SPECIAL SECTION:

NATO’S WARSAW SUMMIT

Commentary and analyses by
Stan Sloan, Leo Michel, David Brown,
and Thomas Gijswijt

SPECIAL SECTION:

THE SOUTH CHINA SEA DISPUTE

Beijing’s motivations, role of
international law
## Special section: NATO’s Warsaw Summit

On 8-9 July, NATO held its biennial Summit. What is the state of transatlantic relations? What are the most significant decisions and implications of the summit? And how do the US presidential candidates view the transatlantic relationship and American foreign policy?

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## Special section: The South China Sea dispute

Recently, the Permanent Court of Arbitration in The Hague ruled against China and in favor of the Philippines in their case about the South China Sea. What are Beijing’s motivations to claim rights in the South China Sea, and in other areas? What role does international law play in the dispute?

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U.S. Marines and Bulgarian and Romanian Forces conduct a joint exercise. The exercise demonstrates NATO’s collective ability to operate as a single force committed to protecting the sovereignty of the allies and other European partners (photo: Flickr/U.S. Department of Defense)
That's right. *Atlantic Perspective* restores a tradition: the return of the Editorial. We received many responses indicating that its absence was seen as a loss. In accordance with the principles of a ‘learning organization’ we are happy to accede to these readers’ wishes.

In this issue you will find lots of news about the NATO summit recently held in Warsaw. Several authors discuss some important aspects associated with this summit. In addition to the current state of transatlantic relations (‘wo stehen wir?’ where do we stand?) by Stan Sloan, we have some threat assessments (Leo Michel and David Brown) and the views of the US presidential candidates on the relationship between America and Europe. Paul van Hooft also writes about America, namely an analysis of (transatlantic) populism. But Asia too is discussed, as well as the EU’s new Global Strategy. The latter has been somewhat overshadowed by the focus on ‘Brexit’. An important question is how ‘Brexit’ will affect transatlantic relations. Some of the authors shed light on this topic as well.

Warsaw was President Obama’s last NATO summit. It is striking how strongly he spoke about the solidarity of his country with the European allies. Gone is the image of the ‘first Asian President’ (how inaccurate too). The US is back on the European stage and not merely in a symbolic way. The US is filling (again) the military gaps that the Europeans are unwilling or unable to fill. Obama’s tone toward Russia was notably sharper than, for example, that of the German SPD Foreign Minister or the French President Hollande. The latter claimed that Russia was neither an opponent nor a threat. These words will not be welcomed in Warsaw, Kiev and the Baltic capitals. This shows once again how difficult it is to preserve unity in the alliance.

That Germany and France, in particular, are mild spoilers (Germany does, however, contribute military resources to the strengthening of the eastern border, while France has very large, primarily domestic, worries) poses a big problem for American diplomacy after the withdrawal of the UK from the EU. Which country can take over the bridge function from the UK? The UK fulfilled this important role for the US. Only Germany and France are countries with somewhat equivalent political-military potential. But they are currently not obvious political partners. All the other countries (Poland, the Scandinavian countries, the Netherlands) are clearly too small in size to take over the role of the UK. There is a potential danger of a strategic distancing of part of the European continent from the US. The US is aware of this major strategic problem, which presumably can be overcome only through the bond of NATO. Whether this strategic concern is shared by the German and French political leaders is not yet entirely clear. This would seem like a nice role for the Netherlands.

Bram Boxhoorn

11 July 2016

Would you like to react? Mail the editor: redactie@atlcom.nl.
The July NATO summit in Warsaw certainly did more than re-arrange the transatlantic deckchairs. But, as with most NATO summits, it left unsettled important issues that were not on the agenda as well as questions about implementation of those agreements that were.

The summit was dramatically upstaged by the British referendum on June 23 that initiated British withdrawal (“Brexit”) from membership in the European Union (EU). The choice of slightly more than 50% of those voting had no formal impact on the transatlantic alliance, but it nonetheless raised fundamental questions about the EU’s future and potential implications for NATO. Moreover, it represented a surprise gift to Russian president Vladimir Putin, as it promised to remove the country most skeptical about his motivations from the EU decision-making table, where some of the most critical choices concerning future policy toward Russia will be made.

After the Brexit bombshell, perhaps the most important result of the Warsaw Summit was that it confirmed NATO as the main pillar of Western cohesion at a time when the EU is facing not only Brexit implementation but also the potential for other member states to consider abandoning the integration process. All this comes while the EU’s plate of problems is already full with other issues, including immigration challenges and continued implementation of sanctions against Russia. Moreover, once again, the community-building process in Europe faces the choice between an ever-deepening union and settling for what French President Charles de Gaulle called a Europe des États, in which the core nationalism of the members is preserved.

As the EU struggles with growing nationalist sentiments in many member countries, NATO’s very nature gives it some protection from those who “want to take their country back.” That protection is a consequence of the fact that the North Atlantic Treaty was written to help protect the sovereign integrity and security of its member states. Moreover, the fact that most decisions are made by consensus means that every nation can either prevent consensus or stand aside from decisions that they regard as inconsistent with their interests. On the one hand, this complicates and slows decision-making in the alliance. But on the other hand it gives every nation a role in the process. Over the years, some observers have noted that “votes” at NATO are “weighed, not counted,” reflecting the reality that the states contributing the most to the alliance have the greatest influence. Some truth remains in this saying, but it does not diminish the importance of the “sovereignty principle” held by each member. So, while the EU aims at integration, NATO operates on cooperation.

Defense and détente revisited

The articles that follow examine in more detail some of the key areas addressed at the Warsaw Summit. There were some significant accomplishments. On the first day, EU and NATO leaders agreed on a joint declaration that pledges intensified cooperation in dealing with the wide variety of threats and challenges currently facing Europe.
Commenting on the Joint declaration on EU-NATO cooperation\(^1\) issued there, EU Commission President Jean-Claude Juncker said it “…sends a clear message: a stronger European Union means a stronger NATO, and a stronger NATO means a stronger European Union.”\(^2\)

The communique issued by allied leaders the following day\(^3\) sent several important messages. Most importantly, the allies confirmed decisions taken at the September 2014 Wales summit to deploy multinational rotating military units in the Baltic member states and Poland to reassure those allies that NATO’s collective defense provision (Article 5) do apply to them and that any Russian aggression would in its very early stages encounter troops from many NATO countries, including the United States. The allies also took steps to enhance NATO's military presence in the Baltic and Black seas. The allies congratulated themselves on the fact that overall allied defense expenditures in 2016 would increase for the first time since 2009. They also declared the Initial Operational Capability of NATO's ballistic missile defense, while assuring Russia that the system did nothing to degrade its strategic missile capabilities. And, all allies pledged to strengthen their own cyber defenses and they recognized cyberspace as a new operational domain for the alliance.

These steps left no doubt that NATO was focusing strongly on the mutual commitment to defend the territorial integrity and sovereignty of all its member states, while deterring attacks with the full range of capabilities, including nuclear ones. However, in spite of pressures to turn the alliance’s back on threats beyond NATO borders and opportunities for cooperation and outreach, the allies confirmed the three “core tasks” for the alliance described in NATO’s strategic concept, agreed at a summit in Lisbon, Portugal in November 2010. The tasks are described as collective defense, crisis management and cooperative security. For practical purposes, this means that NATO will seek to help member states defend against threats from all directions, will deploy forces beyond borders (in Afghanistan, for example) when crisis management missions would help defend allied interests, and will enhance cooperation with partner states in and beyond Europe as well as promote dialogue with adversaries, most notably Russia.

Montenegro’s seat at the NATO table for the summit confirmed that it is on its way to membership. However, it said little about the future for NATO's “open door” policy. While the summit made a cautious nod in the direction of Georgia’s aspirations for membership as well as those of the Republic of Macedonia and Bosnia-Herzegovina, the sensitive issue of Ukraine's desire to join was kept on a back burner. The allies did, however, agree to provide more assistance to Kiev to strengthen its partnership with NATO and improve its ability to resist further Russian encroachment.
Perhaps the most important accomplishment of the communique drafting exercise was its success in accommodating different allied positions on two important questions. First, the communique dealt with the split in the alliance between those allies in the north most threatened by recent Russian actions and those that are particularly challenged by refugees and terrorist threats from the south by declaring both of these threats top alliance priorities. Second, a division between those perceiving threats from Russia and others seeing business opportunities lost due to sanctions was accommodated by strong accusations against Moscow for its threatening behaviors balanced by endorsement of dialogue with Russia to mitigate the risk of military confrontation while seeking avenues for cooperation. This outcome echoes the Harmel Doctrine that advocated pursuing “defense and détente” — a formula that accommodated conflicting pressures from the political left and right in the alliance from its inception in the 1960s through the end of the Cold War. Today, the formula is expressed as “deterrence and dialogue,” but the meaning is the same.

The return of history?

While not on the agenda in Warsaw, the leaders could not escape the fact that the alliance is threatened not only by Russia’s attempt to revise the post-Cold War outcome and the refugee and terrorist challenges from the south, but also by internal fractures that could threaten both the value foundation and the cohesion of the alliance.

President Obama somewhat surprisingly cautioned the host government that it should protect Polish democracy and ensure continued respect for the rule of law — a frank but perhaps warranted criticism of recent actions seen as centralizing government control.

The role of the United States as the leader of the alliance was earlier called into question by the administration’s approach to European defense prior to the Russian seizure of Crimea. The “pivot,” or “rebalance,” of US security efforts toward Asia combined with not-so-subtle pressure on the European allies to take more responsibility for...
their own defense, raised questions about the reliability of future US leadership in the alliance.

Since 2014 the administration has responded to the concerns of the northern allies with new assertions of support (the European Reassurance Initiative) and significant increases in future funding for US forces in Europe. But the overall thrust of previous Obama policy seemed to lend some legitimacy to the anti-NATO attitude of Donald Trump, now the Republican Party’s candidate for president.

The Trump candidacy is perhaps the most important variable influencing the future of transatlantic relations. For many Europeans and Americans, it seems impossible that a candidate like Trump could actually win the presidency. However, the fact that Hillary Clinton, the Democratic nominee, has been wounded by the email server issue and, in general, does not appeal to some major segments of the electorate, suggests that the outcome is uncertain. And how a President Trump would approach the alliance as well as foreign and defense policy more generally remains highly unpredictable.

There are some commonalities between Trump’s base of support in the United States and the forces that pushed through Brexit in the UK and those that reflect illiberal tendencies on the continent. In all cases, immigration and terrorism have energized segments of the populations who feel that they have been dispossessed by “the establishment,” globalism, multiculturalism and, in the case of Brexit, by the EU’s perceived impositions on British sovereignty.

The Brexit affair is obviously too complex to explain simply as a British nationalistic response to the EU globalist regime. However, it is not misleading to suggest that strong nationalist sentiments have emerged not just in the UK but in Europe more generally. The movements and political parties around Europe that oppose their country’s membership in the EU also question their membership in NATO and, in general, are opposed to US influence in European affairs. At the same time, they tend to favor Russian President Putin’s style of “leadership” and maintain close ties with Russia, opposing sanctions against Moscow imposed after Russia’s seizure of the Crimea. And
Russia is bankrolling their support in an effort to chip away at the foundations of Euro-Atlantic institutions it considers a threat. France’s National Front reportedly received a 9.4 million euro loan from Russia in November 2014. Marine Le Pen, the party’s leader, maintained that the loan was not a reward for having supported Russia’s annexation of Crimea earlier that year.

German Chancellor Angela Merkel has remained a strong, pro-US, NATO and EU leader. However, many German business interests and leading politicians — along with others around Europe — have over the past decade become dependent on doing business with Russian firms as well as the Russian government. This factor combined with incredibly effective propaganda emanating from Moscow led to a phenomenon in which many Germans became Putin Verstehers, or Putin “understanders,” serving effectively as apologists for Putin’s aggressive actions against Ukraine and threats against NATO allies.

