy render it digitally dependent, while the weakness of its regulatory enforcement and little impact of its fines (noyb.com,

<sup>2</sup> Military applications of AI are not regulated by the AIA and are referenced here only for the role the LAWS debate had on the AI ethics discussion that preceded the AIA proposal.

2023) on technological behemoths undermine its decisional autonomy as even seemingly large fines (European Commission, 2017) of billions of euros have minimal impact. Reflecting this unease, European policymakers' rhetorical emphasis on autonomy and sovereignty is to some degree backed by the Digital Compass and accompanying policy set detailed in the previous section.

The AIA is an undoubtedly normative regulation that includes market creating and directing aspects. It is framed by EU policymakers as responding to the threats to rights that AI is perceived to entail as well as promoting its development in the EU in the interests of competitiveness. It is a horizontal regulation that designates the degree of oversight that applications and companies are subject to according to a four-point risk scale from minimal, to limited, to high and finally unacceptable risk, the latter entailing a comprehensive ban from being marketed in the EU. Minimal-risk applications have no regulatory requirements, while the categories of limited and high risk carry corresponding compliance loads. Limited risk applications carry transparency obligations while high-risk applications—or those relevant to critical infrastructure, education, product safety, employment, essential services, law enforcement, migration and justice—come with obligations that include risk assessment, dataset quality obligations, activity logging for traceability, transparency, human oversight and high standards of robustness, security and accuracy.

This risk-based approach is intended to “future-proof” the AIA, with the idea being that as new and unpredicted technologies emerge risk assessment will remain applicable. The Commission proposed the AIA in April 2021 and it has since undergone public consultation, parliamentary deliberation through a dual-Committee process, a vote of approval from parliament and the December 2023 Political Agreement between the EU Commission, Parliament and Council of Member States. The AIA proposal could be seen, as described by Luciano Floridi (2021), a former member of the High-Level Expert Group on AI (HLEGAI), as “a good starting point to ensure that the development of AI in the EU is ethically sound, legally acceptable, socially equitable, and environmentally sustainable, with a vision of AI that seeks to support the economy, society, and the environment” (p. 216), characterising this as an ambitious goal but one which the EU is ideally placed to deliver on.

The AIA proposal and the wider global proliferation of national AI strategies, ethics guidelines and voluntary standards and regulations generally gravitate around the norm-setting power of the OECD

(Schmitt, 2022), G20 and G7, with the latter instituting the Hiroshima process in 2023 to coordinate a common approach to AI based on human rights and trustworthiness. In the same year, the OECD definition of AI was largely adopted in the AIA by request of the majority of Member States due to its greater precision and exclusion of pre-existing forms of software (Bertuzzi, 2023a). The OECD definition is also more closely aligned with that of the United States' National Institute of Standards and Technology (2023), thus aptly demonstrating the Atlanticist versus Europeanist tensions the AIA formulation is subject to: on the one hand the AIA is emblematically Europeanist and fragmentary, on the other hand it adopts key ideas from the US and OECD to drive future convergence.

Indeed, loose cooperation between the EU and OECD appears to have had a taming influence on EU divergence from US standards, also because the OECD principles on AI, as Schmitt (2022) points out, have been adopted by the G20 and therefore by Russia and China, thus bridging geopolitical divides. In addition, Schmitt observes that the OECD hosts the Global Partnership on AI (GPAI), which includes several Global South members and can be seen as aiming for convergence. Despite the heterogeneity of actors present in such initiatives, these share a preference for a narrow and technical definition of AI that is likelier to be permissive to innovators so as to promote the fast development of AI in their respective territories. Additionally, in November 2023, the first AI Safety Summit saw 28 States, including the USA and China, the UK, leading EU States and the European Union sign the Bletchley Declaration (Gov.uk, 2023) on addressing frontier AI risk. In this context of emerging and overlapping international initiatives, the EU aims for its seminal Act to set a global benchmark for companies and states, making the AIA's deliberation a revealing space where EU actor positions on digital and global strategies emerged.

Another driver of convergence between EU and US digital policies is the large gap in capacity between the two, which incentivises cooperation from the EU despite its misgivings about US light touch regulation. An example is provided by TTC's coordination of US and EU Chips Acts. This changes the latter from a potentially protectionist measure to one that aims for a mere increase in operational and asset autonomy, i.e. autonomy *as responsibility to*, together with the United States, secure Western and "like-minded" country supply chains, as well as autonomy *as hedging* in case relations cool. Thus, US sanctions and export restrictions on advanced chips to China, for the explicit purpose of slowing the latter's



AI development (Unites States Bureau of Industry and Security, 2022), have been joined by EU Member States such as the Netherlands and allies such as Japan (Sevastopulo & Fleming, 2023), thereby creating an embryonic Western chips bloc that includes a wider group of economically developed democracies.

## THE EU RESPONSE TO THE FRAGMENTED EMERGENCE OF ARTIFICIAL INTELLIGENCE

To assess EU responses to the emergence of AI in line with this volume's framework, i.e. categorising responses as nationalist, Atlanticist or Europeanist, it would be useful to define how each of these positions is expressed in the area of AI and digital technology.

The status quo position is Atlanticist: actors accept that EU operational and asset autonomy in AI is not an immediately feasible goal and prioritise US partnership. This position is accompanied by accepting the dichotomy that regulation stifles innovation and thus seeks a light-touch approach to promote innovation in a Western digital sphere. This is also to accept a considerable degree of risk to EU citizens' rights and democracy in the EU, setting aside anxieties about the power of US digital platform companies and their monopolistic hold over AI development in favour of shoring up the West versus the rest.

Given the US-led *laissez-faire* approach represents the status quo, Europeanism is in this remit fragmentary. Europeanism in the digital sphere has emerged in the wake of the Snowden and Wikileaks revelations of the 2010s and the monopolisation of the digital sphere by US companies. It can be summarised as regulating platform monopolies to safeguard Europeans' individual rights and autonomy as well as European market competitiveness. Such regulations thus defend given rights, such as privacy, as well as seek to enforce anti-trust and tax law so as to allow EU companies to compete with US giants in a sector almost entirely shaped and dominated by the latter. The ultimate goal is, as in other areas, a fully integrated EU digital market that can compete globally and thereby guarantee the continued protection of liberal democratic rights and values, or so-called European digital sovereignty.

Finally, nationalist positions in AI are marked by prioritising national interests over EU interests, with large overlaps and a minimal potential to clash with Atlanticist priorities. Given the EU's enforcement of anti-trust law and tax law to regulate US digital giants for the sake of European

competitiveness, fiscal policies such as those employed in the Netherlands and Ireland that privilege US digital companies headquartered in each state could be characterised as fiscally nationalist, or Atlanticist. Certainly, fiscal nationalism undermines Europeanist goals for the integrity of the single market. Likewise, the non-enforcement of data protection laws by the Irish Data Protection Supervisor serves both national and Atlanticist interests by providing the incentives that attracts the US tech sector to headquarter in Ireland. Finally, the development of AI-assisted biometric identification technologies in the name of internal security departs from the EU's attempt to ban such applications. Each of these examples overlaps considerably with Atlanticist positions—the former two privilege US companies and encourage their continued market dominance, in the process undermining EU competitiveness and privacy regulations, and the latter opens Member State markets to rights-infringing security-AI technologies developed in the US. Similarly, the regulation-innovation binary is also employed by EU actors speaking for national interests. Barring any potential clashes over AI security or defence cooperation with China, a nationalist approach to AI development requires middle powers to the bandwagon, with the US being almost invariably the more, if not exclusively, favoured world power for EU Member States.

Starting the analysis with the EU institutions, the parliamentary draft of the AIA, passed by dual-committee and then by a plenary vote in May and June 2023, respectively (EP, 2023, May 11), is more Europeanist than the original Commission draft (Chee et al., 2023). It calls for an outright ban of live biometric identification (EDRi, 2023) with only narrow exceptions, despite right-wing, nationalist and Eurosceptic MEPs' calls for greater permissions for security and market-creating purposes, and it introduces bans to AI hiring and firing that were not present in the original. On foundation models and generative AI, the Parliament sought strong copyright protections and high-risk categorisation.

The original Commission draft may have been less strict, and therefore appear more Atlanticist than the parliamentary one, in part due to having come two years prior to significant technological developments, particularly the release of the foundation and generative AI model ChatGPT in late 2022, that would then influence the parliamentary draft. ChatGPT was so hyped that it was immediately touted as a potential threat to Google Search; its developer, OpenAI, received the largest funding round of 2023 (Metinko, 2023) at an estimated \$10B from Microsoft (Warren, 2023), which is using the chatbot to resurrect its own poorly reputed

search engine. A chatbot race became evident (Johnson, 2023), with Google, Meta, Baidu and Alibaba wading in with their own fast-tracked releases. With the largest technology companies scrambling to dominate this space, and with the shortcomings of and disinformation risks posed by Large Language Models (LLMs) like ChatGPT fast becoming evident, the Italian Data Protection Authority (DPA) issued a temporary ban, which alerted Member and third States alike that new issues of privacy, democracy and intellectual property were emerging in this area as well. Environmental concerns were also raised and corresponding requirements were included in the parliamentary AIA.

It appears that the prior accelerated emergence of digital platform power and how it shaped markets, political discourse and the distribution of power in the last decade primed EU MPs for the new-found prominence of foundation and generative AI models. The co-rapporteurs that led the parliamentary negotiations process, Dragoş Tudorache and Brando Benifei, were quick to propose these should be classified as high risk in light of their potential use for manipulating information as well as due to function creep (Bertuzzi, 2023b). The former of these two MEPs being from the centre-right Renew party was significant as the centre-right appears to have followed his lead and approved the high-risk classification of generative AI in alliance with the centre-left. Thus, the parliament voted through a draft with wide consensus that positions it as strongly Europeanist, as per tradition.

Analysing EU leaders' speeches and statements on AI and the accompanying package of policies, regulations and cooperation agreements (see Table 8.1), the goal of lowering dependencies on third-country technologies, particularly large US platforms, is a prevalent theme. This is, at the rhetorical level and in the aims of these policies, quite a clear Europeanism, and each of Competition Commissioner Margrethe Vestager, Internal Market Commissioner Thierry Breton, EVP/VP Josep Borrell and Commission President Ursula von der Leyen frame the Commission approach as a Europeanist campaign to defend EU values, project them internationally and thereby protect them at home by ensuring European competitiveness and individual rights in the future (Table 1). This is corroborated also by Roberts et al's (2021) analysis that found data governance and platform power were the prevalent concerns addressed on EU institution websites, followed by the need to invest in digital infrastructure.

**Table 8.1** Speeches and Statements Analysed in this Chapter

<i>Speech or Statement</i>	<i>Year</i>
All speeches and statements from the office of the President of the Commission Ursula von der Leyen	2019–2024
All speeches and statements from the office of the Executive Vice-President Margreth Vestager	2019–2024
All speeches and statements from the office of the European Commissioner for Internal Market Thierry Breton	2019–2024
All speeches and statements from the office of the High Representative of the European Union for Foreign Affairs and Security Policy Josep Borrell	2019–2024

*Source* Own elaboration from speeches and statements available on the EU Commission website (E.C., n.d.b). It contains all speeches and statements analysed by EU Commission President Ursula von der Leyen, Executive Vice-President Margreth Vestager, European Commissioner for Internal Market Thierry Breton and High Representative of the European Union for Foreign Affairs and Security Policy Josep Borrell found with the keywords “Artificial Intelligence” and “AI”

Over time, the Europeanist framing these leaders employ is tempered by increasing Atlanticism as the Biden administration repairs ties with the EU and the US-EU Trade and Technology Council is set up. The cooperation aims and mechanisms found therein, namely in AI regulation, foreign direct investment coordination and chips reshoring, along with some new-found initiatives from the US judicial branch and at the agency level to legally challenge platform monopolies, point to renewed convergence, which EU actors celebrate as EU-led. Thus, examples previously employed to differentiate the EU, such as its efforts to reign in platform power, are now provided as indicators of EU international leadership. An instance is provided by EVP Vestager’s February 2022 speech in which she summarised the EU’s legal cases against US technology companies and stated:

Now, digital markets are on everyone’s agenda. In the United States, the FTC’s investigation into Facebook is seeking a divestiture of Instagram and WhatsApp. The Department of Justice is looking at practices similar to the ones covered by our Android complaint.

And it’s not just in America. There is also action happening in the UK, Australia, Japan, South Korea and India ... It means there is international consensus that action needs to be taken to protect consumers and businesses in these markets. (EC, 2022)

Table 8.2 illustrates the at times contradictory and certainly diverse positions among EU actors vis-à-vis the emergence of Artificial Intelligence. This reflects the contrast between the emancipatory long-term goals of EU policymakers and the reality of ongoing dependence on the US and Chinese tech sectors, most keenly felt at the Member State level. The Member States' approaches to AI are diverse, and contradictory in themselves, and can be roughly categorised according to their responses to the more controversial aspects of AI that have attracted greater contestation: LAWS, biometric surveillance, foundation and generative AI models, the latter of which caused a momentary collapse in the latter phases of the EU interinstitutional negotiations (or trilogues) as France, Germany and Italy threatened to block the AIA altogether for over stringency (Bertuzzi, 2023c).