Implementation: no guarantees

Even before one takes into account the uncertainties raised by current political trends on both sides of the Atlantic, it is wise to remind ourselves of some more standard concerns about whether and how the summit commitments will be implemented.

The EU-NATO agreement, as important as it is, provides that any member of either organization can block specific cooperative steps between the two organizations. This provision, although not a surprise, brings to mind the fact that such cooperation has been hindered in the past by a couple of obstacles. First, there are traditional French concerns, shared in EU institutions, that the EU not be seen as subordinated to NATO. This has been less of a problem ever since France returned to the NATO Integrated Command Structure, but remains a potential source of impasse. More importantly, the main obstacle to EU cooperation with NATO is the continuing conflict between Greece and Turkey over Cyprus, which, in the past, has blocked previous cooperative efforts.

The agreements to enhance collective defense capabilities require continuing increases in defense expenditures which remain, as always, dependent on the political will of member states, their perception of the threats (from the north and the south) and their economic circumstances. British leaders have emphasized that the exit from the EU would not mean a diminished role in European defense or in NATO. However, if some of the most pessimistic projections of Brexit’s economic costs for the UK are anywhere near accurate, it is hard to see this leading European member of the alliance maintaining current levels of defense expenditures, to say nothing of increasing spending and growing capabilities.

The divisions mentioned earlier regarding which threats should be prioritized and how policy toward Russia should be balanced were nicely papered over in the summit communiqué. If the illiberal parties and tendencies in EU and NATO member states grow stronger, the ability of those states to manage EU border and immigration issues, increase defense efforts, and maintain a sanctions regime toward Russia could all be threatened.

The bottom line, therefore, is that NATO’s future credibility as a values-based alliance will depend not just on more effective defense spending and other security measures, but also on the quality of the democratic systems and market economies of the member states. While the summit was undoubtedly a success, the fact is that its results could look like rearranging deckchairs on the transatlantic Titanic if some of the most disruptive potential political changes in the United States and Europe not only undermine NATO cohesion but also threaten to unravel the entire fabric of transatlantic cooperation.

Stanley R. Sloan is a visiting scholar in political science at Middlebury College and a Nonresident Senior Fellow at the Scowcroft Center for International Affairs of the Atlantic Council of the United States. His latest book is Defense of the West, NATO, the European Union and the Transatlantic Bargain (Manchester University Press, September 2016).

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Challenges within and outside the alliance

“It was the best of times, it was the worst of times, it was the age of wisdom, it was the age of foolishness, it was the epoch of belief, it was the epoch of incredulity ...”

The opening lines of Charles Dickens’ 19th century masterpiece, *A Tale of Two Cities*, seem eerily appropriate to describe transatlantic relations in the summer of 2016. NATO’s July 8-9 Warsaw Summit exceeded expectations of many defense and foreign affairs cognoscenti. But it was bracketed by the victory of the “Brexit” camp in the June 23 U.K. referendum — which might yet prove to be a serious self-inflicted wound for one of NATO’s most capable allies — and by the horrific, possibly ISIS-inspired “lone-wolf” attack in Nice on July 14 and, one day later, the bloody but ultimately failed military coup attempt in Turkey.

It’s an imperfect parallel, to be sure. But as in Dickens’ novel, the possibilities of transformation and renewal (in this case, within the Atlantic alliance) coexist with serious, sometimes violent challenges to the prevailing political and social order within several of its member states.

First, the positive news: across a range of hard and complex issues, 28 allied heads of state and government managed at Warsaw to balance NATO’s highest priority — strengthening deterrence and collective defense — with its need to respond to crises beyond its borders and, in particular, the terrorist threats emanating from them.

Hence, faced with Russia’s continued annexation of Crimea, destabilizing military presence and support to separatists in Eastern Ukraine, and provocative large-scale military exercises and other activities (such as close-proximity harassment of allied ships and aircraft), NATO agreed on several measures that go beyond its commitments at the September 2014 Wales Summit.

**Forward presence**

The deployment, beginning early 2017, of four battalion-sized multinational battlegroups (headed by the United States, United Kingdom, Germany, and Canada) in the three Baltic states and Poland virtually guarantee that any Russian aggression toward one or more of those allies will quickly meet a collective response. This “forward presence” on NATO’s northeastern flank will complement the Readiness Action Plan approved at Wales, including the new brigade-size Very High Readiness Joint Task Force, now on stand-by and able to be deployed within two to three days, and the enlarged and more flexible NATO Response Force, now a division-size land element with aviation, naval, and special operations forces components.

Additional planning, exercises, and capabilities — including in the domains of command and control, communications, intelligence, surveillance, and reconnaissance, as well as cyber defense — will be needed to ensure seamless cooperation among the host nations and these various forces. And more work will be necessary to ensure their rapid reinforcement in a region where Russia has steadily improved its “anti-access/area denial” (A2AD) toolbox. Still, as NATO Secretary General Jens Stoltenberg has pointed out, the forward presence decision is “ground breaking,” especially since “it’s an open-ended commitment and...will last as long as necessary.”
NATO’s plan for a “tailored forward presence” in the Black Sea region is less impressive, in part reflecting Bulgarian and Turkish concerns not to further complicate their relations with Russia. However, the alliance will support a Romanian initiative to “establish a multinational framework brigade to help improve integrated training of Allied units under Headquarters Multinational Division Southeast.” It also will assess “options for a strengthened NATO air and maritime presence” in the region — a complicated task, given Russia’s improved A2AD reach from its installations in Crimea and western Syria.

**Nuclear weapons**

Meanwhile, in response to multiple instances of “nuclear saber rattling” by President Vladimir Putin and senior Russian officials — as well as hints, in Russia’s last published military doctrine, that Moscow might consider a nuclear escalation strategy to “de-escalate” a conventional conflict — the allies went beyond the somewhat stale formulation on nuclear weapons agreed at Wales. “Any employment of nuclear weapons against NATO would fundamentally alter the nature of a conflict,” warned the Warsaw Summit Declaration.

“The circumstances in which NATO might have to use nuclear weapons are extremely remote. If the fundamental security of any of its members were to be threatened, however, NATO has the capabilities and resolve to impose costs on an adversary that would be unacceptable and far outweigh the benefits that an adversary could hope to achieve.”

Left unmentioned in the declaration were various discreet steps taken to: update NATO’s assessments of Russian nuclear capabilities and strategy; improve NATO’s nuclear plans and forces available for nuclear missions to ensure they are both capable and seen as such; better integrate potential nuclear scenarios into NATO exercises involving Article 5 (collective defense) contingencies; and highlight the importance of nuclear responsibility-sharing arrangements, which demonstrate solidarity and strengthen deterrence.

**Distinctive approaches**

At the same time, the alliance was careful not to ignore its strategic interests in the “arc of insecurity and instability” that extends across northern and eastern Africa, the broader Middle East, and into Afghanistan. But in these volatile
regions, the disparate security, economic, and political stakes — and limited expeditionary capabilities — of individual allies make it even harder to reach consensus on decisive collective action. As a result, distinctive approaches are to be applied. Of particular note:

- Buoyed by President Barack Obama’s decision (announced shortly before the Warsaw Summit) to keep some 8,400 US soldiers in Afghanistan through early 2017 — his earlier plan called for reducing the US force to 5,500 — NATO and its “operational partners” (such as Georgia, Australia, Finland, and Sweden) committed to maintain some 11,000 military personnel in the Resolute Support Mission beyond 2016. Similarly, while the American President has asked Congress for $3.45 billion in funding for Afghan national security forces in fiscal year 2017, other NATO allies will assume the lion’s share of the additional $800 million in annual security assistance pledged for those forces by the international community during 2018-2020.

- At Warsaw, NATO agreed, for the first time, to deploy its Airborne Warning and Control aircraft and multinational crews over allied territory (primarily Turkey) and international waters to support the US-led counter-ISIS coalition’s air operations over Syria and Iraq. In addition, NATO will transfer its training course for Iraqi officers from Jordan to Iraq, complementing efforts by individual allies to enhance Iraqi national security capabilities (including those of Iraqi Kurds) and assist that country’s security sector reforms.

- The Summit Declaration put the entire alliance on record as supporting full implementation of the Joint Comprehensive Plan of Action between the “EU3 plus 3” (United Kingdom, France, Germany, United States, Russia, and China) and Iran. This was an important display of solidarity among the allies, given their competing domestic pressures to normalize trade and financial relations with Iran. But by announcing the Initial Operational Capability of NATO’s ballistic missile defense system, including the transfer of command and control of the Aegis Ashore site in Romania from the United States to NATO, the allies also sent a strong message to Iran (and other states posing proliferation concerns) that NATO territory, populations, and forces are becoming less vulnerable to intimidation or attack by those countries’ ballistic missile programs.

**NATO-EU strategic partnership**

Among the Summit’s less heralded accomplishments was its robust call to “give new impetus and new substance” to the NATO-EU “strategic partnership.” Despite selective improvements since its formal declaration in late 2002, that partnership has unquestionably failed to reach its full potential. In their separate statement at Warsaw, Stoltenberg, European Council President Donald Tusk, and EU Commission President Jean-Claude Juncker cited seven specific areas of new or intensified cooperation relevant to common security challenges in the “east” (such as “hybrid” threats and cyber defense) and “south” (such as migration, terrorism, and security capacity-building.)

The results of this initiative are sure to be uneven, as demonstrated by behind-the-scenes wrangling over NATO’s maritime support for EU efforts to restrict migration in the eastern Mediterranean. But there’s growing evidence that the shopworn, quasi-theological debates over defending NATO or EU “autonomy” attract a diminishing audience within both organizations, while advocates of pragmatic cooperation are increasing their political and bureaucratic clout.

**Transatlantic relations outside NATO**

Ultimately, however, the strength of transatlantic relations cannot depend solely on NATO’s performance as an alliance. As the aforementioned developments in the United Kingdom, France, and Turkey illustrate, new forces and actors outside NATO’s political-military purview pose real risks for its ability over time to deliver on parts of the Warsaw agenda. To appreciate how (with apologies to Dickens) his descriptors — the “worst of times,” “foolishness,” and “incredulity” — might play out on both sides of the Atlantic, consider the following.

Notwithstanding the reassuring tone of Prime Minister Theresa May and other senior officials of Her Majesty’s new Conservative government, the Brexit decision (assuming, as is likely, that it will be executed over the next two years or so) could impact the alliance in several ways. An extended UK economic slowdown or recession would make it harder for the May government to keep its promise to spend at least 2 percent of GDP on defense. Already, the stiff downward pressure on the pound will make the purchase of US or European-made defense products and sustainment of existing and promised British military commitments overseas (for example, on the
European continent and in the anti-ISIS coalition) more expensive. And while the May government has reiterated its predecessor’s pledge to renew the UK nuclear deterrent with a “like-for-like” fleet of four new “Successor” ballistic missile submarines (SSBNs), Brexit has increased the risks of a nightmare scenario. Specifically, the staunchly pro-EU Scottish Nationalists might call a second referendum on independence for Scotland, which they would be better positioned to win than their failed attempt in September 2014. And if they do win, the Nationalists have promised to terminate arrangements, dating from the 1960s, for basing the UK SSBNs and their nuclear warheads on the Scottish west coast — an outcome that many fear would spell the end of the UK’s independent nuclear deterrent.

Meanwhile, a wild card of an entirely different nature has emerged in the United States in the form of the Republican Party’s presidential candidate, Donald Trump. Already well-known for dismissing NATO as “obsolete” and its members as “free riders,” Trump also has proffered a slew of approaches to national security issues — from “bombing the (expletive deleted) out of ISIS,” ordering American soldiers to kill the families of terrorists, and barring nearly all Muslim immigrants from the United States to “renegotiating” the “disastrous” nuclear deal with Iran. If carried out, such approaches could provoke an even deeper rift in transatlantic relations than occurred as a result of the invasion of Iraq in 2003. True, it’s premature to predict who will win the presidential contest on November 8, and former Secretary of State Hillary Clinton, if elected, would not radically alter the main lines of Obama’s transatlantic agenda. Still, as the Brexit vote demonstrated in another great democracy, the potential strength of simplistic appeals to an anxious and polarized electorate — “Make America Great Again” and “America First” — are not to be underestimated.

In Europe, further political and societal upheavals cannot be ruled out, either. President François Hollande, a Socialist, has overseen a broadly positive French engagement within NATO and a markedly improved bilateral defense and military

An Airborne Warning and Control aircraft (AWAC). At Warsaw NATO agreed, for the first time, to deploy its AWACs over allied territory and international waters to support the US-led counter-ISIS coalition’s air operations over Syria and Iraq (photo: Flickr/Steve Cuthbertson)
relationship with the United States since taking office in May 2012. But his unpopular economic policies and the recurrence of devastating terrorist attacks (notwithstanding a prolonged “state of emergency” and the extensive employment of regular military forces for internal security missions) make his reelection in May 2017 increasingly doubtful.

Meanwhile, among those competing for the center-right’s presidential nomination, some (like front runner Alain Juppé) have been critical of France’s “reintegration” into NATO military structures in 2009, while others (like former President Nicolas Sarkozy, who decided that move, and Sarkozy’s former Prime Minister and now fierce enemy, François Fillon) have seemed disturbingly indulgent toward Putin’s aggression against Ukraine. Even worse, Marine Le Pen, leader of the far-right National Front, stands to gain the most from growing anti-immigrant, anti-Muslim, and anti-EU sentiments among the French public. And she has publicly declared her intention, if elected, to withdraw, “without delay,” from NATO’s military structures.

Germany, too, is not immune from internal and external strains. At the European Council meeting in June, Chancellor Angela Merkel again played a critical role in maintaining EU sanctions against Russia (imposed following its intervention in Ukraine in 2014) and their linkage to full implementation of the 2014/2015 Minsk accords, which she helped to broker. But her willingness to take a firm stand regarding Russia, to include offering Germany as a “framework nation” for the NATO multinational battalion to be placed in Lithuania, seemed to be criticized — at least implicitly — by Foreign Minister (and Merkel’s coalition partner) Frank-Walter Steinmeier, who referred to NATO military exercises in eastern Europe as “saber rattling.”

Meanwhile, Merkel’s backtracking on her past, arguably over-generous welcome of refugees from conflicts in the broader Middle East, Afghanistan, and Africa apparently has not halted the growth of nationalist, anti-immigrant groups like the “Alternative for Germany.” And the Chancellor stands to come under further pressure if, following the failed coup in Turkey and President Recep Tayyip Erdogan’s further crackdown on his political opposition, the agreement she brokered between the EU and Turkey to stop the refugee and migrant flow to Europe effectively collapses. Sign of the times: with German national elections coming up in the fall of 2017, recent polls indicate that two-thirds of German voters oppose a fourth term for Merkel.

None of this is to say that the worst-case scenario will, in every case, take place. Time and again, the alliance and the broader transatlantic bonds and shared democratic values that serve as its foundation have proved more resilient than its adversaries and detractors predicted. But given the cross-currents of multiple, diverse, and unpredictable challenges facing the alliance, it’s not surprising that the celebratory atmosphere following the Warsaw Summit was remarkably fleeting.

Leo Michel is a Non-resident senior fellow at the Brent Scowcroft Center on International Security, Atlantic Council, in Washington, DC.

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1. Of the 9,800 US troops now in Afghanistan, approximately 6,950 serve in Resolute Support; the remainder serve in Operation Freedom’s Sentinel, the US counter-terrorism mission aimed at remnants of al-Qaeda and the emerging threat from ISIS-affiliated groups in Afghanistan.


3. A similar trend is evident in US bilateral relations with the EU. Note, for example, that the US Combatant Commanders for Europe (EUCOM) and Africa (AFRICOM) have steadily improved their bilateral cooperation and coordination with the EU Military Staff in Brussels and, in some cases, commanders of EU-led operations in the field.
Symbolism, substance, and the southern dimension

Ever since the Cold War came to an end, NATO has been searching for a new purpose to justify its existence within an ever more crowded and complex regional and international security environment. In effect, NATO seemed to be suffering from some sort of self-imposed identity crisis. With the alliance worried about being pigeonholed as an overtly military security actor, focused primarily on its Eastern front, the practitioner and academic discourse became littered with Cassandra-esque predictions and ultimately unfounded fears that, unless NATO formally and prominently associated itself with emerging security challenges and liberated itself from its traditional geostrategic moorings, it would come to be seen as redundant in the twenty-first century. Consequently, it sought a frontline role in the developing “war on terror”, even going so far as to assert that conducting such a war would simply be impossible without NATO leading it.

Yet, by so clearly seeking to tie NATO’s continued contemporary relevance to this conceptual and geographical shift in its underlying purpose — reiterated in Strategic Concepts and at successive summits, including at Warsaw in 2016 — NATO risked undermining its credibility. Simply put, as the record has subsequently demonstrated — and will be discussed in more depth below — NATO was and is ill suited for a leading role in countering terrorism. Rather than establishing benchmarks it can never attain, it would be more realistic to accept the subsidiary role outlined in the wake of 9/11, while maintaining its central focus on deterring and combating the re-emerging threat to its eastern borders from a revisionist Russia.

Additionally, while successive summit communiques are right to warn of the growing and complex array of security concerns (Islamic terrorism, civil war, human trafficking, organized crime, forced migration, etc.) emanating from NATO’s southern frontier and the need therefore to maintain a watchful balance between East and South, NATO’s recent record of both action — in Libya — and inaction — in Syria — has had such serious consequences on the ground that further military activity seems unlikely in the current political environment. In spite of the claims that NATO’s campaign in Libya was a glittering success, both for the speed of action and the positive humanitarian consequences, the longer-term implications for counter-terrorism in particular suggest a less positive story and the need for further caution in the future.

NATO and Terrorism

NATO’s recent history with counter-terrorism only serves to underline the counter-productive nature of its own actions. By overplaying its hand, both in the presentation of actions undertaken and the wider arguments used to justify its continued relevance as a security actor, it undermines the credibility it seeks to preserve. Take, for instance, the initial response to 9/11, still the defining moment of the counter-terrorist era we continue to operate in. Having established an institutional foothold in this area in the 1999 Strategic Concept, which noted, after some initial opposi-
A bombed out tank in Libya. According to the author, while the Libyan operation has been heralded as a textbook case of how to conduct both a legal and legitimate military operation, scratching below the surface indicates longer-term concerns for NATO (photo: Flickr/mojomogwal)

Arguably, NATO’s anticipated moment did not come. The Bush administration led the counter-terrorist campaign in Afghanistan while NATO took on a greater stabilization role leading the International Stabilization and Assistance Force (ISAF). Obama’s skepticism about the utility of conventional military force as a means to counteract terrorist activity and his desire to share the burden more equitably both within NATO and beyond have led to a greater unwillingness on the part of NATO’s preeminent power to act. The alliance provided useful practical and logistical support, seeking to bolster intelligence sharing and deploying NATO assets, both air and maritime, in order to free up national assets for the front line — a trend continued at Warsaw, with an agreement in principle (at the time of writing, still to be formally agreed by all member states) to “provide direct NATO AWACS support to increase the coalition’s situational awareness” in combating ISIL in Syria and Iraq — and it serves as the continuing institutional embodiment of Western solidarity. However, its contribution was unlikely ever to reach a level that would validate the 2002 statement by then NATO Secretary General Lord Robertson that “the war on terrorism would not be possible without NATO.”

In fact, the welcome commitment to provide additional air support to ongoing Global Coalition efforts in Iraq and Syria comes with a welcome dose of realism that places another of the counter-productive claims (still made by leading NATO specialists) into context. The summit communiqué concludes that “This contribution to the Global Coalition does not make NATO a member of this coalition.” Rather than seek to implicitly associate NATO with counter-terrorist activities, either by acknowledging its role as a “facilitator” of collective action outside its formal auspices or simply by listing how many individual NATO member states had chosen to operate as part of a more flexible coalition, the communiqué bluntly accepts that the use of NATO...
assets, even in a campaign led by individual NATO members, does not in and of itself constitute NATO activity.

Statements by successive Secretaries General have noted that NATO does not have and is not planning for a role in the on-going military campaign in Syria. This point was made all too clearly in statements by then Secretary General Rasmussen. With regard to the avowedly humanitarian operation in Libya, he noted that “we consider this of strategic interest for NATO territory...it’s about territorial defence, it’s about the defence of the interests of our countries” (emphasis added). In contrast, when referring to Syria, although the underlying themes were the same, the responsibility for acting became more abstract: “I see it as an obligation for the international community to stop it, to defeat it and to take the necessary steps to that end.”

Thus, a Libyan operation inspired by the humanitarian imperatives of the “Responsibility to Protect” principles was of “strategic interest” to NATO’s territorial integrity — an interesting suggestion in 2011, given that some critics claim that the scale of Gaddafi’s crimes was deliberately overstated for political purposes in order to lay the groundwork for regime change.

On the other hand, the on-going humanitarian and political catastrophe in Syria, which has left over 400,000 dead (according to UN sources in April 2016), led to massive population displacement within the region and into Europe and has seen the establishment across Iraqi and Syrian territory of a territorial base for widespread terrorist activity is, in effect, someone else’s problem. While NATO does not need to be involved, given the increasing coalition activity, such realism of action needs to continue to permeate the wider practitioner and academic discourse, to ensure words and deeds match up more effectively.

**Going South? NATO, Libya and Syria**

It is worth giving more consideration to NATO’s more recent military activity in its southern dimension, in order to, paradoxically, reinforce the point that NATO is better served by focusing its attention on where it can add most value, as a more conventional military actor confronting the increasing military activity of Russia on the alliance’s eastern and northern frontiers. While the Libyan operation has been heralded as a textbook case of how to conduct both a legal and legitimate military operation, scratching below the surface indicates longer-term concerns for NATO, in terms of both the conduct and consequences of the intervention.
For one, some critics have gone so far as to claim that this was not, in effect, a NATO operation at all. Anne Applebaum argues that “the use of NATO’s name in Libya is a fiction,” suggesting it was, at best, an Anglo-French project. While this assertion goes too far and is demeaning to the other European states that participated in the campaign — as well as to the US, which had hoped to “lead from behind” only to rediscover the weaknesses of its European allies when it came to providing key military personnel and assets — it does point out, once again, the greater operational incoherence that comes with conducting operations in an institution of 28 member states. In fact, as with Afghanistan, which was bedeviled with national caveats and operational conditions, in Libya, both in the pre-operation diplomatic phase — where France, Turkey, Germany and Italy were all involved in political struggles over the applicability of NATO as a vehicle to respond to the developing crisis in the first place — and during the campaign, where only fourteen NATO members were actively involved and only six European states took part in strike operations, institutional coherence was hardly at a premium. Even when NATO takes command and control, it struggles to operate as a full alliance, it seems.