Additionally, the Member States each have varying degrees of dependence on US and Chinese technology and investment and balance the interests of the EU with national economic and security concerns. On the latter point of security, Member States may appear to align with either China or the US more than they do with the EU in developing rights-infringing technologies, yet that likely reflects national interests more than

**Table 8.2** EU Actor Positions Vis-à-Vis AI Strategy

	Nationalists	Atlanticists		Europeanists
		If US Atlanticist	If US Isolationist	
<b>Acceptance</b>	<p>Hungary in implementing massbiometric surveillance in spite of AIA.</p> <p>Ireland and The Netherlands' fiscal nationalism.</p> <p>France using biometric surveillance at 2024 Olympics.</p>	<p>Business groups favouring US-style laissez-faire approach.</p> <p>EU Commission in constituting the TTC with the United States.</p> <p>France proposing G7/OECD coordination as pushback on AIA</p>	<p>EU Commission in pursuing bilateral digital agreements.</p> <p>EU Member States in signing digital partnerships with China.</p>	<p>Commission Digital Sovereignty Strategy and accompanying policy set (autonomy from).</p> <p>EU Parliament – demonstrated by Draft AIA stringency.</p> <p>LAWS-ban States<sup>53</sup></p> <p>Biometric Identification-opposed States<sup>54</sup></p>
	Irish Data Protection Supervisor (DPS)	Irish Data Protection Supervisor (DPS)		

*Source* Own elaboration based on the analytical framework presented in the Introduction of this volume

Atlanticism or indeed globalism. For example, Hungary's embrace of mass biometric surveillance is completely at odds with the AIA, reflecting the government's nationalism more than revealing alignment with the US or China. This is an acceptance of fragmentation that even welcomes and seeks to accelerate it. Hungary's lone position as clearly nationalist in this regard contrasts with the common recognition of the necessity of pooled sovereignty in the digital age.

France's position is instead emblematic among EU actors in its apparent contradictions and clear hedging: France does not harbour illusions of going it alone for the fourth industrial revolution, it aims to pool sovereignty, but the question remains as to with whom, with overtures made in all directions: to China, the US and to EU institutions. Thus, its position on LAWS may jar with the EU and with most EU Member States while sharing many similarities with the US and China, but since President Macron's 2017 speech on European Sovereignty (Elysee, 2017) and to this day (Barré, 2023) it employs Europeanist language and framing, justifying its stance with concerns about European security, not merely France's. Salih I. Bora's assessment (2023, p. 1282) that Macron invokes European Sovereignty "as a discursive practice that uses security threats to legitimise an agenda grounded in France's economic interests" appears to fit here. An example of such is provided by France's insistence that it would employ biometric mass surveillance during the 2024 Olympics (Amnesty International, 2023), despite being banned by AIA bar exceptional circumstances, thus undermining the nascent regulation while showcasing its biometric capacities at a global event. If not nationalist, this certainly demonstrates a prioritisation of French security and economic interests over the implementation of EU regulation.

To complicate matters further, France, which has attempted to water down the AIA throughout its negotiation (Espinoza & Aboud, 2023), was quick to react to the AIA Parliamentary draft publication of June 2023, with Prime Minister Macron, Finance Minister Bruno Le Maire and Digital Minister Jean-Noel Barrot in a joint interview declaring the AIA likely to stifle innovation in Europe. In the same interview, the French officials called for greater cooperation with the US and other like-minded partners through the G7 and OECD (Kharpal, 2023).

As the leading force in AI in Europe, France's alignment and compliance with the AIA is essential for its effectiveness. Divergences have the potential to complicate the Act's enforcement and by consequence presents risks to the broader EU integration process. Macron's proposal

that a global regulation be developed multilaterally through the G7 and OECD and for the United States to be a key partner in its formulation (and this, confusingly, mere weeks after stating France, and indeed Europe, would not follow the US into a war with China over Taiwan (Caulcutt et al., 2023)), positioned France as a defender of multilateral globalism in the face of the EU's push for regional digital sovereignty. Given France's national interest as the EU leader in AI, this may have been a mere hard bargaining position for the AIA trilogue negotiations. Thus, in a rapidly changing sector and, indeed, world order, the leading EU state in AI is hedging in every direction, as the EU in effect does the same.

If Member State attitudes to politically contentious implementations of AI are indicative of their degree of alignment with the EU institutions as expressed by the AIA, then it should be noted that only nine European Union countries have either rejected or have no intention to adopt Facial Recognition Technology (FRT) for forensic purposes, while the AIA has banned its used, with law enforcement exceptions. These countries are Belgium Bulgaria, Denmark, Ireland, Luxembourg, Malta, Poland, Portugal, and Slovakia (Ragazzi et al., 2021), none of which are technology leaders and are therefore unlikely to shape international norms in this respect. The extent of such experimentation in the rest of the EU, albeit mostly at the municipal or regional level (Idem.), and the security carve-outs provided in the AIA cast doubt on the AIA's effectiveness in this crucial area for the preservation of individual rights. Thus, this issue highlights how local and national level security interests are in tension with EU efforts to safeguard individual rights.

Beyond the rhetoric of EU Commissioners and Parliamentarians and the stated aims of their policies, a word should be provided on the practicability of the former and the effectiveness or enforceability of the latter. Bluntly stated, if these policies prove ineffective EU digital sovereignty and autonomy remain as distant a prospect as ever (Bradford, 2023; Munn, 2023; Rességuier & Rodrigues, 2020; Veale & Borgesius, 2021). In that case, the EU's digital and offline realities will be shaped by other actors, whether the US, China, or other emerging powers. This means that at least practical aims must be considered in this analysis. The type of autonomy that each digital policy or regulation aims for is revealing in demonstrating that where rhetoric skews towards Europeanism and advocating for emancipatory autonomy, the actual policies and regulations are constrained by the realities of EU digital dependencies. If the AIA and

accompanying regulations turn out to be paper tigers, and if the US does not begin to regulate its digital sector, the risks to EU rights and norms grow enormously. The enforceability and practicability of the regulations that purport to safeguard an EU approach to technology and to shaping future society is thus crucial, especially considering that regulation is the EU's principal lever of power in the global technology race.

## CONCLUDING REMARKS

As the Liberal International Order fragmented over the last two decades, digital resources became more concentrated among a handful of US-based companies, followed by their Chinese counterparts. Furthermore, as the global economy, public administration, security and warfare have digitalised, such resources came to be increasingly perceived by EU actors as strategic assets that create and accrue power and must therefore be regulated. The influence of social media algorithms on public opinion in the run-up to Brexit and the election of Donald Trump as US president, the disruption of international trade and particularly digital technology supply chains during the COVID-19 pandemic, and the use of disinformation by Russia prior to and during its invasion of Ukraine have all highlighted the growing importance of digital technologies while revealing the vulnerabilities that they provoke to democracy and that exist in their supply chains. The arrival in this context of viable and fast-developing Artificial Intelligence technologies, as transversal enablers of existing digital tools and as innovations in their own right, has provoked a relatively quick and thus far mostly Europeanist response from EU institutional actors, a more national interest and security oriented, but not quite nationalist, response from leading Member States, an explicitly nationalist one from Hungary as an outlier and widespread hedging from both Member States and EU institutions that hope, but have reason to doubt, that the US will be a close partner in a Liberal bounded order.

The election of President Biden and the TTC set up shortly thereafter by the White House and EU Commission heralded a turn towards greater transatlantic cooperation after the unprecedented transatlantic divide during the Trump administration. Closer US-EU collaboration across technology policy, together with EU-OECD coordination on AI regulation, accompanied by lobbying in each of these forums (Corporate Europe, 2022, 2023), has led to the narrowing of the definition of AI in the AIA; the TTC has also begun to coordinate the US and EU's Chips



export bans as well as reshoring policies, especially regarding high-end chips used for AI applications. Reflecting this, the heads of institutions whose speeches and statements were analysed for this chapter exhibited an increasing Atlanticism in the points they raised in relation to AI over the course of the Commission term of office, though never abandoning Europeanist principals. In turn, and offering a signal that this convergence between the EU and US is not unidirectional, the US has begun to enforce tax and anti-trust laws on its technology giants (Supreme Court of the United States, 2023; USDJ, 2020, 2023) as well as content liabilities, the main bones of contention between the two Western powers in the first place.

Large platform companies are the actors best placed to profit and further increase their power through the proliferation of AI technologies due to the growing digital capacity and resource gap between them and states, including the US. As the pejorative nature of algorithmic impacts on political discourse and polarisation, inequality, and power distribution materialise, even the traditionally *laissez-faire* US is seeking greater control and protections for citizens and businesses. This recent regulatory proactivity may of course stall given how polarised US politics are at present and given the concerted efforts by the Republican party and the well-resourced tech sector lobby to limit regulatory interventions and judicial proceedings. However, at present there is a nascent and fragile tendency towards convergence between the US and EU that policymakers from the latter celebrate as evidence of growing EU leadership.

With the experience provided by the rapid rise of technology companies since Google's 2004 IPO and the impact that they have had on international relations, politics, and society at large, and further spurred by AI's accelerating capacities, regulators on both sides of the Atlantic are finding more to agree on than at any point since the European Union began to develop its own regulatory model for digital technologies in the 2010s. At the same time, the EU's pursuit of Digital Sovereignty, once an exclusively Chinese approach that attracted severe criticism in the West, is demonstrative in itself of the fluidity of digital politics. AI's emergence has added further urgency and volatility to the digital policy space that may usher in more cooperation with the United States and the OECD group but may equally see divisions between the Western powers come back to the fore. For the foreseeable future hedging can be expected by most EU actors as dynamics of pooled sovereignty sit in tension with those of diverging normative visions.

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# An Overstrained Actor? the European Union and the Challenges of Nuclear Non-proliferation and Arms Control

*Benjamin Kienzle*

## INTRODUCTION

The crisis of the liberal international order has become a dominant theme in academic analyses of international affairs (Flockhart, 2022) and in a myriad of recent national security documents (HM Government, 2023; The White House, 2022). There is a widespread view that the rise of China—combined with increasing US unwillingness to prop up the liberal international order—undermines free trade, multilateral institutions, collective security and the solidarity between democratic countries and, thus, the key pillars of the order (Ikenberry, 2018). Major global calamities, in particular the COVID-19 pandemic and the Russian invasion of Ukraine, have fuelled the sense of crisis. Yet, as Eilstrup-Sangiovanni and Hofmann (2020) argue, ‘there is surprisingly little clarity

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about what the crisis consists of, or what precisely is under threat'. Likewise, relatively little attention has been paid to the concerted efforts by key actors such as the European Union (EU) to sustain the existing liberal international order (Schuette & Dijkstra, 2023).

This chapter has a closer look at international security cooperation as one of the key pillars of the liberal international order. It focuses on the nuclear non-proliferation regime and international arms control, historically integral elements of the liberal international order (Rublee & Wunderlich, 2022). More specifically, it examines the extent to which the regime and arms control are threatened by increasing fragmentation. In this regard, it identifies three main challenges: proliferating states that undermine the basic norm of the non-proliferation regime; the discontent of the non-nuclear weapon states and the erosion of collaboration between the United States and Russia and, to a lesser extent, between the United States and China.

The EU sees itself as one of the key supporters of the international non-proliferation and arms control architecture. The 2022 EU Strategic Compass states specifically that 'We will uphold, support and further advance the disarmament, non-proliferation and arms control framework' (European Union, 2022). However, the challenges of the nuclear non-proliferation regime and international arms control are formidable. As the first part of this chapter makes clear, since the turn of the century, the EU and its member states have faced a complex and multifaceted set of issues. So, how have they reacted? To answer this question, the second and third part of the chapter will outline (a) the evolution of EU policies in the area of non-proliferation and arms control since the landmark 2003 European Security Strategy and (b) the concrete responses of the EU and its member states.

The chapter will argue that EU responses are hampered by two main issues. First, the EU faces increasing internal fragmentation, reflecting growing global fragmentation concerning the pace of nuclear disarmament. Second, some of the key challenges of non-proliferation and arms control are largely beyond the control of the EU and its member states, as they fall in the remit of bilateral great power relations, in particular between the United States and Russia and China. However, all this does not mean that non-proliferation and arms control are in an existential crisis. While the EU's ability to address current challenges is limited, the international non-proliferation and arms control architecture itself has been surprisingly resilient and does not show signs of imminent demise.

## WITHSTANDING FRAGMENTATION? THE ENDURANCE OF THE NUCLEAR NON-PROLIFERATION REGIME

Security cooperation arrangements such as relevant international organizations and treaties have been the backbone of international efforts to control nuclear weapons. The first major international organization in this area, the International Atomic Energy Agency (IAEA) based in Vienna, was already established in 1957. Over the decades, a wide variety of new international institutions have been created, leading to what is known today as the nuclear non-proliferation regime. With the establishment of more and more institutions with overlapping mandates and responsibilities, the regime has turned into a ‘regime complex’ of almost 30 different institutions (Kienzle, 2021).

At the heart of the nuclear non-proliferation regime sits the 1970 Nuclear Non-Proliferation Treaty (NPT), which established the basic norms of the regime, which are encapsulated in the so-called ‘grand bargain’. In essence, the ‘grand bargain’ is an agreement where the world’s non-nuclear weapon states commit to not develop their own nuclear weapons in exchange for the ‘inalienable right’ to civilian nuclear technology and a (vague) promise by the five nuclear weapon states recognized by the NPT (China, France, Russia, the United Kingdom and the United States) to disarm. Since 1970, the NPT state parties have met every five years in NPT Review Conferences to discuss the state and progress of the treaty, most recently in 2022.<sup>1</sup> As a consequence of different crises and ‘shocks’ to the existing regime, new agreements or institutions have been established to close loopholes and blindspots and strengthen the regime as a whole (Wan, 2014). For instance, India’s nuclear test in 1974 led to the establishment of the Nuclear Suppliers Group (NSG), which harmonizes national export controls of items that can be used in nuclear weapon programmes. Another important example is the 2004 United Nations (UN) Security Council Resolution 1540, which was adopted in the wake of the discovery of the A. Q. Khan proliferation network and the terrorist attacks of 9/11 in order to prevent acts of terrorism with Weapons of Mass Destruction (WMD), i.e. nuclear, chemical and biological weapons.

<sup>1</sup> The 2020 Review Conference was postponed to 2022 due to the COVID-19 pandemic.

Although the future of the nuclear non-proliferation regime is far from assured, there is mounting evidence that the regime has been extraordinarily successful when it comes to upholding the central non-proliferation norm. As a recent study by Kaplow (2021) highlights, ‘The nuclear nonproliferation regime has long been hailed as one of history’s most successful international security institutions ..., enjoying high levels of compliance and near-universal membership’. As discussed above, the regime is characterized by a high degree of institutionalization, with most regime elements remaining uncontested (Rublee & Wunderlich, 2022). Unlike other international regimes, it is also characterized by an unusually high degree of great power collusion, where the United States and Russia and, more generally, the Permanent 5 (P5) members of the UN Security Council (China, France, Russia, the United Kingdom and the United States) agree on the structure and content of the regime and ensure compliance (Coe & Vaynman, 2015; Popp, 2014). The importance of great power understanding is particularly reflected in nuclear arms control agreements such as the 1987 Intermediate-Range Nuclear Forces (INF) Treaty or the 2011 New Strategic Arms Reduction Treaty (START), which are all bilateral agreements between the United States and the Soviet Union and Russia respectively. Moreover, it can be argued that non-proliferation and arms control are only one element of a broader ‘global nuclear order’ that rests on strategic stability between nuclear-armed great powers and the non-use of nuclear weapons (Knopf, 2022).

Despite its relative stability and endurance, it is possible to discern three signs of possible fragmentation of the nuclear non-proliferation regime and bilateral arms control agreements: (1) There is the classic challenge from those states that undermine the fundamental norm of the non-proliferation regime, most notably Iran with its opaque nuclear programme, and those states that have developed nuclear weapons outside the NPT framework, in particular India, Israel, North Korea and Pakistan; (2) There is an increasing level of discontent with the nuclear disarmament norm and, in particular, the pace of nuclear disarmament among non-nuclear weapon states; and (3) The collaboration between great powers in the regime, in particular between the United States, Russia and China, has become increasingly difficult, if not impossible.

The first challenge has been limited to a very small number of states, with most attention being paid to North Korea, Iran, Pakistan and India—albeit for different reasons (Miller, 2020). In the 1990s, when

mounting evidence of its nuclear weapon programme came to light, the international community—led by the United States—tried to reaffirm North Korea’s commitment to the non-proliferation norm in long and complex negotiations. Eventually, however, North Korea withdrew from the NPT and expelled the international nuclear inspectors in 2003. Three years later, it tested its first nuclear device. It became, thus, the first and only country that had signed up to the NPT and key elements of the nuclear non-proliferation regime and later rescinded its non-proliferation commitments. However, the repercussions for the regime remained confined to North Korea.

Iran has been a major proliferation concern since 2002. In 2015, after years of protracted negotiations, the country committed to the Joint Comprehensive Plan of Action (JCPOA) with the P5, Germany and the EU. The JCPOA is a complex agreement that foresees the curtailment of Iran’s nuclear programme in exchange for sanctions relief. However, in 2018, the then US administration of Donald J. Trump withdrew from the agreement and one year later the Iranian regime resumed parts of its nuclear programme that were prohibited under the JCPOA. Three years later, the new US administration under Joe Biden expressed its desire to return to the deal, but at the time of writing a renewed agreement between the United States and Iran remains elusive (Davenport, 2022). None the less, there are no clear signs that the lack of an agreement fosters the fragmentation of the non-proliferation regime, for instance as a consequence of a proliferation wave in the Middle East.

India, for its part, represents a different challenge for the non-proliferation regime, as it seeks increasing inclusion in the regime even though it developed its nuclear weapons outside the NPT framework. In 2008, it secured a highly controversial export control waiver by the NSG as well as a special safeguards agreement with the IAEA. At the same time, India is historically very critical of the existing nuclear non-proliferation regime and questions its basic normative foundations. In practice, however, the ‘India question’ has not come up again in the last decade and will remain dormant for the foreseeable future. India is, therefore, rather a latent than an actual challenge to the non-proliferation regime at present (Kienzle, 2021).

Overall, the number of states with active nuclear weapon programmes has reduced dramatically, demonstrating that the fragmentation of the non-proliferation regime is not imminent. There have been some discussions about the Russian invasion of Ukraine leading to more nuclear

proliferation—after all, Russia, a nuclear power, invaded Ukraine after the latter had given up its Soviet era nuclear weapons. But there are also good reasons to believe that these concerns are unfounded, as the invasion might strengthen US-led non-proliferation efforts (Brewer et al., 2022).

The second challenge is arguably more acute. In the 2000s, the underlying conflict between non-nuclear weapons states and nuclear weapon states in the nuclear non-proliferation regime intensified. More specifically, certain non-nuclear weapon states are increasingly dissatisfied with the pace of nuclear disarmament by the five official nuclear weapon states. These states argue that nuclear weapon states do not live up to their part of the ‘grand bargain’, namely to initiate a process of nuclear disarmament—as stipulated in Article VI of the NPT—in exchange for the non-nuclear weapon states’ promise to forego the development of their own nuclear arsenals. Consequently, they have pushed vehemently for a re-balancing of the ‘grand bargain’ away from non-proliferation towards nuclear disarmament. At the heart of this debate is the perception that the NPT’s ‘grand bargain’ is under threat, as the nuclear disarmament pillar of the bargain has been neglected. In the words of Müller (2010), ‘Only this bargain creates a balance of interests, which validates the justified claims of non-nuclear-weapon states for fairness. Revisionist attempts to devalue the disarmament component of the bargain in relation to the non-proliferation component miss the reality of the politics of the non-proliferation regime (...) If the regime is perceived as unfair, it will fail in the long run’. More specifically, Tannenwald (2013) argues that ‘The core of the justice and fairness problem of the NPT is that what was supposed to be a transformation regime—the transformation to a disarmed world—has become a status quo regime. That is, the nonnuclear states perceive that the NPT has become a regime for managing the nuclear status quo in the interests of the nuclear powers’.

In the last decade, an increasing number of non-nuclear weapon states have supported the Humanitarian Impacts of Nuclear Weapons Initiative, which is widely seen as a new effort to strengthen the nuclear disarmament norm. It is, therefore, an attempt to reinvigorate the nuclear regime. In 2017, this initiative culminated in the adoption of the Treaty on the Prohibition of Nuclear Weapons (TPNW) in negotiations mandated by the UN General Assembly. This Treaty outlaws comprehensively nuclear weapons and commits states to not ‘develop, test, produce, manufacture, otherwise acquire, possess or stockpile nuclear weapons or other nuclear explosives’ (United Nations, 2017). The Treaty entered into

force in 2021. However, the nuclear weapons states and their military allies, in particular, member states of the North Atlantic Treaty Organization (NATO) have not ratified the treaty and in most cases actively oppose it. Consequently, it has remained inconsequential in terms of its immediate objectives, although it has been able to galvanize the debate about nuclear weapons and maintain a global discourse about the humanitarian impact of nuclear weapons. Although it has not been designed to compete directly with the NPT (Bundesministerium Europäische & Internationale Angelegenheiten, 2014), the positions of nuclear and non-nuclear weapon states, especially in the context of the quinquennial NPT Review Conferences, have been increasingly at odds (Wan & Erästö, 2022). Therefore, it contributes to the fragmentation of the nuclear non-proliferation regime in its present form, even though the ambition is to strengthen the regime in the long term.

The third major challenge is the deteriorating relations between great powers, in particular between the United States and Russia and between the United States and China. US-Russian animosity has been simmering since the breakdown of the Soviet Union in 1991 but came increasingly to the fore a decade later over issues such as missile defence, the major NATO enlargement rounds in 1999 and 2004 or the 2008 Russian-Georgian War. The conflict intensified in the wake of Russia's illegal annexation of Crimea from Ukraine in 2014, Russia's intervention in the Syrian Civil War from 2015 onwards and, most importantly, Russia's war against Ukraine in 2022. As a recent article for Brookings pointed out, 'Ukraine dominates how the West now views Russia. Regardless of how or when the war ends, Washington and Moscow (and the West and Moscow) are headed for a lengthy period of grim and frosty relations' (Pifer, 2022). Likewise, relations between the United States and China have become strained and outright confrontational. In 2018, then-US President Trump imposed punitive tariffs on Chinese imports in response to concerns about Chinese trading practices and respect of intellectual property rights. China followed suit and tariffs have remained at unprecedented high levels. Furthermore, Taiwan, which receives support from the United States but is considered a breakaway province by China, has become a major flash-point. US-Chinese rivalry spans the economic, diplomatic, military and technological fields (Allison et al., 2022).

Although the deteriorating great power relations are not directly related to developments in the area of nuclear non-proliferation and arms control, they have important repercussions in that area—not least because

great power collusion is important for the stability of the international non-proliferation and arms control architecture, as argued above. More specifically, if great powers struggle to collaborate, it will impede wider international cooperation. This can be seen, for instance, in the most recent NPT Review Conference, where Russia blocked a final Conference declaration, typically the key output of NPT Review Conferences, due to disagreement about including Ukrainian nuclear power stations in the declaration (Wan & Erästö, 2022). Likewise, the 2022 renewal of UN Security Council Resolution 1540, a landmark agreement to prevent nuclear terrorism, was particularly difficult with Russia opposing key elements of the renewal resolution (Kienzle & Salisbury, 2023).<sup>2</sup> Yet, the most worrisome development is in the area of arms control agreements, which are designed to restrain arms competition and control national nuclear arsenals. At present, there is only one arms control agreement in force, namely New START, which was renewed for another five years in 2021. However, in February 2023, Russia announced the suspension of its participation in the Treaty (Bugos, 2023). All other relevant agreements—the 1972 Anti-Ballistic Missile Treaty, the 1987 INF Treaty and the 1992 Open Skies Treaty—were terminated or saw the withdrawal of both Russia and the United States. In the case of China, no arms control agreements have ever been signed.

### A GOOD CITIZEN? THE EUROPEAN UNION IN THE NUCLEAR NON-PROLIFERATION REGIME

EU non-proliferation policies can be traced back to 1981 when the then member states of the European Communities established a non-proliferation working group in the Council to coordinate their national non-proliferation policies. In the 1990s, with the establishment of the EU in the 1992 Maastricht Treaty, non-proliferation became a priority area of the newly minted Common Foreign and Security Policy (CFSP). The coordination of EU member states in international fora such as the IAEA or NPT Review Conferences intensified, as could be seen in particular at the 1995 Review Conference. The EU also established its own export control regime with common export control rules for all member states for items that have civilian applications but can also be

<sup>2</sup> UN Security Council Resolution 2663.

used in nuclear weapon programmes, so-called dual-use items (Portela, 2021). A watershed moment for EU non-proliferation policies was the 2003 invasion of Iraq, ostensibly a counter-proliferation measure by the United States. While EU member states were deeply divided about the invasion and, more generally, about the use of force in counter-proliferation, the crisis galvanized EU member states into strengthening their common approach to non-proliferation. The result was a prominent role for non-proliferation in the 2003 European Security Strategy and, most importantly, a specific WMD Strategy, which was adopted at the same time as the Security Strategy (Kienzle, 2013).

The European Security Strategy (European Council, 2003) stated particularly that the ‘Proliferation of Weapons of Mass Destruction is potentially the greatest threat to our security’, while emphasizing the danger of an arms race in the Middle East. In this regard, the strategy reflected US concerns about WMD proliferation in countries such as Iran or even Saudi Arabia, although none of these countries were mentioned specifically. Furthermore, North Korea and South Asia are highlighted as major concerns. But the strategy’s ‘most frightening scenario’ was WMD terrorism, i.e. where terrorist groups use nuclear, biological or chemical weapons. The EU’s proposed mitigation measures reflected by and large what the EU had already done in the 1990s: to strengthen the international institutions of the nuclear non-proliferation regime as outlined in the previous section as well as the Union’s export control system. The strategy also underlined the need for universal adherence to all institutions and agreements of the non-proliferation regime. Five years later, the EU published an update, the so-called *Report on the Implementation of the European Security Strategy* (Council of the European Union, 2008b), which re-emphasized the threat of WMD proliferation, especially in the context of a renaissance of civilian nuclear power, and singled out Iran as a proliferation concern: ‘The Iranian nuclear programme has significantly advanced, representing a danger for stability in the region and for the whole non-proliferation system’.

The WMD Strategy (Council of the European Union, 2003) fleshed out the main points of the non-proliferation elements of the European Security Strategy. It consists essentially of three parts: The first one defines how far WMD proliferation is a threat or risk, with a particular focus on the use of WMD by state or non-state actors; the second one outlines the three ways to counter these threats and risks: strengthening multilateral non-proliferation institutions, establishing a stable international and



regional environment and cooperation with other countries and organizations. The emphasis is on addressing root causes and prevention, but the strategy also envisions ‘coercive measures under Chapter VII of the UN Charter and international law (sanctions, selective or global, interceptions of shipments and, as appropriate, the use of force)’ as a last resort; the final part comprises a long list of potential, though not necessarily specific, actions. As in the case of the European Security Strategy, the WMD Strategy was updated in 2008, but the so-called *New Lines for Action* (Council of the European Union, 2008a) did not introduce any substantive changes. The backbone of EU non-proliferation policies remained ‘effective multilateralism’. However, the EU struggled to establish strong institutional structures to support the implementation of the WMD Strategy. Although the policy area had a ‘Personal Representative’ supported by a small team in the Council early on,<sup>3</sup> responsibilities remained divided between the Council and the Commission and between overlapping policy fields, even after the reforms of the 2009 Lisbon Treaty, which established *inter alia* the European External Action Service (EEAS) (Kienzle, 2013).