The consequences are also worth briefly considering, especially in light of NATO’s continued declaratory insistence on the importance of combating terrorism. While not a counter-terrorist operation in design, the decision to not put significant boots on the ground after the initial campaign, to operate strictly to the letter of the UN mandate and to effectively leave the nascent Libyan authorities to seek to restore order has contributed to the chaotic and increasingly tragic situation in Libya today. With competing sources of authority and governance, a country split between the forces of Islamism and secular authority, with militias proliferating alongside a developing profile for ISIL around Sirte and an increasing share of terrorist activity, in the region and beyond, NATO must accept some responsibility for adding to the complexity of the counter-terrorist campaign, rather than seeking to downplay the developing threat. It is not good enough for the Obama administration to seek to relativize its own responsibility by either placing the blame on trusted allies, such as the UK and France, who became “distracted” in the president’s words, or by emphasizing the decision of the National Transitional Council in Libya to seek to restore sovereign order alone. The perception created is that, for reasons of national interest and alliance cohesion, given that a number of member states did not want NATO involved in the first instance, the alliance did not try hard enough to impress upon the new Libyan authorities the need to establish a more formal role for external powers, in whatever form, in post-intervention Libya. While Obama’s former Middle East advisor Philip Gordon is right to “not pretend that there was a good solution in Libya and Obama just failed to find it,” the solution adopted has hardly assisted with the containment of the terrorist threat or the restoration of order in Libya. Increased training activity — as outlined in Warsaw — will go some way to assisting, although the recent record of external training translating into effective results, in Afghanistan, Iraq and Syria, should also lead us to be more cautious here.

The consequences — in terms of alliance inactivity in Syria — are also clear. Denied the props that legitimized intervention in Libya, in terms of both regional support and a UN mandate, complicated further by the greater complexity of military action in Syria and the increasing unwillingness of the US to act — as exemplified by the cancelling of air strikes after chemical weapons use had crossed Obama’s “red line” — NATO has remained on the sidelines of the campaign against ISIL. This reticence has left a global coalition to slowly increase its military profile and begin the task, with some success, of cutting the IS caliphate down to size, by restoring territory and key cities to Syrian and Iraqi control. While the belated success in military terms is to be welcomed — suggesting NATO is not essential as the primary defense of its southern dimension — it is likely to be a long and difficult struggle to restore order in the region, particularly as the campaign against ISIL is only one facet of a multi-dimensional conflict within Syria. Additionally, as ISIL loses more territory, it is likely to revert to more traditional terrorist activity both within the region, notably in Iraq, and in NATO states. The recent attacks in Paris, Brussels, Istanbul and, at the time of writing, another tragedy in Nice herald further deleterious consequences in the international campaign to combat and defeat Islamist terrorism in whatever form it emerges. As such, while the southern dimension of NATO activity remains unsafe, it remains unclear what more — if anything — realistically NATO as an institution can do about it at source.

**Conclusion**

Realism is the key to how NATO presents itself in the contemporary security environment. Rather than repeating the mistakes its supporters made in the wake of 9/11, seeking to associate NATO with the resolution of a crisis to which it was not established to respond, out of fear that a wider international audience would begin to question its utility, NATO needs to ensure that its words match its deeds.
While it has made useful contributions, both to combating terrorism and monitoring security concerns in the south, such as Operation Active Endeavor, initiated after 9/11 and “transitioned” into a wider security function at Warsaw, and has stepped up its commitment to training national capacity-building in Iraq and Libya particularly, it should not seek to over-sell such initiatives. They do not add up to a frontline role in combating terrorism, either in the Middle East or elsewhere, and they are a more limited contribution to its southern dimension. Other actors — whether the EU, with its relatively more developed internal security and policing capabilities or a succession of coalitions, either willing (initially in Afghanistan and Iraq) or “core” (to combat ISIL) — are either better suited or politically more acceptable to provide the lead in tackling what remains a serious regional and international terrorism threat.

Rather than view this situation as a problem, and continue to demonstrate the counter-productive institutional insecurity that has dogged NATO in recent years, NATO should focus on its preeminent task at hand, to provide territorial security and reassurance to its member states, particularly those confronted by a more aggressive Russian state. Given Russia’s greater appetite for revising the European security order by force and its actions in the Middle East and the Black Sea, NATO may find that such a focus may ultimately provide a bridge between southern and eastern threat assessments. In that sense, the alliance should have the confidence to fend off queries regarding its twenty-first century relevance — even from the friendly fire within the NATO community itself — by reasserting its traditional roles, rather than seeking to over-promote its contribution to combating new challenges for which it is structurally and politically less well suited.

Dr. David Brown is a Senior Lecturer at the Department of Defence and International Affairs of the Royal Military Academy Sandhurst. He is about to complete two new books with colleagues in the department, on the foreign policy of George W. Bush and on the prospects for multipolarity in the twenty-first century.

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1. This article represents only the views of the author and does not in any way represent the views of the Ministry of Defence, the British Army or the wider British government.
5. Lord Robertson cited in Brown op cit, 23.
10. For a fuller discussion of US actions, see Jeffrey Goldberg, “The Obama Doctrine” and “Obama’s former Middle East advisor: We should have bombed Assad”, The Atlantic, 20 April 2016.
The world is watching

Donald Trump has a realistic chance to become the next President of the United States. One year ago, few people would have expected to take this sentence seriously. Now, the Republican Party has officially chosen Trump to be the Grand Old Party’s candidate to run against Hillary Clinton. Time to take stock, therefore, of some of the foreign policy implications. What role will foreign policy play in the campaign? Where do the two candidates stand? And what does this mean for transatlantic relations?

The campaign

The economy traditionally tops the list of election issues important to American voters, but for several reasons foreign policy seems likely to play a major role in the upcoming election. One reason is obvious: Hillary Clinton is the candidate with the most foreign policy experience since the Republican candidate George H.W. Bush in 1988. She spent eight years in the White House as First Lady, she served on the Senate Armed Services Committee from 2003 to 2009, and she was Secretary of State during President Obama’s first term. Clinton’s long years of service contrast sharply with Donald Trump’s complete lack of foreign policy experience — and we can expect the Clinton campaign to frequently remind American voters. In a recent survey, 54% of respondents thought that Clinton would do a better job at “making wise foreign policy decisions” than Trump.¹

Trump, however, does not seem to really care. On the contrary: he has made foreign policy into a major part of his campaign with his “America First” message of protectionism and isolationism. His highly controversial calls for a wall along the border with Mexico (paid for, somehow, by the Mexican government), a ban on Muslims entering the country, and the use of torture in the fight against ISIS, will continue to draw a lot of attention to foreign policy issues, particularly during the presidential debates.

Finally, the likelihood of further terrorist attacks in the United States or Europe and the high degree of instability in many parts of the world — Turkey, Syria, and Ukraine come to mind — will keep American voters on edge and give added importance to the so-called Commander-in-Chief question: which candidate can be better trusted with the nuclear codes and the life-and-death decisions of using military force?

Hillary Clinton: continuity or change?

Hillary Clinton wholeheartedly subscribes to the internationalist US foreign policy tradition, advocating a strong American leadership role in defending a liberal global order based on established international institutions and alliances. As she said in a major address in San Diego in June:

“America’s network of allies is part of what makes us exceptional. And our allies deliver for us every day. Our armed forces fight terrorists together; our diplomats work side by side. Allies provide staging areas for our military, so we can respond quickly to events on the other side of the world. And they share intelligence that helps us identify and defuse potential threats.”
An 'Uncle Sam wants you!' recruiting poster for the U.S. Army. The Commander-in-Chief question might play a significant role this election cycle: which candidate can be better trusted with the nuclear codes and the life-and-death decisions of using military force? (image: Wikimedia)
In many ways a Hillary Clinton Presidency would therefore stand for a continuation of President Obama’s foreign policy. On issues such as climate change, nuclear non-proliferation (including the Iran nuclear deal), and dealing with a rising China, Clinton and Obama are very much on the same page. The major exception is the fact that Clinton is more willing to rely on the use of military force to advance US interests. On most national security decisions involving the use of force during the Obama Presidency, Hillary Clinton advocated a more hawkish position than President Obama. Early in Obama’s first term, for example, Clinton argued strongly for a large military surge in Afghanistan and privately opposed the president’s decision to simultaneously announce a withdrawal timetable. In 2011, Clinton was one of those trying to convince a reluctant president to intervene in Libya. And in the summer of 2012, Clinton, along with Secretary of Defense Leon Panetta and CIA Director David Petraeus, supported a plan to supply anti-Assad forces with weapons and communications equipment — something President Obama decided not to do.

Hillary Clinton, in other words, stands for a more muscular, a more assertive United States, willing to confront adversaries, if necessary by relying on America’s unmatched military power. Whereas President Obama was very much shaped by the wars in Iraq and Afghanistan and the failure to stabilize Libya after the international intervention, Hillary Clinton has a more optimistic view of the United States’ ability to bring about positive change. Bosnia and Kosovo — and the failure to prevent the 1994 genocide in Rwanda — are as much part of her historical outlook as her politically disastrous support of the George W. Bush administration’s invasion of Iraq. For better or worse, ‘leading from behind’ is not a slogan likely to be associated with a Clinton Presidency.

The Trumpian worldview

Donald Trump’s worldview (or at least what we know about it) consists of a blend of resentment, xenophobia, and a strange fascination with strongman leaders such as Russia’s Vladimir Putin and Turkey’s Recep Erdogan. Trump’s resentment is mainly focused on the ‘free-riding’ of America’s allies. Reflecting his self-image as the ultimate dealmaker, he has long criticized that Washington is getting a bad deal from Japan, South Korea and European NATO members who do too little to pay for their own defense or fail to reimburse the United States sufficiently for its efforts. Trump first went public with this concern in the late 1980s and has reinforced it in recent interviews. He even questioned NATO’s Article 5 and suggested that a Trump administration would not necessarily feel bound by treaty obligations to defend free riders. In typical Trump speak he told two New York Times journalists during the Republican convention:

“I would prefer that we be able to continue, but if we are not going to be reasonably reimbursed for the tremendous cost of protecting these massive nations with tremendous wealth. With massive wealth. We’re talking about countries that are doing very well. Then yes, I would be absolutely prepared to tell those countries, “Congratulations, you will be defending yourself.”

Asked whether NATO members could “count on the United States to come to their military aid if they were attacked by Russia,” Trump answered cryptically: “Have they fulfilled their obligations to us? If they fulfill their obligations to us, the answer is yes.”

Trump’s xenophobia, meanwhile, concentrates on the perceived double threat of immigration — particularly illegal immigration across the Mexican border — and terrorism. One of the remarkable things about the Republican primaries was how Trump could get away with openly racist, bigoted rhetoric aimed most prominently against Mexicans and Muslims. Announcing his decision to run for the presidency in June of last year, Trump promised: “I will build a great, great wall on our southern border. And I will have Mexico pay for that wall.” Such as wall was necessary, he argued, because

“When Mexico sends its people, they’re not sending their best. They’re not sending you. They’re not sending you. They’re sending people that have lots of problems, and they’re bringing those problems with us. They’re bringing drugs. They’re bringing crime. They’re rapists. And some, I assume, are good people.”

Trump’s response to the ISIS-inspired terrorist attack in San Bernardino in December 2015 followed a similar us-versus-them pattern. He called for a “total and complete shutdown of Muslims entering the United States until our country’s representatives can figure out what is going on.” His plan for dealing with ISIS was mainly an attempt to appear tougher than any of his rivals in the Republican primaries, including Ted
“carpet-bombing” Cruz. Trump openly advocated a return to the use of torture and even suggested the killing of family members of terrorists (although he backtracked on this later).

Trump’s nativist campaign attracted sufficient support from voters in the Republican primaries to secure his victory. He was helped by the fact that the Republican establishment failed to build a united #NeverTrump front, in part because the field of other candidates was so large and divided, in part because the G.O.P. had for a long time condoned radical right-wing voices in its own ranks. The American public at large, meanwhile, is pretty much split down the middle on the issue of temporarily preventing Muslims from coming into the country, with around 47% supporting such a ban.