Nevertheless, the EU was able to establish itself as an important actor in the area of non-proliferation, in particular with its support for non-proliferation institutions and treaties and the negotiations with Iran about its nuclear programme. Financially, the bulk of EU activities have focused on the international non-proliferation regime. Around three-quarters of EU non-proliferation funding since 2003 has been focused on two dozen ‘joint actions’ and, since the entry into force of the Lisbon Treaty, Council decisions. These cover key elements of the nuclear non-proliferation regime, including the IAEA, the Comprehensive Test Ban Treaty Organization (CTBTO), and UN Security Council Resolution 1540, with most funding going to the IAEA, in particular its nuclear security fund (Kienzle, 2013). In essence, the EU has ‘orchestrated’ the activities of already existing non-proliferation institutions instead of establishing its own implementation instruments (Dee, 2023). In this way, it has been able to provide tailored technical support to the non-proliferation regime and its objectives without the need to navigate through the politically sensitive areas of the regime. As Dee (2023) highlights, ‘Through orchestration, the EU has been able to bypass the political cleavages

<sup>3</sup> Later renamed Principal Adviser and Special Envoy for Non-proliferation and Disarmament and then Special Envoy for Non-Proliferation and Disarmament.

present across the various institutions of the nuclear weapon regime complex while actioning its WMD Strategy and “effective multilateralism” through intermediaries’. In practice, however, the type of support that EU projects offer varies substantially, ranging from the organization of regional workshops to highly technical efforts to improve capabilities to detect nuclear weapon tests. The EU has also implemented a number of regional projects, most notably via the so-called EU CBRN (chemical, biological, radiological and nuclear) risk mitigation centres of excellence. A total of eight regional centres have been established to work with local and regional actors to achieve their objectives in the area of CBRN risk mitigation (European Union, n.d.).<sup>4</sup>

Regarding specific proliferation cases, the EU response has been mixed. On the one hand, major crises such as the development of North Korean nuclear weapons has seen very little EU involvement. The European Commission participated in the Korean Peninsula Energy Development Organization (KEDO), which was set up in the 1990s as part of US efforts to curb the North Korean nuclear programme. The EU also participated in various international sanction regimes against North Korea. But the EU was not included in the six-party talks between North and South Korea, China, Japan, Russia and the United States, which were launched in 2003 as the main international forum to resolve (unsuccessfully) the North Korean nuclear crisis (Portela & Kienzle, 2015). Likewise, India’s increasing inclusion in the nuclear non-proliferation regime, in particular via the NSG waiver and special IAEA safeguards agreement mentioned above, left the EU as a marginal player. The dominant actors were the United States and some larger EU member states, in particular France and the UK. Eventually, all EU member states supported the waiver and safeguards agreement, but as pointed out elsewhere ‘this has undermined the regime’s basic non-proliferation norm and has challenged the EU’s unfettered support for the regime’ (Kienzle, 2015).

On the other hand, the EU has been able to become a key player in the negotiations with Iran. In late 2003, when concerns about Iran’s nuclear programme became acute and the United States refused to get involved diplomatically, France, Germany and the United Kingdom, the so-called E3, travelled to Iran to negotiate the Tehran Agreement, which included important, albeit temporary, concessions from Iran. The following year,

<sup>4</sup> [https://cbrn-risk-mitigation.network.europa.eu/eu-cbrn-centres-excellence/network\\_en](https://cbrn-risk-mitigation.network.europa.eu/eu-cbrn-centres-excellence/network_en).

they were joined by Javier Solana, then the EU's High Representative, to form the E3/EU. In negotiations with this new format, Iran signed up to the 2004 Paris Agreement, which established for the first time the basic principle of the negotiations to follow in subsequent years: the suspension of sensitive nuclear activities in exchange for economic benefits. One year later, the agreement was suspended in the wake of the election of a hard-liner, Mahmoud Ahmadinejad, as President of Iran. As a consequence, the E3/EU referred the Iran file to the UN Security Council and subsequently all negotiations were conducted in the new E3/EU + 3 or P5 + 1 format, i.e. the P5 plus Germany and the EU High Representative. The negotiations ebbed and flowed and were accompanied by various rounds of sanctions, including an EU oil embargo in 2012. Eventually, Iran and the E3/EU + 3 reached the previously mentioned JCPOA thanks to significant input from Javier Solana's successors as EU High Representative, first Catherine Ashton and then Federica Mogherini (Bassiri Tabrizi & Kienzle, 2020).

One year after the JCPOA was agreed, the EU had the opportunity to revise its overall strategy, when it designed and published the EU Global Strategy (European Union, 2016). This document highlighted the JCPOA in several instances and was very self-congratulatory about it: 'Through our combined weight, we can promote agreed rules to contain power politics and contribute to a peaceful, fair and prosperous world. The Iranian nuclear agreement is a clear illustration of this fact'. Overall, however, non-proliferation had a less important role than in the 2003 European Security Strategy. As can be seen in Table 9.1, the threat perception of WMD proliferation is significantly lower in the case of the Global Strategy. Most notably, WMD terrorism has disappeared entirely, while in the 2003 Strategy it was the 'most frightening' threat scenario. Likewise, specific regions such as the Middle East and South Asia disappeared as proliferation concerns in the new strategy. What has remained by and large equal are the measures that the EU proposes to counter nuclear proliferation. They focus on export controls and, in particular, strengthening the nuclear non-proliferation regime. As the Global Strategy specifies, 'The EU will strongly support the expanding membership, universalisation, full implementation and enforcement of multilateral disarmament, nonproliferation and arms control treaties and regimes'. In this regard, it is noteworthy that the document does not only refer to non-proliferation but also (nuclear) disarmament and arms control. However, the EU WMD Strategy of 2003 has neither been updated

nor replaced, which shows that non-proliferation did not receive the same attention as in 2003. It comes, therefore, as no surprise, that there was no major revision of EU activities in the area of non-proliferation after the Global Strategy. The EU remained involved in the negotiations with Iran, supported different organizations of the non-proliferation regime financially and focused on the stringent implementation of export controls.

As Table 9.1 indicates, the EU's Strategic Compass of 2022 (European Union, 2022), the most recent EU strategy, revived non-proliferation as a major strategic issue for the EU. Although it did not become again the EU's 'greatest threat'—as in the 2003 strategy—it is portrayed as a 'persistent threat' and plays a major role throughout the document.

**Table 9.1** Non-proliferation Issues in EU Strategic Documents

Issue	<i>European security strategy</i>	<i>Global strategy</i>	<i>Strategic compass</i>
<i>WMD proliferation</i>	'Potentially the greatest threat'	'Growing threat to Europe and the wider world'	'A persistent threat'
<i>WMD terrorism</i>	'Most frightening scenario'	Not mentioned	Not mentioned
<i>Middle east</i>	Major concern	Not mentioned	Major concern
<i>Iran</i>	Not mentioned	Mentioned as 'success'	Major concern
<i>North Korea</i>	Major concern	Refers to non-proliferation on Korean peninsula	Major concern
<i>South Asia</i>	Major concern	Not mentioned in context of WMD	Not mentioned in context of WMD
<i>Russian nuclear weapons</i>	Not mentioned	Not mentioned	Major concern
<i>Chinese nuclear weapons</i>	Not mentioned	Not mentioned	Major concerns
<i>New technologies</i>	Not mentioned	Not mentioned	Vague reference
<i>Non-proliferation Regime</i>	Key measure	Key measure	Key measure
<i>Export controls</i>	Key measure	Key measure	Key measure
<i>Arms control</i>	Not mentioned in context of WMD	Vague references	Major concern
<i>Disarmament</i>	Not mentioned	Vague references	Specific references

Sources: European Council (2003), European Union (2016), and European Union (2022)

Apart from WMD terrorism and South Asia, which are not mentioned at all in the context of non-proliferation, the Strategic Compass expands substantially the discussion of nuclear-related issues, including Russian and Chinese nuclear weapons, North Korea, Iran and the Middle East, disarmament and the crisis of arms control agreements such as the INF Treaty and New START. There is even a vague reference to the impact of new technologies on (non-)proliferation. So, in practice, the Strategic Compass refers to the large majority of key issues of the non-proliferation regime that were raised in the previous section of this chapter. Furthermore, strengthening export controls and the non-proliferation and arms control architecture remain the EU's key measures. The key paragraph states, in particular, that 'We will uphold, support and further advance the disarmament, non-proliferation and arms control framework' and that 'We need to increase our capacities to control intangible transfers, including scientific knowledge where necessary. This entails protecting and reinforcing existing export control regimes'.

All in all, the EU has become a significant actor in the area of non-proliferation since 2003. It has been a key player in international negotiations with Iran, it has provided consistent support to a variety of international non-proliferation institutions, and it maintains a stringent export control system. In this regard, it is a linchpin of the international non-proliferation regime. Over the years, however, the EU's enthusiasm for the 2003 European Security Strategy has waned somewhat, as can be seen in particular in the 2006 Global Strategy. The 2022 Strategic Compass takes again a much stronger stance on non-proliferation, but it is still to be seen to what extent this translates into concrete actions in practice. The next section will examine in greater depth how the EU has responded specifically to the fragmentation of the nuclear non-proliferation regime and what its strengths and shortcomings are in this area.

### OVERCOMING FRAGMENTATION? THE LIMITS OF A COMMON NUCLEAR NON-PROLIFERATION POLICY

Historically, member states have been the key players in EU non-proliferation policies and have not been keen to concede too much power and influence to EU institutions. Key decisions about nuclear weapons are taken exclusively at the national level and broader non-proliferation policies are dominated by relevant ministries in national capitals. Not all

member states give the same priority to non-proliferation. Just a relatively small number of member states are very active in this area, in particular some of the larger member states (France, Germany and, before Brexit, the United Kingdom) as well as some smaller member states such as Austria, Ireland and Sweden. However all member states have coordinated their national non-proliferation policies at the EU level, especially in different working groups in the Council. The Non-Proliferation Working Group, known as ‘CONOP’ after a merger of several related groups in 1995, is the Council’s oldest working group in matters of international security and has existed for over forty years. Coordination on non-proliferation matters has also become a key feature of the EU Delegations in Geneva, New York and Vienna, where the relevant international non-proliferation institutions are based. As pointed out above, the EEAS has its own non-proliferation unit headed by the Special Envoy for Non-Proliferation and Disarmament, currently Marjolijn van Deelen, a Dutch diplomat, while the High Representative gets involved in high-profile issues, such as the negotiations with Iran (Portela & Kienzle, 2015). But in general, EU institutions play a subordinate role, with the member states being the dominant actors.

The European Commission is involved in the EU non-proliferation policy with a clutter of different entities, but mainly in specialized technical work. In the 1990s, many EU non-proliferation projects were initially funded as part of the Commission’s regional programmes, in particular the Technical Aid to the Commonwealth of Independent States (TACIS). In 2002, the European Commission pledged €1 billion as part of the Global Partnership, a new G8 initiative to control CBRN materials in Russia and beyond for projects such as retraining WMD scientists, dismantling Soviet era nuclear submarines and improving the safety of nuclear installations. Although this work by the European Commission is important in practical terms, the Commission has not been involved in the political or strategic considerations about how to approach the nuclear non-proliferation regime and its possible fragmentation. Likewise, the European Parliament has had a keen interest in non-proliferation affairs since 1979. It has adopted numerous resolutions and asked countless oral and written questions. Yet, the direct influence of the Parliament on the EU non-proliferation policy has been rather limited (Kienzle, 2013).

In general, all European actors and, in particular, the member states support the international non-proliferation and arms control architecture as it exists today. This has not always been the case. When the

idea of non-proliferation emerged in the 1960s and 1970s, mainly in the United States, the member states of the then European Communities were ambivalent about the matter at best. As an analysis from the early 1980s points out, ‘Until the mid-1970s (...) Europeans scarcely thought of themselves as responsible for or indeed involved in implementing nonproliferation policy’ (Lellouche, 1981). They were even reluctant to join the 1970 NPT, the central element of the non-proliferation regime, with Spain joining only in 1986 and, most notably, France in 1992. Since the early 1990s, however, the support for the non-proliferation regime and all its constituent parts have become unquestioned. All EU member states are members of virtually all institutions and agreements of the regime. As the analysis in the previous section shows, key EU documents have been consistent in their support for the regime as a whole as well as for specific regime elements such as the NPT, NSG or UN Security Council Resolution 1540. There is only major disagreement about the TPNW.

The TPNW and the process that led to its adoption divided EU member states deeply (Onderco & Portela, 2023). The treaty negotiation in the context of the UN General Assembly was strongly supported by a small group of nuclear disarmament-minded member states, in particular Austria, Cyprus, Ireland, Malta and Sweden. All five voted in favour of the treaty, although only three of them (Austria, Ireland and Malta) have ratified it. The Netherlands is the only NATO member that participated in the negotiations for largely domestic reasons. But when push came to shove the Dutch government decided to not break ranks with fellow NATO countries and voted against the treaty (Onderco et al., 2021).<sup>5</sup> All other EU member states did not participate and were absent from the final vote. France, the EU’s sole nuclear weapon state after the UK left the Union, is particularly critical of the treaty: ‘The TPNW is unsuited to the international security context, which is marked by renewed threats of the use of force, Russian military rearmament, regional tensions and proliferation crises. It is aimed solely at Western democracies, meaning that it places no pressure on States other than those in Europe’ (Ministère de l’Europe et des Affaires étrangères, 2019). Unsurprisingly, there is no common European position on the TPNW and it does not appear in the

<sup>5</sup> The treaty remains a salient issue in public debates in the Netherlands. Public opinion on the treaty is complex with no clear path forward.

Strategic Compass or other major EU documents on non-proliferation such as the Annual Progress Reports (European Union, 2023).

The divisions about the TPNW are a reflection of the major faultlines between EU member states in the nuclear realm, as outlined in Table 9.2. The faultlines, in turn, reflect differences at the global level, in particular between nuclear and non-nuclear weapon states and those states that are strongly in favour of nuclear disarmament and those who prefer the status quo. In the EU, France stands out as the only nuclear-weapon state. Like all other P5 states, it is committed to nuclear disarmament only as a long-term aspiration, as specified in Article VI of the NPT, but not to concrete disarmament, as outlined in the TPNW. The EU member states who are also members of NATO and benefit from US extended deterrence, including the stationing of US nuclear weapons in some countries, share by and large France's stance on nuclear disarmament. The EU's non-NATO members have a very different approach and work actively towards nuclear disarmament. In practice, EU divisions have led to EU member states working with more like-minded countries in different formats in the context of international fora (Dee, 2017). For instance, Ireland is part of the New Agenda Coalition, which supports nuclear disarmament together with Brazil, Egypt, Mexico, New Zealand and South Africa; Austria, Denmark and Ireland are part of the Group of Sixteen in support of the Humanitarian Initiative; Germany, The Netherlands and Poland are part of the Nonproliferation and Disarmament Initiative, a group of middle ground states; and France is part of the P5 Nuclear Dialogue.

So, the main EU divisions in the nuclear realm are not primarily about nationalist, Atlanticist and Europeanist world views, as suggested by the introductory chapter of this edited volume, but about nuclear capabilities, NATO membership and attitudes towards nuclear disarmament of each member state. It could be argued, however, that these faultlines have either nationalist, Atlanticist or Europeanist underpinnings. France's nuclear weapons are exclusively a national capability, although occasionally there is talk about *dissuasion concertée*, where French nuclear deterrence would extend to other EU member states and would contribute to the EU's strategic autonomy in the sense of emancipation. This means that France tends to act independently in matters that are directly related to its nuclear deterrent. For instance, France would not allow any EU position that would question its nuclear deterrent. French nuclear weapons are also separate from NATO's integrated nuclear mechanisms. In short, French nuclear policies have a 'nationalist' foundation. However, France



**Table 9.2** Major Faultlines Between EU Member States

Member state	<i>Nuclear weapon possession</i>	<i>NATO membership</i>	<i>TPNW vote in UN general assembly</i>	<i>TPNW ratifica- tion</i>
<i>Austria</i>	No	No	Yes	Yes
<i>Belgium</i>	No (US*)	Yes	Absent	No
<i>Bulgaria</i>	No	Yes	Absent	No
<i>Croatia</i>	No	Yes	Absent	No
<i>Cyprus</i>	No	No	Yes	No
<i>Czech Republic</i>	No	Yes	Absent	No
<i>Denmark</i>	No	Yes	Absent	No
<i>Estonia</i>	No	Yes	Absent	No
<i>Finland</i>	No	Yes	Absent	No
<i>France</i>	Yes	Yes	Absent	No
<i>Germany</i>	No (US*)	Yes	Absent	No
<i>Greece</i>	No	Yes	Absent	No
<i>Hungary</i>	No	Yes	Absent	No
<i>Ireland</i>	No	No	Yes	Yes
<i>Italy</i>	No (US*)	Yes	Absent	No
<i>Latvia</i>	No	Yes	Absent	No
<i>Lithuania</i>	No	Yes	Absent	No
<i>Luxembourg</i>	No	Yes	Absent	No
<i>Malta</i>	No	No	Yes	Yes
<i>The Netherlands</i>	No (US*)	Yes	No	No
<i>Poland</i>	No	Yes	Absent	No
<i>Portugal</i>	No	Yes	Absent	No
<i>Romania</i>	No	Yes	Absent	No
<i>Slovakia</i>	No	Yes	Absent	No
<i>Slovenia</i>	No	Yes	Absent	No
<i>Spain</i>	No	Yes	Absent	No
<i>Sweden</i>	No	Yes	Yes	No

Sources: Kristensen et al. (2023), NATO (2023), and United Nations (2017)

\* The United States has stationed nuclear weapons on the territory of Belgium, Germany, Italy and the Netherlands as part of NATO's nuclear sharing arrangements

is also firmly committed to the existing non-proliferation and arms control architecture and rejects any major changes to the *status quo*. This includes the TPNW, which from a French perspective, ‘...undermines the Nuclear Non-Proliferation Treaty (NPT), the cornerstone of the nuclear non-proliferation regime’ (Ministère de l’Europe et des Affaires étrangères, 2023). Similarly, the EU’s NATO members are strong supporters of the status quo, though their stance is arguably underpinned by Atlanticism,

i.e. they are influenced by the protection that the US nuclear umbrella offers and do not want to undermine the US commitment to NATO. In this view, US involvement is key for any changes to the non-proliferation regime in its present form. Hence, NATO members rejected the TPNW outright from the beginning (Hill, 2021).

Finally, the pro-disarmament EU member states are motivated by what can be called cosmopolitanist aspirations, i.e. where the idea of a world free of nuclear weapons trumps narrow nationalist, Atlanticist and even Europeanist considerations. As Malta declared when it ratified the TPNW in 2020, ‘the treaty has the ambition to achieve a world free of nuclear weapons which is also a guiding principle of Malta’s foreign policy. The ratification of this treaty stands in testimony to Malta’s unwavering commitment to nuclear nonproliferation and global disarmament that remain crucial to securing a safer future for all and for future generations’ (Department of Information, 2020). Furthermore, the supporters of the TPNW reject claims that the TPNW undermines or ‘fragments’ the existing nuclear non-proliferation regime. They have pointed out consistently the compatibility of the NPT and the TPNW. Even more, they argue that the TPNW strengthens the regime by adding a hitherto missing element. For example, Austria argues that ‘It [the TPNW] is a new instrument strengthening and complementing the existing international regime for nuclear non-proliferation and disarmament, especially as an important contribution for the implementation of the disarmament obligation of article VI of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT)’ (Bundesministerium Europäische und Internationale Angelegenheiten, n. d.). Likewise, ‘Ireland views the TPNW as complementing the NPT, which always envisaged further effective measures on nuclear disarmament’ (Department of Foreign Affairs, n. d.). So, the question is how far the TPNW is actually evidence of the fragmentation of nuclear non-proliferation? As argued above, the divisions between nuclear and non-nuclear weapon states at the global level and between NATO and non-NATO members in the EU are certainly real, but at least in the short term they have not brought about the demise of existing regime elements.

All EU member states’ strong commitment to each and every existing element of the nuclear non-proliferation regime—except the TPNW—has allowed the EU to gain some degree of strategic autonomy in the sense of ‘responsibility’ or ‘autonomy to’. This can be seen particularly in the EU’s steady financial support and orchestration of a wide

variety of non-proliferation institutions during the last twenty years. Likewise, the implementation of stringent nuclear export controls in line with international commitments is a sign of autonomy as ‘responsibility’. Furthermore, the negotiations about Iran’s nuclear programme have always been firmly embedded in the framework of the NPT and the broader non-proliferation regime and ultimately seek the strengthening of the regime, as both the 2004 Paris Agreement and the 2015 JCPOA show. For instance, the JCPOA states that ‘The E3/EU + 3 and Iran acknowledge that the NPT remains the cornerstone of the nuclear non-proliferation regime and the essential foundation for the pursuit of nuclear disarmament and for the peaceful uses of nuclear energy’ (U.S. Department of State, 2015). During the negotiations with Iran, the EU has been willing to use some of its key assets such as its diplomatic clout and sanctions power.

This type of non-proliferation regime support by the EU was particularly important at times when the United States was reluctant to get involved or was openly opposed. Between 2003 and 2004 the EU was Iran’s sole interlocutor. It was only in 2005 that the United States got involved in the negotiations with Iran. In 2018, the United States, under the then-new Trump administration, announced its withdrawal from the JCPOA. The EU did not only criticize this move but actively tried to keep the JCPOA alive and kept the negotiation channels with Iran open (Alcaro, 2021). This was a clear sign that in certain circumstances the EU was willing and able to emancipate itself from a US administration that did not value European views on an issue such as the Iranian nuclear deal.

Likewise, after 9/11 the US administration of George W. Bush had a clear preference for informal or ad hoc counter-proliferation measures such as the so-called Proliferation Security Initiative. The United States has also refused to ratify one of the key treaties of the broader non-proliferation and arms control architecture, the 1996 Comprehensive Nuclear-Test-Ban Treaty (CTBT). So, the EU’s consistent, albeit largely technical, support for established non-proliferation regime elements such as the IAEA or CTBT are also signs of autonomy as ‘hedging’ or ‘autonomy in case’, where the EU makes use of its assets when the United States is not involved. In general, however, there is little evidence that the notion of ‘strategic autonomy’ had a strong impact on the EU’s approach to non-proliferation.

A major weakness of the EU in the nuclear non-proliferation and arms control system is its inability to address all issues that might cause fragmentation. As outlined above, the EU tends to be a marginal player in areas where great powers dominate, including regarding North Korea's nuclear arsenal, where China and the United States vie for influence; regarding arms control, which has been historically a US-Russian domain, although China plays an increasingly important role in US-Russian thinking about arms control; and regarding India and its relationship with both Pakistan, its neighbouring nuclear weapon state, and the non-proliferation regime, as India is sensitive about outside interference in these matters. This means that the degree of internal fragmentation within the EU regarding these issues is of little relevance, as the EU itself does not have a significant degree of influence.

In other words, the EU's exclusion is neither a direct result of internal divisions nor of external shocks such as the Trump presidency, COVID-19 or the Russian invasion of Ukraine, but it is simply a reflection of not having the necessary diplomatic and military clout to be on a par with China, Russia and the United States. Implicitly, it can be argued that EU member states favour the United States, as it is their closest ally in these matters, especially regarding arms control and North Korea. That is, there is an implicit Atlanticist motivation. Even when the United States withdrew unilaterally from the landmark INF Treaty under President Trump, EU member states remained largely ambivalent and did not oppose the withdrawal actively (Champion, 2018). Likewise, the EU offered by and large constructive support from the sidelines, when President Trump tried to negotiate a nuclear deal with North Korea (Pacheco-Pardo, 2019). In the case of India, EU member states succumbed to the US push to grant India the controversial NSG waiver (see above), although France and the UK themselves were also keen to support the waiver to gain Indian favours for their own (nuclear) industry (Kienzle, 2015). Table 9.3 summarizes the main findings of this section.

**Table 9.3** EU Responses to the Fragmentation Challenges to the Nuclear Non-proliferation Regime and Arms Control

	<i>Nationalists</i>	<i>Atlanticists</i>	<i>If US admin not Atlanticist</i>	<i>Europeans</i>	<i>Cosmopolitanists</i>
<i>Acceptance</i>	India (France and UK): acceptance of NSG waiver to support India [no StA]	India: acceptance of NSG waiver due to US support or pressure [no StA]	Arms Control: no significant EU policy, but reluctant acceptance of US [no StA] Iran: salvaging the JCPOA after US withdrawal [emancipation; StA from]	Export Controls: European implementation of international rules [responsibility; StA to] Iran: seeking agreement within the NPT framework [responsibility; StA to/hedging; St in case, when US was not involved]	TPNW (Austria, Ireland and Malta): strong support of new treaty [no StA, but framed as a responsibility]
<i>Rejection</i>	TPNW (France): rejection of new treaty undermining nuclear deterrent from, if deterrent seen as disuasion concertee)	Arms Control: no significant EU policy, but tacit support for US [no StA] North Korea: no significant EU policy, but tacit support for US [no StA] TPNW (NATO Members): rejection of new treaty undermining existing order [responsibility; StA to]			
				International Institutions: support and orchestration [responsibility; StA to/hedging; St in case, when US was not supportive]	

*Source:* Own elaboration based on table in introductory chapter of the edited volume  
 Underlined: Fragmentation challenge or issue  
 Round brackets: Relevant EU member states, if not EU as a whole involved  
 Square brackets: Type of strategic autonomy, if applicable

## CONCLUSION

The liberal international order is in crisis. But in the area of nuclear non-proliferation and arms control the crisis is less pronounced than in other areas of global governance. The existing international architecture has been very successful when it comes to preventing nuclear proliferation, reducing the nuclear arsenals of nuclear weapon states and creating global stability. Likewise, it has been fairly resistant to some of the big crises in recent years, in particular COVID-19, the Trump presidency and Brexit. As Lake et al. (2021) argue, ‘While the nuclear nonproliferation regime and various other arms control agreements are under siege or have been abandoned altogether, the current onslaughts appear to be targeted more at liberal internationalism and multilateral institutions in general than at security institutions in particular’. Unlike in other issues area, non-proliferation and arms control is characterized by a high degree of collusion between great powers, including the United States, China and Russia. However, cracks in the existing system are clearly visible. Most notably, great power collaboration has become increasingly cumbersome, if not confrontational. In this regard, the Russian invasion of Ukraine could become a turning point—not because it will directly affect non-proliferation and arms control but because it will undermine great power collaboration as the basis of the existing system. Yet, at the same time, Bollfrass and Herzog (2022) point out, ‘the [nuclear] order has never been coherent or harmonious, and has always had to accommodate its creators’ hypocrisies. Russian actions alone are highly unlikely to change these fundamentals’.