Perhaps the most worrisome aspect of Trump’s worldview is his publicly stated admiration for anti-democratic rulers such as Putin and Erdogan. Trump’s obsession with toughness and strength seems to provide the key explanation for this fascination, but it becomes all the more troubling when we connect it with his long history of dabbling in conspiracy theories. Trump most famously questioned the fact that President Obama was born in the United States. But his ‘birtherism’ was just one example in a long line of spreading dangerous conspiracy theories and guest appearances on Alex Jones’s right-wing conspiracy broadcast Infowars. During the campaign, to give just two examples, Trump suggested that Ted Cruz’s father could have been involved in the assassination of John F. Kennedy — the mother of all conspiracy theories — and after the Orlando shooting he insinuated that President Obama might have somehow been responsible for the attack. Such conspiracy theories are highly dangerous because they undermine trust in the democratic system and it is no coincidence that both Putin and Erdogan are masters in the political use of conspiracy theories. The fact that — along with his blatant lying — Trump makes conscious use of such theories makes him unfit to be president.

Not surprisingly, much of the Republican foreign policy establishment is horrified at Trump’s nomination. Two leading Republican diplomats, Brent Scowcroft and Richard Armitage, have already endorsed Hillary Clinton and in March more than 100 mid-level Republican national security experts signed a letter publicly opposing Trump. Meanwhile, Trump’s efforts to organize a team of foreign policy advisers turned into an embarrassment when journalists had to turn to Google to find out more about the virtually unknown list of experts he announced in March.
Conclusion

From a European perspective, a Trump Presidency would be an unmitigated disaster. It could well mean the end of the international security architecture that has kept us safe for over six decades. It is hard to see how Trump would safeguard the United States-led network of alliances and international institutions that he has so harshly criticized. Moreover, his public undermining of NATO’s Article 5 and his description of NATO as “obsolete” might encourage his ‘friend’ Putin to further destabilize Europe. At the same time, the United States’ moral authority in the world would sink to an absolute low.

Although they could not be more dissimilar in most respects, Hillary Clinton and Donald Trump share one important characteristic: they are both remarkably unpopular, with ‘unfavorability’ numbers in the high 50s. This seems to fit the current ugly mood in the United States. Just 17% of Americans are satisfied with the direction their country is taking. During the primaries, a strong anti-establishment feeling led to a wave of support not only for Trump, who received well over 13 million votes, but also for the anti-establishment candidates Bernie Sanders (12 million) and Ted Cruz (almost 8 million).

In this year’s election, in other words, many voters are looking for radical change. This should worry us, because Hillary Clinton’s long years of experience might actually work against her. She is so much part of the establishment that many disaffected voters might turn to the riskier choice of Donald Trump. In the end, we can only hope that these voters will return to the Commander-in-Chief question in the voting booths. The answer is clear: the only candidate fit to lead the United States is Hillary Clinton.

Dr. Thomas Gijswijt is Associate Professor of American Studies at the Universität Tübingen, Germany.

Would you like to react? Mail the editor: redactie@atlcom.nl.

1. www.people-press.org
2. www.nytimes.com
“We have abolished the death penalty, but if the people want it, we can always retrace our steps and reintroduce it,” Turkish President Erdogan said in an interview with CNN. Whether we are dealing with Brexit or the death penalty, in a democracy the will of the people must be respected, and the Turkish people call out for the death penalty as ancient Romans did to the emperor in the Coliseum after the battle of gladiators. *Befehl is befehl* (a command is a command), and thus it costs Erdogan little effort to make his words sound like a kind of excuse.

Of course, he is going to ignore his own role entirely. That he was considering the reintroduction of the death penalty in 2012 and this position was a point in his election campaign is something that most people have long forgotten, but it fits very much the philosophy of an efficient state headed by a supreme leader or, as he puts it, a basıyüce.

On the internet I see pictures of men (I do not know whether it’s the coup plotters) piled naked in a gym and in an animal stall. A pig stall, according to Facebook, but in an Islamic country this seems unlikely. There is a film clip of men who have been tortured. To feed the anger of the people and to inflict humiliation, offenders are sent in their underwear into the street. Spat upon, beaten, raped with batons, and restrained, according to what I read in a report by Amnesty International.

It’s easy to focus on Erdogan, to say that a great leader would forgive his enemies and should approach them with understanding, but politically something is amiss all over the world. For example, the Philippine president Duterte is considering the reintroduction of capital punishment and promised to act like a dictator against everything that is wrong. In America, we see the emergence of Donald Trump, and in Europe the established political order, in a time of attacks and violence, is fighting against the growing power of parties like the National Front (France), the Freedom Party (the Netherlands) and so on.

The rise of demagogues and populists is an inevitable trend that always resurfaces when the voices of the past become silent. Once the last survivors of the black pages of our history are gone, the time becomes ripe for a new world war. Politicians who know that people fueled by fear and frustration vote out of panic emerge like mushrooms from the ground. Representatives who present themselves in principle as saviors or lofty leaders in retrospect always turn out to be idiots.

Niels Roelen

26 July 2016

Would you like to react? Mail the editor: redactie@atlcom.nl.
It took a year to deliver it: the new Global Strategy to guide the European Union through an uncertain and challenging international environment. At the moment of delivery the European Council paid almost no attention to it: Brexit was dominating the agenda at the end of June. Nevertheless, the Global Strategy is important, although the real proof of the pudding will naturally lie in its implementation.

A year ago, in the summer of 2015, the EU’s High Representative Federica Mogherini presented her assessment of the new international environment — a more connected, contested and complex world. More connectivity through globalization offers opportunities and potential for economic growth, yet it also favors transnational crime, terrorism and trafficking — she wrote. The world is more contested as fragile states and ungoverned spaces are spreading. Particularly worrying for Europe is the instability in its neighborhood, from the East to the South but also further away in Asia. In an age of geopolitical power shifts and power diffusion the world is also becoming more complex. New players like China are on the rise. Increasingly a network of state, non-state, inter-state and transnational actors marks the diffusion of power. It became crystal clear: the changing environment was asking for a new strategy to replace the outdated 2003 European Security Strategy. The European Council acknowledged the call by the High Representative and tasked her to deliver an EU Global Strategy on Foreign and Security Policy by June 2016. She did this, but the EU Heads of State and Government had other problems on their minds: the Brexit vote and its consequences. They welcomed Mogherini’s presentation — which took about ten minutes — and invited the High Representative, the European Commission and the member states “to take the work forward”. Not a very inspiring reaction by the Union’s highest political decision-making level. However, the EU Global Strategy (EUGS) is a fact and the emphasis will now shift to its implementation. The questions to be answered in this article are: what are the main elements of the EUGS and which are the next steps to be taken, in particular in the area of security and defense?

The double Global Strategy

From the outset the High Representative made clear that the new strategy would deviate from its predecessor, the European Security Strategy of 2003 (updated in 2008). The so-called ‘Solana Strategy’ had become outdated, not only due to the changes in the security environment but also because it focused primarily on the security and defense aspects of the EU’s external action. Two other major factors made a new update of the 2003(2008) European Security Strategy a non-option.

Firstly, the old distinction between the EU’s external crisis management and internal security activities has become...
Refugees in the Mediterranean. A new update of the 2003(2008) European Security Strategy was a non-option, because the old distinction between the EU's external crisis management and internal security activities has become outdated. For example, foreign conflicts impact European security through spill-over consequences such as the migration crisis (photo: Wikimedia/Ggia).

Instability and conflicts in the Middle East and Africa (MENA) have a major impact on security inside Europe through spill-over effects such as migration, transnational crime and terrorism. Linking external and internal security policies and instruments is a necessity for countering these spill-over effects and at the same time for addressing their root causes outside Europe in a coherent manner. This linkage is already visible in counter-terrorism activities which take place inside but also outside Europe. The same principle applies to migration. Halting the massive flow of migrants across the Aegean and strengthening border security was high on the EU's agenda in early 2016. However, this has to be coupled with addressing the causes of migration. To a large extent this is related to ending conflicts and by stabilization efforts in order to start returning to fully functioning states. Syria and Libya are prime examples of how continued conflict and disorder is feeding human trafficking. Migration for economic reasons, for example from countries in West Africa, asks for other solutions, in particular by strengthening opportunities for the local labor markets.

Secondly, challenges to our security have become multi-dimensional or, in popular speak, today we face hybrid threats. Russia uses all available tools, from state-run propaganda to energy delivery blackmail and from ‘little green men’ to traditional military force in confronting the West. Geopolitics is back, but Moscow has widened the set of instruments to pursue its objectives. The response to hybrid threats had to be hybrid as well. Simply strengthening military capacities — as important as it is — will not be enough. All available tools have to be brought together in a joined-up approach. As the EU, contrary to NATO, has a wide set of responsibilities across all government sectors, this requires a much wider strategy. At the same time, it has important consequences for the EU-NATO relationship, which needs to be adapted to the new security environment. This has been recognized. The common statement by the EU and NATO leaders at the alliance’s Warsaw Summit in early July has opened the door to a more structural partnership in dealing with new security challenges.

The successor to the 2003 European Security Strategy reflects both the changed environment and the need to respond with a wide set of tools. It is ‘double global’: in terms of geography as well as thematically. The European neighborhood — to the East and to the South — are of...
prime concern to the EU. But instability and conflict in Asia, the Pacific and the Indian Ocean will have an effect on European security as well, in particular as sea lines of communication — key to maritime trade flows — might be interrupted. Global challenges can also be defined as ‘stemming from anywhere’. Cyber threats are non-geographic by nature; they can come from any place in the world and hit any corner on the planet. Climate change is also a global phenomenon. Large international criminal networks operate around the globe. All of this implies a ‘second global’ element: the EU will have to respond by applying its full set of instruments. For that reason the Global Strategy refers not only to the security and defense sector but also to neighborhood, migration and energy policies, to strengthen cooperative frameworks in Asia or the Arctic and to transform global governance institutions such as the United Nations. In particular, close ties with the United States and Canada as well as the partnership with NATO are key in this respect. Naturally, the application of instruments will have to be tailor-made, depending on the situation at hand. But the essence of the Global Strategy is to bring soft and hard power instruments together in a joined up approach and to recognize that the EU has a particular role to play as a security provider in the near abroad and further away.

Implementation

The EUGS has to be translated into action — no doubt a more difficult task as diverging interests of member states and the issue of resources will come to the fore. The High Representative will present a plan of action with timetables after the 2016 summer break, covering several areas — one of them being security and defense.

Such an action plan or Security and Defence Strategy (SDS) will have to deal with at least three components: (i) ambition level and tasks; (ii) capabilities; and (iii) tools and instruments needed for more commitment by member states. During the Netherlands EU Presidency in the first semester of 2016 these topics and others were discussed in a series of seminars which the Clingendael Institute organized together with the Dutch Ministry of Defense. These informal gatherings took place before the Brexit vote, but nevertheless they resulted in the identification of the main elements of a Common Security and Defence Policy (CSDP) White Book as it was called at the time.

Ambition level and tasks

The existing ambition level and the CSDP Petersberg tasks stem from a different era. The changed security environment asks for review and adjustment, taking into account both the changing nature of crisis management operations as well as the impact of the external-internal security nexus. Preferably, a new ambition level should not be expressed immediately in numbers of military to be deployed but rather in the sorts and types of operations the EU has to be able to conduct. It will be unavoidable to redefine the Petersberg tasks as they no longer reflect all the different types of operations which the EU is conducting today and might be carrying out in the future.