Between the 2016 Global Strategy and the 2022 Strategic Compass, the EU has intensified again its commitment to non-proliferation and arms control. While the Global Strategy had a low profile in this area—especially in comparison with the 2003 European Security Strategy—the Strategic Compass is very outspoken about proliferation crises, areas of concern and the dire state of arms control. It could be argued that the EU is prepared to confront the possible fragmentation of the international non-proliferation and arms control architecture. However, the EU lacks a clear stance and specific policies in two key areas of fragmentation. First, the EU’s commitment to nuclear disarmament is vague and lacks any references to the TPNW. In essence, the EU is not able to reconcile the major differences between those member states in favour of nuclear disarmament and, in particular, the TPNW, and those member states,

most notably France as the EU's only nuclear weapon state and the EU's NATO members, who prefer the *status quo*. This intra-European divisions are a reflection of similar global faultlines between nuclear weapon states and US allies and a large majority of states in Africa, parts of Asia and Latin America. Second, the EU has no clear approach to address the deteriorating situation regarding arms control, where the last US-Russian agreement is suspended and any agreement with China is out of reach. The EU and its member states simply do not have the capabilities to influence great powers in this area. Likewise, they have had little direct impact in situations where the US, China and Russia are in the lead, e.g. on the Korean peninsula. The EU and the E3 have been able to have some notable influence in the case of the negotiations with Iran, but as President Trump's withdrawal from the 2018 JCPOA showed, the United States is the decisive actor.

So, the EU's default option to prevent the fragmentation of the non-proliferation and arms control architecture is twofold: it orchestrates and supports financially the work of the existing international institutions and ensures the implementation of stringent export controls in the EU. In terms of the EU's autonomy, this means that the EU focuses on autonomy as a responsibility to maintain the current institutions and treaties without major changes, although the TPNW remains as a bone of contention. The support that the EU has provided has given it a small degree of autonomy as hedging, when the United States did not get involved, e.g. when it refused to negotiate with Iran in 2003. Yet, there is very little evidence for autonomy as emancipation. As the analysis in this chapter has shown, the differences between nuclear and non-nuclear weapon states and, in particular, NATO and non-NATO members are more important than the nationalist/Atlanticist/Europeanist faultlines. Even those member states who support the TPNW are not easily labelled as 'nationalist', 'Europeanist' or anti- 'Atlanticist'. In sum, the EU and its member states reject the possible fragmentation of the international non-proliferation and arms control architecture, but their overall ability is limited.

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# Taking Stock on the Role of the EU in a Fragmenting International Order

*Oriol Costa and Esther Barbé*

## INTRODUCTION

This volume has looked at some of the dilemmas that a fragmenting liberal international order (LIO) poses for the EU as an international actor. The formation of the EU's global role has been closely associated with the LIO in its post-Cold War version, as Western norms and institutions expanded and previously existing regimes embraced more intrusive understandings of their associated normative commitments (Börzel & Zürn, 2021). To be sure, the European Economic Community did conduct external relations during the Cold War, including in fields in which the Treaty granted internal but not external competences, on account of the ERTA ruling of 1971. Also, coordination on foreign affairs precedes the end of bipolarity, as European Political Cooperation started in 1970 (Allen et al., 1982). However, most of the EU's development

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as an international actor took place from the 1990s onwards, with the adoption of the Maastricht Treaty, the creation of CFSP and CSDP, and a profound engagement with the UN system (Laatikainen & Smith, 2006) and multilateral institutions (Oberthür et al., 2013), which led to diplomatic coups in fields such as climate, landmines and international criminal justice (Groenleer & van Schaik, 2007).

In other words, the relationship between the EU and the LIO in its post-Cold War version is very intimate. That they are joined at the hip is illustrated by the fact that while LIO expanded (beyond the West) and became thicker (with new norms and institutions), the EU enlarged and became deeper; and that the LIO tackled new regulatory and normative concerns at the same time the EU started conceiving of itself as an exporter of norms (Manners, 2002). The construction of the EU and of its foreign policy since the end of bipolarity has been an integral part of and has been enabled by the transformation of LIO 2.0 (its post-World War II incarnation) into LIO 3.0 (the post-Cold War one) (Ikenberry, 2009).

Hence the EU probably has become the polity that is more dependent on the LIO to articulate its international role. It has relied on its multilateral institutions and international norms to gain recognition as an actor and to forge internal consensuses (Costa, 2013). Perhaps more importantly, its aspirations for world politics have also depended on the LIO, which has led the EU to act both as a power for change and for the status quo. Take for instance the Pascal Lamy-inspired doctrine of managed globalization, a grand project to reform the relationship between globalization and public authority, and between trade and other policy goals (labour rights, the environment and consumer rights). This doctrine, which the EU endorsed in 1999 and has periodically resurfaced since (albeit under new labels), depended on a powerful multilateral system able to embed liberal markets and retain a preference for globalization (Meunier, 2007). In other words, the international role the EU has devised for itself is to a great extent a function of the LIO, even when the EU aspires to reform the international order.

This book interrogates the extent to which the EU can sustain its capacity to be an international actor independently from the fate of the LIO. Is the EU able to craft a strategy to tackle the fragmentation of the LIO and remain internationally relevant? Can the EU outlive the conditions under which its foreign policy developed? Should the EU accept or resist fragmentation? We are agnostic about what the right strategy

would be. It might imply rejecting the idea that one should play by the rules of a fragmenting order, or it might imply the opposite. We assume that preferences about this will vary across issue areas and across actors—an assumption that holds in our collection of cases, even if acceptance of the logic of fragmentation seems to dominate.

The introduction to this volume assumes that strategies can be reflective of three different worldviews, or ways to conceive of one's own relationship with the international order: as expressed by the national community (nationalists), as organized at the European level (Europeanists), and as part of a broader Western block (Atlanticism). Nationalist approaches will tend to see the nation state as the right level to articulate participation in international affairs. They will hence strive for national autonomy in a fragmenting order, whether to embrace such fragmentation (under the idea that national sovereignty demands a less intrusive international order), or to resist it. A Europeanist approach will claim that the best way to adjust to or combat the fragmentation of the LIO is for the EU to act as a Union and independently from other countries. Finally, Atlanticism will see the EU as unable or unwilling to take on that endeavour, and a broader Western alliance as a more appropriate instrument for the purposes of resisting centrifugal forces or taking part in a more competitive and dangerous environment. We think there is analytical merit in distinguishing these three approaches, but this does not imply that they cannot be found in different combinations in the real world. As shown by contributions to this volume, actors can juggle more than one approach when they advance their proposals, and policies can also reflect composite preferences.

This volume presents a wide range of case studies, spanning eight policy domains—namely, nuclear non-proliferation (Benjamin Kienzle), critical raw materials (Martijn Vlaskamp), global health (Óscar Fernández and Robert Kissack), trade (L. Johan Eliasson and Patricia Garcia-Duran), infrastructures (Eduard Soler i Lecha), violence against women (Diego Badell and Esther Barbé), artificial intelligence (Giovanni Briganti Dini) and security and defence (Eva Michaels and Monika Sus). They have been chosen to represent a broad selection of policies illustrative of the EU's international role. They also vary in important aspects: in terms of the extent to which powers are delegated to the EU, the degree to which the EU is influential at the international level, or the alignment between EU and US policies. However, in spite of dealing with extremely variegated cases, contributions to this book present findings that can be linked by

way of a limited number of common threads. We present them in two different subsections below. We first address findings regarding the fragmenting LIO, and then we turn to the politics and policies of the EU's reaction to such fragmentation.

## ON FRAGMENTATION

Fragmentation is quite simply a process of change from a more unified condition to a more fragmented one. This deceptively banal assertion has three important implications. First, we need a baseline. Asserting fragmentation requires being able to compare the present with the previous state of things. The introduction to this volume identifies such a baseline with the international order of the post-Cold War years (1990s and 2000s). This choice implies asserting that fragmentation is predicated only on the latest iteration of the LIO—Ikenberry's LIO 3.0 (2009). Secondly, since fragmentation is a process, stating that the LIO is fragmenting does not require us to believe the baseline was un-fragmented, or that the end point in this process is complete fragmentation (a world perfectly splintered along fault lines dividing essentially self-contained political and economic blocs). Finally, what exactly is being fragmented is also relevant. We understand the LIO as composed of different norms and institutions broadly aligned with each other. This forces us to be explicit about the level of analysis. The two latter issues organize our discussion in this section. We will first tackle the question of pre-existing and coetaneous modes of fragmentation, and then turn to the issue of where fragmentation is located.

### *Other Fragmentations*

As stated above, picking a baseline against which to assess fragmentation does not imply making the case that such a baseline was un-fragmented. There are instances of fragmentation that precede the end of the decade of the 2000s,<sup>1</sup> the moment in which the process of fragmentation that

<sup>1</sup> It would be unreasonable to establish a single watershed event to mark the beginning of this phase. But we can think of a confluence of indicators: open contestation of human rights norms at the UN Human Rights Council already in 2008 (Gowan & Brantner, 2008), Putin's speech at the 2007 Munich Security Conference, the August war of 2008, the more regular use of vetoes by China at the UNSC on issues not directly related with



this volume is interested in can be said to have started. There are also instances of fragmentation that, while at least partially contemporary with such a process, are not associated with it. Let us begin with the former cases, and then deal with the latter.

Two of the chapters in this volume show a good deal of in-built, longer-lasting fragmentation—those devoted to violence against women (which descends from the regime human rights; see Badell and Barbé, this volume) and the “hybrid institutional complex” on health (see Fernández and Kissack, this volume). Both human rights and health were part of the post-WWII order, and they were conceived as universal regimes from their inception. This sets them apart from other policy areas, in which the end of the Cold War drove the aspiration to make Western institutions global. Perhaps for this reason, both regimes were designed to allow for regionalization. The creation of regional bodies on Human Rights (e.g. the Council of Europe, the Inter-American Commission on Human Rights and the African Commission on Human and Peoples Rights), and the deployment of regional offices of the WHO implied providing opportunities for the localization of norms (Zimmermann, 2017), while retaining their universal reach.

In addition, the gradual development of the LIO over the decades has had a fragmenting logic of its own, distinct from the logic of great power competition. To begin with, it has led to a remarkable degree of functional differentiation. This has been a long-standing concern of international legal scholars. Already in October 2000, the President of the International Court of Justice told the General Assembly of the United Nations that the “international legal order” was being fragmented. Pierre-Marie Dupuy has identified two causes for this, both of them linked to the “general phenomenon of the ongoing expansion of international law’s material scope”. The first cause, of a normative kind, “stems from the tendency towards greater autonomy of special regimes”. The second one is organic, and has to do with “the growth of methods and procedures (not all judicial) which ensure the application of law” (Dupuy, 2007: 2). Researchers devoted to global governance have reached similar conclusions. Biermann, Pattberg, Van Asselt and Zelli associate fragmentation with modernity and its trend towards functional differentiation. That is,

Chinese interests from 2011 onwards, the failure in 2008 and 2010 to reform decision-making within the World Bank in ways that emerging powers would consider sufficient, the commencement of BRIC summits in 2009 (followed by BRICS a year later).

“the incremental way in which international institutions have emerged implies that many policy domains are not regulated by a single international regime in the traditional understanding” (Biermann et al., 2009: 16). Seen from this point of view, fragmentation is an effect of the success of the LIO, but it also comes with downsides: the growing institutional density in the international system fosters “collisions between norms or rules at the international level [...] and between international and national ones” (Kreuder-Sonnon and Zürn, 2020: 242). The fact that three of the chapters in this volume address their issue areas in terms of regime complex or hybrid institutional complex is reflective of this process.

On other occasions, fragmentation stems precisely from the *liberal* in LIO. The liberal turn in the health hybrid institutional complex led to the emergence of transnational public–private partnerships that have vertically fragmented the regime. As argued by Fernández and Kissack, “many global health actors specialize in vertical policy initiatives, i.e. the eradication of specific diseases”, which can lead to inter-institutional competition (Fernández and Kissack, this volume). Hence a “widely held view is that the global health hybrid institutional complex would benefit from further coherence [...] and focality”, around the WHO (Fernández and Kissack, this volume).

In other words, we should not see the LIO in its 1990s and 2000s incarnation as entirely unified or in any other way free of fragmentation drivers. There was in-built (regional) fragmentation associated with the design of some universal regimes, and the success of the LIO itself after the end of the Cold War (and its being liberal) was leading to a more functionally diverse order. At the same time, none of the extra flexibility provided by regional bodies/offices or functional or vertical differentiation seems to have precluded contestation of the universality of Human Rights or the role of the WHO. As argue by Badell and Barbé, “three out of the five permanent members of the Security Council [...] have challenged to a different extent the universality of human rights”. And two of them, the US and Russia, have undermined language and obligations regarding violence against women. In November 2017 in a resolution presented to the UN General Assembly’s Third Committee, the US “attempted to replace the condemnation of ‘all forms of violence’ against women and children with the phrase ‘unlawful violence’”, as if there were lawful forms. That same year, “Russia enacted a law that decriminalized certain forms of violence against women” (Badell and Barbé, this volume). In the field of health, the COVID-19 pandemic “challenged the

global authority of the World Health Organization, which got caught in the crossfire of great-power competition” (Fernández and Kissack, this volume). Put differently, the current contestation of international norms and institutions seems to pose a new kind of challenge that does not fit into the slack built into regimes by previous or coetaneous forms of fragmentation.