Clearly, in addition to external crisis management, CSDP has to play a role ‘in the defence of Europe’, both in response to hybrid threats from the East as well as to the spill-over effects of the conflicts to the South. In particular, a structural CSDP contribution to border security will be required. The mutual assistance clause (Art. 42.7), already activated by France, could also imply a role for CSDP inside EU territory while recognizing that it would imply a Treaty change. Once tasks have been defined, ambition levels can be identified, including for operations in the full spectrum. Ambition levels should be realistic for near-term implementation and could be more ambitious in terms of a long-term goal.
Capabilities

Addressing the existing shortfalls in areas such as intelligence and strategic reconnaissance, enablers for expeditionary operations, precision munitions, the protection of forces and securing sea lines of communication continues to be relevant. However, the new CSDP requires additional efforts and a shift in priority. Firstly, hybrid threats also demand military responses. CSDP could contribute, e.g. by the deployment of EU Battlegroups to the non-NATO members Sweden and Finland or by assisting the Baltic States in reinforcing their internal security, in particular through paramilitary forces (gendarmerie) — upon their request.

Second, for (external) crisis management the EU should be able to cover the whole spectrum from stabilization, training and assistance to intervention operations, when needed at the high end of the spectrum. For autonomous full spectrum operations in the near term the EU should aim for a brigade-size force, with adequate sea and air elements as required. Border security-related tasks will increase the need for smaller vessels, surveillance assets (space and air-based) and border guard personnel. But a fresh look at naval (and air) capabilities high in the spectrum is also required in view of the increasing anti-access and area-denial (A2/AD) threats. Clearly, such autonomous European capabilities will not be realized overnight, but related capability goals should be defined as early as possible in view of long-term planning cycles.

Tools and instruments

Political will remains the key factor to deepen European defense cooperation — which continues to be a must as no single state can operate without others anymore. However, new tools and instruments are also needed to transfer political will — expressed in Declarations and Council Conclusions — to real capability improvement. So far, the principle of voluntarism has provided an escape route for doing too little. A step-change is needed in order to move into the direction of more accountability and commitment. Transparency on long-term defense...
and procurement plans will be the first requirement. But sharing plans is not enough. The SDS should define a new system, based on monitoring, assessment and accountability of the member states’ efforts to solve capability shortfalls and to deepen European defense cooperation. Such a system could be developed over time with data collection and assessment authority gradually shifting to the European Defence Agency. It could start with Defense Ministers challenging each other annually (ministerial peer pressure) via a more structured and obligatory assessment based on EDA documentation per country (political assessment) to a European Semester-like accountability in the long-term. Benchmarks for collaborative investment should receive more political attention. Other ways of financing defense expenditure through the Union budget should be fully explored. In particular a sizeable Defense Research Program in the post-Horizon 2020 framework is needed.

These ideas and proposals for an SDS — presented in more detail in a report — do not represent consensus among the EU member states. They are the result of informal discussions during the Netherlands EU Presidency aimed at exploring potential for an SDS. The real work is yet to start.

**Brexit and the way forward**

The British vote to leave the EU can open the door to a real strengthening of the CSDP and deeper defense cooperation in the EU. Without the blocking position of London other capitals would now be able to make more progress. On the other hand, diverging security interests — in particular between the ‘Eastern’ and ‘Southern’ member states — are likely to hamper progress on security and defense in the EU. Therefore, operating with smaller groups of countries still seems the best way forward, either inside or outside the EU context. Deepening defense cooperation in already existing bilateral and sub-regional clusters (outside the EU and NATO context) will certainly continue. This also offers opportunities to keep the United Kingdom ‘in Europe’ in the security and defense area. The Franco-British Lancaster House defense cooperation and the construction of multinational cooperation models such as the Joint Expeditionary Force will continue.

For the EU the question is now if a good design — the EUGS — can be turned into action. Time is a critical factor. It took a year to elaborate the EUGS. Taking one more year for developing the SDS will be very risky as the political agendas in 2017 will be dominated by negotiating the details of Brexit and by national elections in several EU countries including France and Germany. EU Foreign Affairs Ministers had a first exchange of ideas on 18 July. The High Representative will present a plan with a timetable and proposals, most probably soon after the summer break. Defense Ministers will be involved during their informal meeting, to take place late September in Slovakia. By then, three months will have been lost since the June European Council. Also taking into account that the European Commission intends to publish its Defence Action Plan in the second half of 2016, there will be little time left for developing the SDS. Separating the two documents would be the wrong signal as the Commission’s defense activities will have to be capability-driven. A huge responsibility lies on the shoulders of Federica Mogherini and the member states who have to be involved very closely in the elaboration of the SDS.

Dick Zandee is a senior research fellow at the Netherlands Institute of Foreign Relations 'Clingendael'. A shorter version of this article has been published in the Newsletter of the EU Institute for Security Studies (EUISS) in late July 2016.

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1. The European Union in a changing global environment – A more connected, contested and complex world.
4. Margriet Drent, Lennart Landman, Dick Zandee, A New Strategy – Implications for CSDP, Clingendael Report, June 2016. At the time of writing the report the term ‘White Book’ was still being used.
The renationalization of foreign policy and international order

The surprise with which the Brexit referendum was received underlines the complacency among politicians and academics that followed the triumphalist years after the Fall of the Wall. Brexit, the Trump candidacy, the growth of rightwing populist movements within Europe: these events and actors are part of an overarching theme of renationalization within politics, the possible consequences of which are profound for the current international order.

Decline of the nation-state, but no alternatives

The nature and the causes of the populist phenomenon are too complex to capture here. One reason for declining legitimacy of centrist parties are a series of failures over the past decade by US administrations and European governments to manage the international crises: the fiasco of Iraq; the ongoing economic crisis; the inability of the EU to manage the debt crisis or the refugee crisis. But there are other, more permanent trends undermining trust on both sides of the Atlantic: the political economist Dani Rodrik has noted that migration has fed populism on the right, and trade and financial liberalization populism on the left.

At its core this is about the weakening over the past decades of existing institutions without a convincing alternative. The foremost of these is the decline of the nation-state, which was a successful nineteenth century political innovation precisely because it could meet both the need for effective government and the shared identity to tie it together coherently. After all, identity offers the promise of solidarity, that others within the community will reciprocate when we bear the costs for them. Without that solidarity there is little to absorb economic shocks, and without citizenship as something to aspire to, the possibilities for migrants to be absorbed are diminished. What binds society together now?

The postwar international order was an explicit response to the horrors of the world wars and their extremist ideologies. NATO, and (the predecessors of) EU, and the other postwar international organizations, were a success story by providing hard security and economic prosperity. However, they were made possible by simultaneous domestic political and societal compromises that proved that governments could govern, provide welfare and manage markets. On these compromises a consensus was built that gave governments the leeway to build and maintain the institutions that kept order and stability. However, the enthusiasm of the 1990s among centrist politicians and academics for overlapping spheres of transnational governance and the weakening of national frontiers pushed these organizations away from concrete security concerns and common economic needs.
There are two ironies here. The first is that the ideological and academic foundations for the post-Cold War departure from the nation-state were to avoid the dangerous competing nationalisms and state-centered security policies that had brought the world close to the edge. The second irony is that without roots in the nation-state, internationalism and cosmopolitanism themselves are difficult to sustain.

The populists resist the internationalist vision of politics. Until recently, it has been easy to brush aside the warning signs and to underestimate the potential for consequences of the discontent and frustration for international order.

**Broken bridges?**

Brexit is the clearest sign that has been a mistake. It is now a mistake to dismiss the Leave camp as simply ignorant of their economic interests or as merely xenophobic. The Lord Ashcroft opinion surveys taken on the day of the referendum emphasized the importance of ‘national control’. Unsurprisingly, because skepticism in the UK towards parting with sovereignty vis-à-vis the EU and its predecessors has long been greater than on most of the continent. However, and this the key lesson, British governments saw the maintenance of a foothold in the European institutions as a long-standing national interest — and not only for economic reasons. British postwar strategy was predicated on acting as a bridge between the US and Europe, a role already foreseen by Churchill himself, in order to compensate for its declining global position. Successive American administrations looked to the UK to project more American influence in the European project, and indeed Obama publicly cautioned against Brexit. In the end, the economic consequences of Brexit may be less severe than predicted, and the UK may compensate for its strategic loss in Europe by increasing its role in NATO. But it is a sign of the times that a center-right politician as David Cameron — for reasons to do with his position within the Conservative Party — chose such an unpredictable course that undermined such a long-term British national interest.

Europeans should heed to similar trends of political uncertainty on the other side of the Atlantic. Postwar American grand strategy has been largely and consistently liberal internationalist, carried by a strong consensus across the political center, including both Republicans and Democrats. But that consensus has long been in decline. A Trump presidency is still less likely than a Clinton one, but Brexit has shown the seriousness of the anti-internationalist mood. Trump’s foreign policy doctrine, though still sketchy on details, is undiluted nationalism. “Americanism, not globalism, will be our credo”, Trump stated in his acceptance speech at the July Republican National Conference, unlike those elites “who will not put America First”. Days before, in an interview with The New York Times, Trump made clear that he would not unconditionally support Baltic NATO members if they were attacked, unless “they had fulfilled their obligations to us”, because “we’re going to take care of this country first, before we worry about everyone else in the world”. Along the same lines, Trump argued that the US should not presume to tell others what to do, that deploying troops from American soil would be cheaper than their forward deployment, but also that the US should invest more in its defense because it was now weak.

**Populism and polarization**

It is easy to argue that it is unlikely that a President Trump would be able to drastically change course on NATO or other core elements of postwar American foreign policy. He would indeed encounter resistance within Congress and within the Pentagon and State Department that would make an immediate reversal of established policy highly unlikely. Furthermore, the hope remains that he will moderate as he closes in on power. However, would a President Trump become more restrained and cautious after winning an election by doing exactly the opposite? The uncertainty among allies and adversaries alone would be destabilizing, and that should worry Europeans.

A Clinton presidency would not be unproblematic for Europeans either. She would encounter the same incentives to strongly pressure the Europeans to spend more on their defense. Defense Secretary Gates in 2011, and President Obama in his 2016 interview in The Atlantic, sent the same message. More importantly, a victory for Clinton, unless profoundly sweeping, is likely to leave the US polarized and the political atmosphere poisoned. And this, in turn, is likely to continue the deadlocks that have undermined cohesive policymaking — as was the case in the 2012 crisis around raising the debt ceiling.

Political uncertainty is rife in continental Europe as well, where the two major states will have their elections in 2017. France holds its presidential election in the spring, with the leading candidate for the French presidency, a position likely to be strengthened by the recent terrorist attacks — though the electorate is still likely to unify behind either a
center Left of center Right candidate after the first round. But a Frexit remains a distinct possibility. German politics have proved remarkably stable so far, but also here increasing resentment has found a voice in Alternative für Deutschland. The relatively welcoming mood towards refugees championed by Merkel, however, has turned sour after the full picture of the Cologne assaults has emerged, and with it her chances of reelection have diminished.

Western identity

The implications of these trends are serious. Even without the structural pressures from the rise of Asia, the American role in Europe as a security provider through NATO is becoming uncertain. Simultaneously, the European project is becoming increasingly fragile and at risk of falling apart. Criticism of both is valid, but as of yet no alternatives have been suggested for the roles they play in providing longer-term systemic stability.

When it comes to solutions, there are lessons to be learned from the last years, but they must be learned and applied quickly. The most important lesson is that liberal democrats must conquer their disdain of the nation-state and recapture some of its core strengths before others do. The strength of postwar embedded liberalism was to match national identity and sovereignty, with the benefits of constrained open markets and movement. Political, economic and academic elites have a collective blindspot here, because they benefit most directly from the opportunities afforded by such a system. For example, the

While the consequences of ‘Brexit’ are still unclear, the phenomenon itself has shown the seriousness of the anti-internationalist mood. Brexit, the Trump candidacy, the growth of rightwing populist movements within Europe: these events and actors are part of an overarching theme of renationalization within politics (photo: Flickr/frankieleon)
TTIP agreement will tie (a part of the) transatlantic elites together, but is already alienating the rest of the polity. Internationalization disconnected from interests and without binding identities cannot hold society together or allow its effective governance. Yet, cosmopolitanism and internationalism have themselves been the strength of the postwar Western order. Strengthening a larger European or Western identity is essential, so as to not let it be defined by those who see it narrowly as positioned against what lies outside of Europe or the US. Liberal democratic values are worth defending, and we should do so while we still can.

Paul van Hooft is Max Weber Fellow at the European University Institute.

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What are Beijing's motivations?

Court rulings about international disputes are often ambiguous. Unlike disputes between civilians on a national level, national prestige and the reputation of the state come into play. International judges, therefore, are prone to nuanced rulings, taking into account not only the law but also the parties’ political interests. There was no such ambiguity in the July 12 ruling of the Permanent Court of Arbitration (PCA) on the South China Sea dispute between China and the Philippines. The five judges find China guilty of acting in violation of the 1982 United Nations Law of the Sea Treaty (UNCLOS). China impeded Philippines' fishing activities within the latter’s 200-nautical-mile-wide Exclusive Economic Zone (EEZ), blocked Manila’s oil drillings in the same area, and built artificial islands. The court also objects to the irreparable damage to vulnerable coral reefs caused by the construction of artificial islands and the illegal harvesting of rare species like sea turtles and giant clams. Beijing not only tolerates these activities by Chinese fishermen; it even encourages them in order to strengthen China’s claims to sovereignty in the South China Sea. The court did not look into the sovereignty claims of the respective parties to the islands situated in the South China Sea — it had no jurisdiction on this matter — but the court did sweep aside the ‘indisputable’ historical rights Beijing claims to have to the maritime areas of the South China Sea.

“The Tribunal DECLARES that, as between the Philippines and China, China’s claims to historic rights, or other sovereign rights or jurisdiction, with respect to the maritime areas of the South China Sea encompassed by the relevant part of the ‘nine-dash line’ are contrary to the Convention and without lawful effect to the extent that they exceed the geographic and substantive limits of China’s maritime entitlements under the Convention; and further DECLARES that the Convention superseded any historic rights, or other sovereign rights or jurisdiction, in excess of the limits imposed therein.”

The ‘Convention’ refers to the Law of the Sea Treaty (1982), to which China is a party. The ‘nine-dash line’ first came up on the famous (to many, infamous) 1947 map that declared more than 80% of the South China Sea as Chinese territory. Many Chinese people regard this map as evidence that the South China Sea has been part of the “holy motherland” for ‘2,000-years'. The court was not impressed, because the Law of the Sea Treaty, ratified by Beijing, nullifies such historical rights, if they in fact exist at all.
According to the ruling, China cannot derive any maritime rights from taking control of the Spratly archipelago, simply because none of the entities within the archipelago constitutes an island under the law of the sea.

“The Tribunal declares that none of the high-tide features in the Spratly Islands, in their natural condition, are capable of sustaining human habitation or economic life of their own within the meaning of Article 121(3) of the Convention.”

Article 121 clearly states that ‘islands’ with those attributes do not have the right to exploit the natural resources in and under the surrounding waters: “Rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf.” The artificial islands built by Beijing in recent years, mentioned by name in the ruling, enjoy even fewer maritime rights than ‘rocks’: they cannot even claim 12 nautical miles of territorial waters. The judicial part of the dispute leaves no room for doubt: ‘game, set, and match’ in favor of the Philippines.

Could this embarrassing result have been prevented? That is hard to say. In the run up to the verdict, Beijing employed its best lawyers to prove the justness of China’s claims — for example during the late-June conference ‘The South China Sea Arbitration and the International Rule of Law’, organized by the Chinese embassy in The Hague. Various Chinese academics explained, with remarkable consensus, the strength of the Chinese position. Several Western participants questioned, therefore, why Beijing did not have the confidence to cooperate with the PCA’s procedures. The standard Chinese reply is that this case actually deals with sovereignty, a matter Beijing never submits to international settlement of disputes. A rather unpersuasive response, since participation in the PCA’s procedure would have provided enormous gains: critics who view Beijing as a bully of smaller nations would have been silenced. Moreover, China would have obtained the image it so eagerly strives for: a morally superior nation that aims to persuade other countries by drawing on the Confucianist tradition, rather than subjugating them through raw power.

Three reasons for defiance

There are several reasons why Beijing chose a different path. The first one is obvious: China’s position is not as strong as its lawyers and politicians pretend it to be.
Indeed, China’s position is very weak. The ‘2000 years’ claim rests on an early 20th-century fiction. Arabic and Indian fleets navigated the area long before Chinese merchants arrived on the scene. At a public hearing in 2014, Philippine judge Antonio Carpo showed fifteen ancient Chinese maps (the oldest dating from 1136 AD), which all indicate the island of Hainan as the southern-most part of Chinese territory. He called upon the Chinese authorities to view its claims on the basis of facts. His call was not answered. Furthermore, islands named on Chinese maps (and maybe first discovered by Chinese sailors or explorers) do not constitute proof of sovereignty. Following that kind of logic, the Netherlands could claim Tasmania, discovered by Abel Tasman. As Bill Hayton compellingly demonstrates in his book The South China Sea, the struggle for power in East Asia, China’s claims on the South China Sea are the result of the rise of Chinese nationalism that manifested itself since the early 20th century. Historical ‘facts’ have been viewed through that prism ever since. It is indeed significant that many of the islands that supposedly have been a part of China for 2000 years, have names translated from English. For example, Zhenmu Ansha, near Borneo, is derived from James Shoal. The island, or rather sandbank, simply did not appear on old Chinese maps.

The second reason Beijing did not cooperate with the PCA’s procedure has nothing to do with law, but is all about power and security. A third of world trade passes through the South China Sea — including resources crucial to China’s gigantic manufacturing industry. The still dominant presence of the U.S. Navy incites feelings of vulnerability, especially because China does not have any allies or military bases in the area. Militarizing the South China Sea, by creating air strips and docks on the artificial islands, is in the Chinese view a logical step that perfectly fits within its ‘First Island Chain’ strategy: the U.S. military should be denied access to the areas west of the imaginary line that runs from the Riukiu Archipelago in the north to Borneo in the south.
Finally, the third reason why Beijing refused to cooperate with the PCA is driven by domestic politics and is therefore less known in the West. The governing Communist Party has been in power for almost seventy years, and it is determined to maintain that position — at least until 2049, a hundred years after Mao Zedong founded the Peoples’ Republic of China. Does the people of China support this ambition? Is the Party, in other words, the legitimate ruler of China? These crucial questions are of daily concern to the Central Committee and its leader, the Party’s General Secretary Xi Jinping. The first, legendary leaders of the People’s Republic, Mao Zedong and Deng Xiaoping, did not need to worry about matters of legitimacy. Mao founded the ‘New China’, and Deng started an unprecedented economic revolution. Their right to rule was never challenged. Their successors, however, cannot rely on that anymore as a matter of course. The economic boom resulted in prosperity, but also created income inequality, blatant corruption and environmental destruction.

‘Territorial unity’

On which pillar does the current leaders’ legitimacy rest? Xi and his fellow members of the Central Committee do not answer this question by consulting the people through elections, but create their own narrative. In the field of foreign policy, the Party justifies her position by creating the myth that China’s ‘territorial unity’ has not been completed yet. Only the Party can realize this goal which makes it, in the words of propaganda chief Liu Yunshan, a ‘historical necessity’.

This narrative is not new, but has become more prominent over the last 25 years. The violently repressed demonstrations on Tiananmen Square in Beijing on June 4, 1989 were an important milestone. The Party concluded that the success of the movement was caused by a lack of patriotism among the young people of China. It therefore started an ambitious ‘patriotic education’ campaign. History was rewritten by putting emphasis on the era in which imperialistic powers like England and Japan demoted China to a secondary power — an era that was labeled the ‘Century of Humiliation’ (1839-1949). Thanks to the Party, China could rid itself of these evils, but not entirely, since only the restoration of its ‘territorial integrity’ could exorcise China’s historical traumas and help it recover its true greatness.

When is this mission accomplished? The Party does not address this matter clearly; it rather makes use of ‘moving targets’: the more insecure the Party feels about its domestic power, the wider the reach of its territorial claims. The claim on the South China Sea, for instance, dates from the early 20th century, but has gained traction only since 2010, when Beijing proclaimed the area to be of ‘core interest’, equal in importance to Tibet and Taiwan. Nationalistic voices from the military even speak of the ‘six wars’ China needs to wage this century to regain the territories that were under Chinese control or influence during the era of the emperors: Taiwan, the South China Sea, the Riukiu Islands, Arunachal Pradesh (in the Himalayas), Mongolia, and finally large swaths of Siberia, that were lost to the Russian czars in the 19th century.

From a sinological perspective, it is interesting (as well as politically disturbing) that Beijing’s elastic concepts of sovereignty align with notions about the international order that were dominant during the Imperial age (which ended with the fall of the Qing dynasty in 1911): China, as the center of the known world at that time (i.e. East, Central, and Southeast Asia), had the right to intervene in other states’ affairs when they adopted an anti-Chinese stance or did not pay due respect to the emperor by

‘Map of National Shame’, which includes all of Indochina and the South China Sea as Chinese territory
Failing to deliver tribute. It is no coincidence that ‘Maps of National Shame’ published by the Republic of China (which ruled the whole country from 1911-49, and is now seated in Taiwan), have been republished — these maps include all of Indochina and the South China Sea (see map).

‘Ba’ and ‘wang’

The key question, especially with regard to international peace and security, is: where will China’s assertive policy, driven by historical sentiments, ultimately lead to? As could be expected, Beijing adamantly rejected the PCA’s ruling, and dismissively called it ‘a piece of paper with no legal value’. On the other hand, domestic demonstrations against the verdict were prohibited: an interesting fact that indicates Beijing wants to give its diplomats some leeway to reach an understanding with the Philippines and other neighboring states in the South China Sea. Whether that will prove successful is debatable. Beijing has stoked nationalist sentiments for years, and once that genie is out of the bottle, it won’t be put back in easily — especially because it appeals to a broadly felt sentiment of victimhood. China’s sage of foreign policy, former State Councilor Dai Bingguo, stated it this way in a recent speech in Washington:

“China suffered enough from hegemonism, power politics and bullying by Western Powers since modern times. The Versailles peace conference at the end of World War I forced a sold-out of Shandong Province. The Lytton Commission, sent by the League of Nations when Japan invaded China’s northeast provinces, only served to justify Japan’s invasion. Even the US-led negotiations on San Francisco Peace Treaty excluded China. These episodes are still vivid in our memory. That is why China will grip its own future on issues of territorial sovereignty, and will never accept any solution imposed by a third party.”

Statements like these should not be taken too seriously in the sense that when sovereignty comes into play diverse opinions are not tolerated by the Party. The personal point of view of the speaker or author is hard to gauge, because despite the often displayed feelings of historical injustice, the Chinese are a pragmatic people that focus primarily on economic growth and living a good, materially affluent life. Sacrificing one’s life for ‘the motherland’ is a concept alien to Chinese nature. An interesting opinion poll, carried out by the University of Western Australia in 2014, confirms this: more than 90% of the Chinese citizens polled believed the South China Sea belongs to China, but fewer than half were willing to fight a war over it. The preferred courses of action include diplomacy, international PR campaigns, and, if necessary, embargoes. This attitude neatly fits the Confucianist core value of ‘Zhong Yong’, the Doctrine of the Mean. ‘Zhong Yong’ is an attitude to life that is characterized, in the words of cultural philosopher Lin Yutang, by “moderation and self-control, and is hostile to abstract theories and logical extremities.”