### *Levels of Analysis*

We consider now the issue of the levels at which fragmentation can occur. As mentioned above, the fact that the LIO is both an order as a whole and is composed of different norms and institutions raises the issue of what is being fragmented when the LIO fragments. We claim that fragmentation of the LIO takes place at three different levels: that of individual regimes pertaining to the LIO; that of interactions between processes of fragmentation taking place in different regimes; and finally that of the LIO as such. Let us look at each of them in turn.

Trade provides an example of individual regime-level fragmentation, which is perhaps the most self-explanatory. As argued by Eliasson and García-Durán, although challenges to the international trading system had been mounting before, since 2017 “there is increased protectionism and greater emphasis on geopolitical and security considerations in many countries’ trade policies”, as well as “increasingly, political coercion exercised against states, firms and their intellectual property”, in what amounts to a “weaponization of trade” (Eliasson and García-Durán, this volume). Donald Trump’s ascendancy to the presidency was a key moment in this process, as he undertook a systematic dismantling of trade rules and institutions and instilled a great deal of great power competition in trade policy. China also “contributed extensively to these developments, as did others (South Korea, Brazil), and to a limited extent, the EU itself” (Íbid.). Connectivity, the material infrastructure upon which trade (together with cooperation and people-to-people relations) takes place is also fragmenting, with different great powers (and most conspicuously China) promoting infrastructure designed to project its power, soft and hard, across the globe (Soler i Lecha, this volume). Great power competition is also shaping infrastructures, that have accordingly become part of what Leonard calls “connectivity wars” (Leonard, 2021).

On other occasions, fragmentation cannot be completely understood without looking into the ways in which regimes interact with each other.

Martijn Vlaskamp argues in his contribution to this volume that as concerns raw materials, “trade runs most of the time rather smoothly”, but that “there is a large shadow of fragmentation looming over it”. Between 2009 and 2020 “export restrictions on critical raw materials increased more than five-fold”, particularly by China, India, Argentina, Russia, Vietnam and Kazakhstan, with Indonesia’s ban on its nickel exports to stimulate investment in processing facilities being a recent example of this trend. This has led to the widespread anticipation of a future breakdown of trade rules in this field, an anticipation with very real effects on state behaviour. Critically, the introduction in trade policies of considerations pertaining to great power competition, and the erosion of the WTO as a guardian of trade rules, described above, is also part of these calculations: there is little in the way of institutional guardrails in the future of trade in raw materials.

Finally, fragmentation can also take place at the order level. Artificial Intelligence has emerged as a policy area in an international context in which a global regulation of AI is already perceived as almost unthinkable. Hence, the expectation has been that regulation would coalesce around different, possibly incompatible standards articulated by big economies—fragmented regulation with strong geopolitical undertones. From this point of view, it is hard to speak of a fragmenting regime in AI. There is no unified regime to fragment. Nevertheless, this state of affairs is making a strong contribution to fragmentation, as it removes a key policy area from the remit of any global international order, and it fuels the rivalry between great powers to gain a competitive edge in the technology that might drive the next industrial and military affairs revolutions. Even if there is no regime-level fragmentation, AI technologies are very quickly “leap[ing] from mere theoretical possibility to representing the cutting edge of geopolitical competition” (Briganti Dini, this volume).

### ON THE EU IN A FRAGMENTING LIBERAL INTERNATIONAL ORDER

We address here the ways in which the fragmentation of the LIO is shaping the politics and policies of EU foreign policy. Contributions to this volume explore very different cases that show how variegated the landscape of possible reactions is. Nevertheless, they do point in four different directions, which we explore in this section. First, there is little resistance to the logic of fragmentation. Second, there is also very little

resort to exclusive nationalism in responding to fragmentation, although national themes do coexist with Europeanist and Atlanticist ones in the stances taken by many actors. In third place, we find a widespread preference for combining elements of Atlanticism and Europeanism. Finally, we point out that deciding to change tack in foreign policy (and adapt to a fragmenting LIO) is likelier when decision-making is easier. However, that comes with paradoxes of its own. Two of our cases (trade and infrastructures) seem to indicate that on some of the occasions in which the EU seems more able to embrace a strategic understanding of its international role, influential bureaucracies with globally inclined worldviews are able to course-correct and tame the geopolitical turn in EU foreign policy. We turn now to each of these observations.

### *Acceptance of Fragmentation*

In the first place, the EU has not mounted any systematic opposition to the fragmentation of the LIO. For all the defence of a rules-based order, the EU has been relatively quick to accept that such rules would on many occasions be of a regional scale, or defer to the logic of great power competition.

The few exceptions seem to confirm the rule. The regime complex on nuclear non-proliferation is not (yet) marked by fragmentation. According to Benjamin Kienzle, “although the future of the nuclear non-proliferation regime is far from assured, there is mounting evidence that the regime has been extraordinarily successful” in upholding the central non-proliferation norm (Kienzle, this volume). It has shown “relative stability and endurance” in the face of challenges from (a) “states that undermine the fundamental norm of the non-proliferation regime”, (b) discontent among non-nuclear weapon states about “the pace of nuclear disarmament”, and (c) ever more difficult collaboration between great powers in the regime, particularly between the United States, Russia and China. In this policy area, the EU has very little capacity to act. Some of the most important challenges of the regime “are largely beyond the control of the EU and its member states”. Perhaps as a result, EU foreign policy in this domain has registered no remarkable change. Although there is some internal drifting apart between states for and against the Treaty on the Prohibition of Nuclear Weapons, the EU keeps orchestrating and financially supporting the work of international institutions in this area “and ensures the implementation of stringent export controls in

the EU” (Kienzle, this volume). The EU has kept to its script, perhaps the only one that is available to the Union.

The second exception is violence against women, which we have addressed in the previous section of this chapter. In this area, the EU has so far been able to take on both internal and external contestation of the Istanbul Convention. As argued by Diego Badell and Esther Barbé in their contribution, “the EU has presented itself as the main actor willing to combat the ongoing fragmentation in the area of violence against women”, formally rejecting US attempts to “water down the existing consensus”, and launching the Spotlight Initiative in 2017 in partnership with the UN (Badell and Barbé, this volume). In this case, rejecting the logic of fragmentation does not need to stem from the limited availability of other options. Rather, it seems to reflect the wager that insisting on the universality of norms and institutions dealing with violence against women (and human rights) is the best way to defend EU views or preferences. The calculation might well be that there is nothing strategic about accepting the fragmentation of these regimes, no advantage to be gained by conceding this core norm.

Finally, in the field of health, the EU has taken a rather ambiguous position. On one hand, the Commission has been “a strong advocate for broadening consideration of health policy transversally (‘Health in All Policies’) and in relation to macro climate and conservation issues concerning animal health, biodiversity and sustainability (‘One Health’)”. On the other, despite this advocacy for the ontological unity of the field, the EU and its member states have embraced vertical fragmentation as well.

Apart from these partial exceptions, the most usual line of action has been a resigned acceptance of the logic of fragmentation, which does not exclude the voicing of more universally minded preferences kept, alas, on the back burner.

### *Little Exclusive Nationalism*

Exclusive nationalist positions, i.e. nationalist positions that exclude any combination with Europeanism or Atlanticism, are very much restricted to a rather small cluster of states, with Hungary being the one that most consistently upholds this stance. We find that nationalist, Europeanist and Atlanticist approaches to how the EU should respond to a fragmenting order are not neatly separated from each other in practice.

Balancing acts between Europeanist and Atlanticist stances are possible and indeed common (we will come back to this later). States are also adept at putting together positions that combine them with nationalism, when the distribution of competences does not preclude a meaningful national role. Óscar Fernández and Robert Kissack find that EU member states “exhibit all three orientations to varying degrees”. Although Europeanism dominates in the form of “widespread enforcement of the Commission’s global health agenda, and willingness to participate in Team European initiatives”, states are always ready to engage in “patriotic promotion of national strengths and contributions to global health governance”, or to endorse “some Atlanticist elements –such as advocacy of market-oriented solutions” (Fernández and Kissack, this volume).

But the fragmentation of the LIO has not been a rallying cry for the return to the nation state. A fragmenting LIO has not been interpreted as a reason to fragment the EU. On some occasions, EU integration is too entrenched to enable those kinds of reactions to emerge. In the field of trade, for instance, nationalism is just out of the question, as it would imply “each member-state promoting their interests regionally and internationally, with no autonomous EU capabilities”, something not possible according to treaty language. Even a milder version of this, which would prevent further strengthening EU capabilities, is openly endorsed only by a few political parties such as the True Finns (Finland) and Vlaams Belang (Belgium) (Eliasson and García-Durán, this volume).

Sheer scale matters as well. When it comes to critical materials, nationalism would imply that “national raw materials should go firstly to the country’s national industry”. However, given that most EU member states only have “very limited raw material reserves in their territory” this would be entirely unreasonable (Vlaskamp, this volume). In addition, export restrictions on raw materials would obviously violate Single Market provisions. But even beyond the effects of treaty language and scale, exclusive nationalism has a limited role in the way the EU is reconsidering its international in the face of a fragmenting LIO. Eva Michaels and Monika Sus argue that “nationalists [...] perceiving their nation-state as an individual participant in international affairs, seem inexistent in EU security and defence matters” (Michaels and Sus, this volume).

If anything, we find exclusive nationalism as a component of such fragmentation, not as a strategy designed to tackle or adapt to it. This is the case of violence against women, in which Poland, Bulgaria and Hungary have allied themselves with a transnational network of illiberal NGOs

mainly based in Central and Eastern Europe in their opposition to the Istanbul Convention. International contestation of the norms contained in the Convention has hence resonated internally in the EU as part of the “push for a less universalistic understanding of human rights” (Badell and Barbé, this volume). Finally, it is interesting that nationalism seems on occasions to be more easily combined with Atlanticism and Europeanism, as in the cases of AI (Briganti Dini, this volume) and infrastructure (Soler i Lecha, this volume).

### *Europeanism and Atlanticism*

Actors are prone to combine elements of Europeanism and Atlanticism, which seem to appear together quite frequently.<sup>2</sup> This requires some exploration, as the divide between Atlanticism and Europeanism is one of the themes of this volume.

Trade offers an interesting example of the combination of Atlanticist and Europeanist inclinations in EU responses to the fragmentation of the LIO. In spite of its preference for a “liberal, rules-based international system” of trade, the EU has reacted to serious challenges to this system by becoming more strategic and allowing foreign policy considerations become part of the calculation on trade policy (Eliasson and García-Durán, this volume). However, the EU has not (perhaps yet) faced any stark dilemma between a Europeanist approach to this being more strategic, by which the EU would have to act on its own as a block, or as part of an Atlanticist one, in which the EU would coordinate with the US and other Western allies to address a more competitive environment. If on the one hand “these developments have seemingly made the Commission [a key actor as concerns trade] more Atlanticist”, including “opening investigations into Chinese electric vehicle subsidies and discriminatory public procurement policies”, at the same time the Commission is also “very much aware that a Europeanist position may be needed in the near future”, something that the EU’s new trade defense instruments (TDI) and changes in industrial policy would allow (Eliasson and García-Durán, this volume).

The balance of Europeanism and Atlanticism seems to tilt in one direction or the other depending on the prospects for reciprocity in the White

<sup>2</sup> However, these are not always the most relevant categories—see Kienzle (this volume).



House. Changes in orientation in the US administration have had a clear influence on the politics and policies of the EU's foreign policy in the face of a fragmenting international order. EU strategies on trade and AI shifted towards Atlanticism during the 2019–2024 term of the Commission, a move predicated on the capacity of the US and the EU to coordinate regulatory approaches at the US-EU Trade and Technology Council (TTC), established with Joe Biden's ascendancy to the White House. As argued by Giovanni Briganti Dini, when it comes to AI there has been "increasing Atlanticism" in the speeches of heads of EU institutions "over the course of the [2019–2024] Commission term of office, though never abandoning European principles". This has translated into coordination, organized at the TCC, of "US' and EU's chips exports bans as well as reshoring policies, especially regarding high-end chips used or AI applications".<sup>3</sup> Convergence has not been entirely unidirectional, though, as "the US has begun to enforce tax and anti-trust law on its technology giants" (Briganti Dini, this volume).

Also in the field of security, the Biden presidency has encouraged what Michaels and Sus (this volume) refer to as "a transatlantically sustainable understanding of [European strategic autonomy]", reducing the urgency to face a starker bifurcation between Europeanist and Atlanticist positions for which there might be no internal winning coalition. In contrast, speeches at the Munich Security Conference of February 2024 and news reports on those same dates over concerns on European preparedness to tackle security threats with or without US assistance,<sup>4</sup> as well as proposals

<sup>3</sup> Not only the TTC has been critical as a crucible of solutions that can bend Atlanticist and Europeanist approaches. The G7 has played that role too, for instance as regards the Global Gateway and the establishment of the Partnership for Global Infrastructure and Investment (PGII), or the way in which it has served as a platform to put infrastructure, investment and connectivity in the agenda of the transatlantic conversation (Soler i Lecha, this volume).

<sup>4</sup> See for instance *Is world war looming? Europe's policy pivot reveals leaders' fears*, 15 February 2024, Politico, available at: <https://www.politico.eu/article/is-world-war-looming-europe-policy-pivot-reveal-leader-fear/>; Gady, Franz-Stefan (2023), "NATO's Confusion Over the Russia Threat", *Foreign Policy*, 27 February 2024, available at: <https://foreignpolicy.com/2024/02/27/russia-ukraine-nato-europe-war-scenarios-baltics-poland-suwalki-gap/>; *EU plans to create defense-industrial complex ready for war*, 27 February 2024, Politico, available at: <https://www.politico.eu/article/eu-plan-war-ready-complex-european-defence-industrial-strategy/>.

to appoint a Defense Commissioner for the 2024–2029 term<sup>5</sup> seem to indicate a more recent wager in the other direction taking place as we write these lines, in a context overshadowed by uncertainty over the outcome of the November 2024 election in the US.

However, the lack of complete alignment between the views of the EU and those of an Atlanticist US administration is also obvious to all parties concerned. In the field of security policies, the so-called pivot to Asia has been felt by Europeans since the 2010s (Michaels and Sus, this volume). Similarly, in both the field of trade and critical raw materials, the Inflation Reduction Act created “a lot of bad blood” (Vlaskamp, this volume) between the US and the EU. Thus, also with an Atlanticist President in the White House, the precise composition of combinations of Europeanism and Atlanticism is in the balance. When it comes to trade, for instance, it depends on whether the US and the EU can agree, at a minimum, “to treat each other as trusted partners whose products are not a threat to national security, and to not weaponize trade against one another”. Although language to this effect has been pushed by the EU into TTC conclusions, the future of transatlantic trade relations seems uncertain, both because of the possibility of a second Trump presidency and the willingness of the Biden administration to retain all options as regards trade, including straining relationships with the EU (Eliasson and García-Durán, this volume).

The introduction to this volume argues that current discourses on EU foreign policy in a fragmenting LIO have often revolved around the different uses of the term strategic autonomy. This book reads this interest in strategic autonomy through the lens of the debate between Europeanism and Atlanticism. More to the point, it reads it as a “bundle of different projects” that includes different understandings of the term—as responsibility, hedging or emancipation (Fiott, 2018)—with each of these versions being associated with Europeanism or Atlanticism (Costa, Soler i Lecha and Vlaskamp, this volume).

It is the first two of such versions (strategic autonomy as responsibility and hedging) that contributions to this volume have frequently

<sup>5</sup> Speech by President von der Leyen at the European Parliament Plenary on strengthening European defence in a volatile geopolitical landscape, 28 February 2024, available at: [https://neighbourhood-enlargement.ec.europa.eu/news/speech-president-von-der-leyen-european-parliament-plenary-strengthening-european-defence-volatile-2024-02-28\\_en](https://neighbourhood-enlargement.ec.europa.eu/news/speech-president-von-der-leyen-european-parliament-plenary-strengthening-european-defence-volatile-2024-02-28_en).

found in their case studies. Strategic autonomy as responsibility has to do with the construction of autonomous capacities to enable the EU and its member states to make a greater contribution to the Western alliance. Strategic autonomy as hedging adds an autonomous industrial base into the mix, under the acknowledgement that this is a requirement to autonomously produce the capacities mentioned above—and hence to continue producing them even if relationships with other great powers deteriorate (Fiott, 2018). To be sure, Europeanists would rather choose autonomy as emancipation (see Table 1.2 in the introduction to this volume), the result of layering autonomous decision-making on top of capacities and their own industry to reproduce them. But the latter two (capacities and industrial base) would in any case be necessary steps in a ladder leading to a more complete understanding of strategic autonomy as emancipation. Hence chapters of this book find that strategic autonomy as responsibility and hedging can also be endorsed by Europeanists or presented under Europeanist themes. We claim that this inner structure of the concept of strategic autonomy helps shed light on the ease with which the compatibility between Atlanticism and Europeanism occurs.

Given how widespread this argument is in contributions to this volume, one example will suffice here. When it comes to security and defence, positions span from the French vision of strategic autonomy as “independence from the US” to the stance defended by Polish governments (and others), which oppose such an aim but “have supported the development of EU defence capabilities” if it occurs “in a complementary manner to NATO” (Michaels and Sus, this volume). But the Russian war against Ukraine, an all-important accelerator of the fragmentation of the LIO, seems to have narrowed the range of positions in the debate and perhaps made the agreement easier. On one hand, it has shown how far the EU is from being able to put the most ambitious understandings of strategic autonomy into practice, hence “confirm[ing] the beliefs of [Atlanticist] that ESA must not imply a disengagement from the US” (Michaels and Sus, this volume). On the other, it has made the consequences of dependency on the US starker, providing “a strong argument for the Europeanist camp to increase the EU’s defence capabilities, especially in light of the uncertainty around the upcoming US elections”. Even Denmark, now a participant in CSDP, has come closer to the latter ranks. Although “sceptical towards ESA [European Strategic Autonomy], seeing no credible alternative to the US collective defense guarantee”, it nevertheless “supports the enhancement of the EU’s operational capabilities”

(Michaels and Sus, this volume). Atlanticists and Europeanists arguments can practically coalesce around specific measures aligned with strategic autonomy as responsibility and to a more limited extent as hedging (Michaels and Sus, this volume).

### *Deciding on a New Foreign Policy*

We turn now to our last argument, which deals with the ease or lack thereof with which the EU can change its foreign policy in response to a fragmenting LIO. Adjusting or more thoroughly transforming the EU's international role involves taking decisions. Policies and sometimes entire policy paradigms need to change for that to happen. Given the nature of the EU as an integration-through-law project, with rules and norms at its core, including its self-conception as an international actor, such change can have broad-based implications. We should not expect it to be an easy undertaking. In addition, it requires following through with such policy decisions all the way from the adoption of new language in, say, European Council conclusions or Commission strategy documents, to sustained implementation. All of this would be hard for any political system, but it is even more so for the EU—a strongly decentralized polity with multiple veto points to overcome (Peterson & Boonberg, 1999: 31).

We advance here the hypothesis that how the EU responds to a fragmenting LIO will vary with the extent to which states have delegated competences to the EU across different policy domains. The more the issue remains in the realm of intergovernmental decision-making, i.e. the more veto players there are, the more complicated it should be for the EU to change tack on its foreign policy. On the contrary, the more the issue is supranationalized, the easier it should be for the EU to do so. In other words, areas dominated by consensus-based decision-making might show less ability to adopt new policies aligned with (any version of) the concept of Strategic Autonomy; while areas in which EU institutions have been delegated more powers in decision-making should be swifter and more agile.

Although this volume is not designed to test this hypothesis, its chapters do seem to broadly align with it. The polar opposite cases of non-proliferation and trade fit this pattern. The former, a strongly nationalized policy area, shows a great deal of continuity in EU foreign policy (Kienzle, this volume). On the contrary, the latter, at the core of EU

competences, showcases the adoption of what amounts to a new policy paradigm in which strategic foreign policy considerations are introduced in trade policy (Eliasson and García-Durán, this volume). Larger degrees of adjustment to a fragmenting LIO in the field of Artificial Intelligence (Briganti Dini, this volume) and critical raw materials (where a good deal of the adjustment takes place by anticipation—Vlaskamp, this volume) than in security and defence (where “lack of an EU-wide persuasive consensus about the direction and applicability of ESA rendered this an impracticable tool”—Michaels and Sus, this volume) are also congruent with this hypothesis.

At the same time, we want to point at a paradox raised by our contributions on trade (Eliasson and García-Durán, this volume) and infrastructures (Soler i Lecha, this volume). On some of the policy areas in which the EU has embraced a more openly geopolitical reading of its interests, the debate seems to periodically drift away from the most muscular versions of such interpretation. In the field of trade, Strategic Autonomy soon became Open Strategic Autonomy (Schmitz & Seidl, 2023); and de-risking was promoted to avoid the language of decoupling<sup>6</sup> (Farrell & Newman, 2023: 108). To be sure, there is more than one possible explanation for this drift. To begin with, it is related to the sheer interdependence that any realistic proposal must engage with when responding to the fragmentation of the trade regime. We also advance the hypothesis that bureaucratic culture might play a role. Actors dealing with trade in the EU (including DG Trade) have traditionally been strongly committed to the version of the LIO that is now fragmenting, and tend to resist conceding to the logic of fragmentation. When they do, their justification often includes the need to more forcefully protect the LIO. Elsewhere, Eliasson and García-Durán have analysed the language used to articulate the European Commission’s “Open, Sustainable and Assertive” (OSA) trade strategy of 2021 and have concluded that it represents a paradigmatic “rebalancing” between the doctrine of managed globalization (embedded liberalism and fair trade), and a “realist trade-as-foreign-policy paradigm” that seeks to increase the EU’s capabilities to both “defend its values and interests” *and* promote “the return to a

<sup>6</sup> Speech by President of the European Commission Ursula von der Leyen on EU-China relations to the Mercator Institute for China Studies and the European Policy Centre, 30 March 2023, available at: [https://ec.europa.eu/commission/presscorner/detail/en/SPEECH\\_23\\_2063](https://ec.europa.eu/commission/presscorner/detail/en/SPEECH_23_2063).

rules-based liberal international trading order” (Eliasson & García-Durán, 2023: 16). In other words, according to OSA it is in defence of the LIO that the EU accepts the logic of its fragmentation.

Developments in the field of infrastructures (Global Gateway) point in this direction as well. As argued by Eduard Soler, the Global Gateway has been shaped by a multitude of actors with different priorities and backgrounds, having to do with infrastructures and connectivity, but also partnerships with third countries and development policies, both within the European Commission (different Directorates General) and among member states. Critically, the Commission’s Directorate-General for International Partnerships (DG INTPA), responsible for development policy, has become the key actor in the implementation of the project. INTPA has “sought visibility” and appropriated the Global Gateway, with the result that “a project that was initially crafted as a geostrategic endeavor, has become less of a foreign policy tool and more a developmental one”, an initiative to “scale-up developmental plans and international cooperation with other regions [...] where INTPA has more expertise and budget” (Soler i Lecha, this volume).

In other words, as concerns trade and infrastructures, contributions to this book suggest that the bureaucratic units that deal with policy areas in which delegation of competence to the EU is stronger are also tightly associated with an ethos that is globalist and/or cosmopolitan. And henceforth they are both able and willing to course-correct the more openly geopolitical moves in their respective areas.

## FINAL THOUGHTS

Findings in this volume are an invitation to develop a nuanced view on both the fragmentation of the LIO, and on the politics and policies of the EU’s response to it. As argued above, fragmentation is taking place with different intensities and under the action of different drivers in different policy areas. We suggest that international institutions designed to be universal might fragment differently from institutions that became aspirationally universal only with the end of the Cold War—although they are all exposed to the effects of great power competition. We also find that pre-existing fragmentation patterns are sometimes the consequence of the success of the LIO, and hence that the equivalence between LIO and a unified order is misplaced. As regards the ways the EU engages with a fragmenting LIO, we claim that the contours of the EU response are

starting to emerge. According to contributions to this volume, there is a broad acceptance of the logic of fragmentation, little exclusive nationalism, frequent and differently balanced combinations of Atlanticism and Europeanism, and probably a stronger response in those issue areas in which states have delegated more powers to the EU (although with the possibility of paradoxical, counter-balancing effects).

However, this book is a small exercise that leaves important matters unaddressed. Here we raise three wide avenues for further research. First, we need to more systematically explain variation in EU responses to fragmentation. Both the intensity of the response (the magnitude of the departure from the *status quo ante* in EU foreign policy) and the type of response (the precise direction in which departure takes place) varies between policy areas. Accounting for this variation deserves a thorough consideration of a range of hypotheses, something we have not undertaken. Theorizing and testing alternative explanations will imply the collective effort of the broad network of scholars dedicated to conducting research on EU foreign policy.

Secondly, the EU's geopolitical turn, to the extent that it takes place, will reshape relationships with other international actors—states and international organizations alike. Becoming strategic—i.e. operating on the assumption that more often than not your interests collide with those of others, and that your decisions should take their strategies into account—will influence perceptions of the EU's international role. It will also foster changes in the behaviour of others vis-à-vis the EU. In other words, an EU foreign policy geared to more effectively partake in a world marked by great power competition is liable to reciprocation by others. Changes in perceptions *of* and relations *with* the EU are another important area for further research. Thirdly and finally, the democratic and normative implications of this geopolitical turn deserve close attention too, as the EU re-frames the discourse it promotes about itself, and hence the basis of its legitimation.

As competition between great powers intensifies and the erosion of the institutions and norms associated with the LIO builds up, the challenges identified in previous chapters are bound to become more acute. In addition, we do not think that a more advanced process of fragmentation will necessarily translate into a clearer, more straightforward debate in the EU. On the contrary, it might lead to more fraught dilemmas. The higher the stakes, the higher the risks attached to all versions of strategic autonomy might seem. More ambitious forms of strategic autonomy

(such as hedging or emancipation) could look both more urgent and more dangerous—as they would imperil unity within the West in the face of ever more trying circumstances; on the contrary, a “transatlantically sustainable” version of strategic autonomy (Michaels and Sus, this volume) could be seen as a wager on an increasingly unreliable Atlantic alliance.

To conclude, Ikenberry, always relatively bullish on the prospects of the LIO, has described two scenarios for its future: it will either be “small but thick”, centred around Western liberal democracies, or “large and thin”. The former would sacrifice universality to retain normative thickness, and the latter would do the opposite (Ikenberry, 2018: 10). Both options would be less US-centric, but the order would remain liberal, as “the more general organizing ideas and impulses of liberal internationalism run deep in world politics” (Ikenberry, 2018: 8). Importantly, none of these options involves reversing fragmentation. It is unlikely that the debates addressed in this book will disappear anytime soon. Understanding how they shape the international role of the EU is of critical importance for the literature on EU foreign policy. The challenges tackled in this book are not going anywhere—neither the policy challenges for the EU nor the analytical ones for scholars.

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