The Party’s course of action in the South China Sea question (and other international disputes) is unclear. President Xi has repeatedly stated that Confucianism represents the soul of the nation, and he teachings of the old philosopher are enjoying a true revival. As to the nature of a state, Confucianism makes a crucial distinction between ‘ba’ and ‘wang’. ‘Ba’ — hegemony — is practiced by states that subjugate others through a show of force. States that choose ‘wang’ — the princely way — instead, achieve their goals through moral persuasion and the superiority of their virtuous example. The United States is characterized by Chinese opinion leaders as a typical ‘ba’ nation, but Beijing’s actions in the South China Sea make this seem a case of a pot calling the kettle black. Without a fundamental change of policy on the Chinese side, the prospects for permanent peace and security in East Asia, and indirectly in the rest of the world, look grim.

Henk Schulte Nordholt studied sinology and international law at Leiden University and frequently speaks and writes about modern China. His best-selling book China & de barbaren – het verzet tegen de westerse werelddorde (China and the barbarians - the resistance against the word order dominated by the West) will be published in English early 2017.

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The South China Sea dispute

In fact there is no coastal State in the world that does not have an overlapping maritime zone with at least one other State. China is not exceptional. On 22 January 2013, the Philippines submitted a request to settle the disputes between it and China in the area of South China Sea through arbitration. In addition to the Philippines, there are three more states and one entity claiming the titles and/or rights within the area of South China Sea, namely Vietnam, Malaysia, Brunei and Taiwan.

This article discusses the South China Sea dispute from the perspective of international law. First, it introduces some basic information about international law in this field. In the second part, the Spratly islands dispute is used as a concrete example to show how international law deals with this kind of dispute. Finally, it analyzes the arbitration case between the Philippines and China.

Relevant international law

It is natural to imagine that if a state intends to claim rights over the land, it needs to take possession of it. Things are different with the sea. For centuries people thought that it was impossible and unnecessary to occupy the sea. Therefore the principal rule governing the sea until recent years was the freedom of the sea. Every state was free to use the sea in any way. However, with the development of technology and the increasing demand for resources, it became possible and necessary to occupy the sea. Therefore the principal rule governing the sea until recent years was the freedom of the sea. Every state was free to use the sea in any way. However, with the development of technology and the increasing demand for resources, it became possible and necessary to occupy the sea.

Under the current laws, the sea is divided into several maritime zones. These zones include territorial sea (TS), contiguous zone (CZ), exclusive economic zone (EEZ), and continental shelf (CS). According to the United Nations Convention on the Law of the Sea (UNCLOS), if a state has territorial sovereignty over an island or a mainland, it can claim a TS of no more than 12 nautical miles (nm), an EEZ of no more than 200nm, and normally a CS of no more than 200nm.

UNCLOS is a treaty. Treaties, international customary laws and general principles of law are three formal sources of international law. Treaties are agreements between or among states. Customary law is state practice that has been accepted as law. General principles of law are principles that have been recognized by civilized nations. There is no hierarchy between these three sources. There are also two substantial sources, judicial decisions and teachings of jurists, that can bind states in the form of the above-mentioned three formal sources. The sources of international law are important because they provide a basic framework to analyze the legal issues that can be solved through recourse to international law. Usually, states base their claims on different sources, and the settlement of disputes relies on the determination of which source can provide a better territorial title over the disputed area.

An example of legal analysis: the Spratlys

The underlying sources of tension in the South China Sea are disputes within the following three areas: the Spratly Islands area (claimed partially or wholly by China, Taiwan,
Malaysia, Vietnam, the Philippines and Brunei), the Paracel Islands area (claimed by China, Taiwan and Vietnam), and the Scarborough Shoal area (claimed by China, Taiwan and the Philippines). There are two main issues: island sovereignty and maritime entitlements. Among these three areas, the Spratlys area is the most complicated one since it involves more parties. This article uses the Spratlys dispute as a concrete example to show how international law deals with this kind of dispute.

China claims territorial sovereignty over all the Spratly islands, and claims an EEZ and CS from these islands. China may also claim some titles or rights from the U-shaped line. Vietnam claims all the islands in this area, as well as an EEZ and CS from its mainland. The Philippines claims the islands within the Kalayaan Island Group, and an EEZ and CS from its archipelagic baselines. Malaysia claims a dozen tiny geographical features in the southeastern portion of the Spratlys, and also an EEZ and CS from its mainland. Brunei does not claim any islands, but a marine area around Louisa Reef.

Based on the claims by each state, the overlapping claims between the states can be identified. Respecting island sovereignty, all states, except Brunei, claim part or all of the islands in this area. Regarding maritime entitlements, based on UNCLOS, states like Vietnam, Malaysia and the Philippines claim an EEZ and CS either from the mainland or archipelago, while China claims an EEZ and CS from the islands. Meanwhile, based on customary law, China may also claim historic rights from the U-shaped line.

According to the foregoing analysis, the legal issues in this dispute can be summarized as follows: firstly, which state has better claims? Secondly, before the final settlement, what kinds of provisional arrangements can be made in order to keep the peace in this area? Regarding the first issue, various factors need to be taken into consideration. The first factor is that states may rely on different sources, including treaty, custom and general principles of law. If these sources lead to different conclusions, the prevailing source shall be determined. Furthermore, these sources may come into effect at different time periods. Therefore, the intertemporal principle needs to be considered in order to decide whether the previous law or the posterior law should be applied to facts that may have taken place in the past. The third factor is related to the Eurocentric international law issue. Modern international law originated and developed in the Western
world. However, the states involved in the Spratly Islands dispute are Asian. Therefore, before their awareness of European international law, other legal orders governing the areas in dispute may have existed. Finally, states may assert conflicting state practices. Hence, the question of how to identify and analyze such conflicting state practices needs to be addressed. These are the main legal issues we should pay attention to when we try to use international law to deal with this kind of dispute.

The arbitration case between the Philippines and China

In January 2013, the Philippines initiated arbitration against China. In February of the same year, China refused to attend this case. In July 2015, the tribunal held a hearing on Jurisdiction and Admissibility. In October 2015, the tribunal rendered an Award on Jurisdiction and Admissibility (First Award). In November 2015, the tribunal held a merit hearing. In July 2016, the tribunal rendered its Final Award.

In the First Award, the tribunal held that it has affirmative jurisdiction over 3 claims and conditional jurisdiction over 4 claims, and that the decisions on the remaining 8 claims are subject to the decisions on the merits. The tribunal admits that the existence of overlapping entitlements can possibly affect the outcome of this case since it can result in a sea boundary delimitation issue. According to UNCLOS, China expressed a reservation about exceptions to the tribunal’s jurisdiction. Pursuant to this reservation, disputes regarding sea boundary delimitation are exempted from the jurisdiction of the tribunal. This can also explain why the legal status of Itu Aba, the biggest feature in this area, is so important. According to UNCLOS, if Itu Aba is proved to be an island rather than a rock, it can generate a 200-nm EEZ. This potential 200-nm EEZ significantly overlaps with the Philippines’ claimed EEZ. Therefore, in this arbitration case, the tribunal would lack jurisdiction on some claims asserted by the Philippines. The decision of the legal status of Itu Aba would have a major influence on the outcome of this case. Actually it is a priority issue to be addressed in the tribunal’s final award.

However, in the Final Award, the tribunal concluded that all of the high-tide features in the Spratly Islands, including Itu Aba, constitute rocks under Article 121(3) of UNCLOS, and thus none of them can generate an EEZ or a continental shelf. Hence, there is no entitlement to an EEZ or continental shelf generated by any feature claimed by China that would overlap the entitlements of the Philippines. The tribunal has jurisdiction to consider all the claims by the Philippines except claims No. 14(a), (b) and (c) since they are related to military activities, and military activities are exempted from the jurisdiction of arbitration according to Article 298(1)(b) of UNCLOS.

It is worth noting that the tribunal in this case is established under UNCLOS, and therefore it cannot touch the issue of territorial sovereignty over the islands. Also, due to China’s reservation, the tribunal cannot deal with the issue of sea boundary delimitation. Therefore, the main legal issues of South China Sea dispute remain unsettled and need to be addressed through the good faith and cooperation by disputants in the future.

Concluding remarks

This article provided a legal analysis framework for the South China Sea dispute. From the aforesaid analysis, it can be concluded that the settlement of disputes through international law shall go as follows. The claims by each state shall be first identified, then the overlapping claims are analyzed, and the legal issues that can be solved through international law are figured out. It is worth noting that the reasons for disputes can be diverse. However, international law can address only those belonging to legal issues. Other issues need to be approached through cooperation or other means. What we need to bear in mind is that the function of international law is to make peace and keep peace. It is not intended to escalate the conflicts. The parties shall be aware of this and address this dispute in a peaceful way.

Xuechan Ma is a PhD-candidate in Public International Law at the Grotius Centre for International Legal Study, Law Faculty, Leiden University.

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2. ‘Art. 38 of the Statute of the International Court of Justice’.
This book takes stock of the rule of the Saud royal family and outlines a number of scenarios, ranging from continuation of the current kingdom to a radical break with the past.

In their book, the authors argue that Saudi Arabia, like its neighbors Iraq and Syria, can succumb to internal conflicts. Corruption, repression, (youth) unemployment and poor education create major disruptions in the socio-economic balance. Moreover, because of the low price of oil, the current monarch Salman bin Abdel-Aziz Al Saud (1935) no longer has unlimited money to throw around internally to keep the peace.

A key point in the argument of the book is the idea of the double-edged sword of Islam, the historic alliance between the House of Saud and the Wahhabi clergy. The latter supports the royal family in exchange for a policy of non-intervention in spiritual matters, especially the puritanical organization of the country by the conservative clergy. The question is how long can this ‘monstrous alliance’ be maintained. Reforms by the royal family, such as the appointment of female Shura members, provoked fanatical protests by radical clerics.

An important turning point in modern Saudi Arabia was the occupation of the Grand Mosque in Mecca in 1979, the same year in which the Shah was forced to step down in Iran and the new Iranian rulers began to challenge the leadership of Saudi Arabia. The occupation of the Grand Mosque by a group of strict believers, who contested the spiritual and moral decay of the royal family, lasted more than two weeks. Most of the occupiers were beheaded. This episode is important because the king adopted the strict Islamic character of the rebels and introduced it into
education. In addition, the Saudis began to support the Afghan jihad on a large scale with money and volunteers. Saudi money is also flowing to radical mosques outside the Middle East and to madrassas in Pakistan. The spirit of intolerant Wahhabism was out of the bottle. The events of 9/11 brought about a reversal (15 of the 19 hijackers were Saudis). However, the royal family changed course radically only after the suicide attack by religious conservatives on an apartment complex in Riyadh. The domestic threat to the monarchy was deemed too great.

Saudi Arabia intervenes as a regional great power on a large scale in the region. During the Arab Spring the Saudis supported fellow monarchs as much as possible and oppressed the (Shi‘ite) opposition, even beyond national borders, such as in Bahrain and Yemen. More and more, Saudis feel the hot breath of Iran on their neck, leading them to support “the enemies of my enemy (Iran),” as in the Syrian civil war.

Is the royal house of Saud crisis-proof? A sudden domestic rebellion seems far away. Nevertheless, the authors conclude, the political reforms initiated by King Abdullah harbor the danger of undermining the monarchy. In addition, the conflicts between Sunnis and Shi‘ites create complications for the royal family: even apart from the eternal enemy Iran, in some Saudi provinces Shi‘ites form a solid majority. Enough explosive material, in short, to contemplate the worst scenario, a total disruption of the Middle East.

Bram Boxhoorn is Director of the Netherlands Atlantic Association.

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