Research Paper

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The Future of the United States and Europe

An Irreplaceable Partnership

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Contents

Summary

- The partnership between the United States and Europe has been an anchor of the world's economic, political and security order for more than seven decades, but we should not take it for granted. The transatlantic relationship faces many dangers. However, the issues that bring the two sides together ultimately carry much greater weight than those that might divide them.
- The US and the EU have notably different perceptions and interests, the navigation of which requires nuanced diplomacy. Although each side brings different ideas and experiences to the table, numerous areas of actual and potential collaboration can be identified. The rules-based international order benefits both the US and the EU, and it urgently needs their collaborative support.
- The US and the EU remain leaders of the world economy. How they approach issues of international trade and investment affects not only their own economic relationship but the global economy as well. The Trump administration's combination of a more protectionist message, a willingness to veer away from the previous administration's stance on multilateral negotiations, and a hard-line approach to trade disputes creates uncertainty over the future of the transatlantic economy. However, there is scope for transatlantic cooperation in areas such as services, the digital economy and jointly tackling unfair trade practices by other countries.
- The US and the EU have different approaches to privacy, data protection and the technology industry. While the US favours a more sectoral approach that relies on a combination of legislation, regulation and self-regulation, the EU tends to rely more heavily on legislation. This complicates the relationship. However, the two sides share the goal of allowing data to flow between Europe and the US while ensuring a high level of protection for their respective citizens' privacy and personal data. A key task for EU officials will be to keep their US counterparts informed about the implementation of the new General Data Protection Regulation.
- The US and Europe face many of the same challenges in fighting terrorism and other serious crimes. The Trump administration has made clear its intention to act more forcefully in this area. While EU–US cooperation in law enforcement and counterterrorism has been a fruitful aspect of transatlantic relations for years, the EU's new capacities make it a more valuable law enforcement and counterterrorism partner for the US than ever before.
- The Trump administration has focused at the political level on promoting increased European defence spending, as well as on increasing NATO's role in counterterrorism efforts. Although President Donald Trump has abandoned the stance that NATO is obsolete, there remain suggestions that the US could moderate its commitment to defending NATO members in the future if they do not shoulder a greater share of the financial burden.

It is not surprising that European leaders would want to simultaneously strengthen their contributions to NATO defence and build European defence capabilities. In focusing primarily on peacekeeping, conflict prevention and strengthening international security, the EU's Common Security and Defence Policy complements and supports NATO's mandate for European and transatlantic security.

- EU–US foreign policy coordination on third-country and regional situations is an essential part of transatlantic efforts to shape the global political environment. The coordination of US and EU sanctions policies against third countries such as Iran, Russia, Syria, North Korea and, most recently, Venezuela has played an increasing role in EU–US foreign policy. However, there are areas of potential divergence, particularly around Iran and its nuclear deal, which could lead to major rifts between the EU and the US.

1. Introduction

The partnership between the United States and Europe has been an anchor of the world's economic, political and security order for more than seven decades. This is no accident: leaders in post-war Europe and the US prioritized closer political, trade, investment and defence ties in order to promote security, shared prosperity and universal values of democracy and human rights. The result is that the US relationship with the European Union is the deepest and most complex in the world. The success of the post-war generations of leaders has been taken for granted, however, and the comprehensive transatlantic interdependency goes almost unnoticed by citizens, like an overlooked feature of the natural landscape.

We can no longer take the transatlantic relationship for granted, as significant geostrategic changes attest. Faith in governments, institutions and alliances is under stress, while anti-trade and anti-globalization public sentiments are increasing, tempered by the recent electoral success of centrist politics in some countries. This is a critical moment to reassess the trajectory of transatlantic relations and the prospects for EU–US cooperation.

The success of the post-war generations of leaders has been taken for granted and the comprehensive transatlantic interdependency goes almost unnoticed by citizens, like an overlooked feature of the natural landscape.

This paper, written collaboratively by experts at the Center for Strategic and International Studies (CSIS) and Chatham House, presents an analysis of key political, economic and security dynamics in the transatlantic relationship. It does not seek to be exhaustive. We assess how the top policy priorities of the US and the EU affect each other, and identify areas with the greatest potential for cooperation – as well as where growing divergences will have to be managed. We provide recommendations to strengthen the relationship for the shared benefit of the citizens of Europe and the US.

A truly 'transatlantic' analysis is our goal. In five successive sections, experts from CSIS first assess emerging elements of the policy agenda of Donald Trump's administration and their implications for the US–EU relationship; then experts from Chatham House look at both long-standing and newly forged EU policies, as well as ways in which these could be affected by the different approaches of the Trump administration. A sixth, standalone section outlines the EU perspective on energy and climate change in the context of the transatlantic relationship. Policy recommendations specific to the topics covered in each section are highlighted throughout the text and aggregated in Chapter 4 ('Recommendations').

From the US perspective, we outline the economic, security and foreign policy priorities of the Trump administration, and identify potential areas of cooperation with the EU. We recommend new steps that could advance the partnership (although in some cases, staying the course will serve US interests well). Some tendencies are clear: support for bilateral 'fair' trade negotiations (and an emphasis on economic nationalism); a desire to reduce foreign assistance; scepticism towards international institutions, alliances and multilateral agreements concluded by previous administrations; and a declining role for values in foreign policy. Congress has asserted a growing role in foreign affairs, however, and this adds a new complexity to policymaking that may reshape and lead to a reprioritization of the administration's foreign and security policy.

From the European perspective, we highlight key issues on the EU agenda, and the EU–US interaction within the wider transatlantic relationship, building on the analysis detailed in the sections on the US perspective. We look at various ways in which the EU will interact with the US over issues such as trade and investment; data flows and the new economy; law enforcement and counterterrorism; security and defence; foreign policy, including multilateralism; and energy and climate change.

Previous US administrations have always reached the same conclusion that the architects of the transatlantic relationship seven decades ago knew so well: that the US and Europe form a community of democratic values that upholds the international liberal order and within which cooperation is essential to meet global challenges. When either side strays from these values and from this cooperation, the international order is weakened to the two sides' detriment. It is unclear whether the Trump administration will be inclined to continue the close US partnership with the EU. How the EU responds will be a significant factor. Given this context, this paper highlights abiding transatlantic interests and suggests how to approach them, even in a political atmosphere in Europe and in the US characterized by growing polarization and decreasing trust in institutions and leaders.

2. The State of Affairs

2.1 Economics, trade and investment

2.1.1 Economics, trade and investment – the view from the US

The US and the EU enjoy the largest and most integrated economic relationship in the world. The transatlantic economy accounted for 46 per cent of the world's gross domestic product (GDP) in 2015.[1] The majority of US foreign investment (58 per cent) is in Europe, and Europe is the largest source (69 per cent) of foreign direct investment (FDI) in the US. All told, the relationship encompasses over $5 trillion in investments. Annual trade in goods and services between the EU and the US is worth over $1 trillion,[2] twice the value of US–Chinese trade.[3] Together, the European affiliates of US companies and the US-based affiliates of European companies employed an estimated 8.7 million workers in 2014, a 5 per cent increase from 2013.[4] In short, the US and the EU remain leaders of the world economy. Therefore, how they approach issues of international trade and investment affects not only their own economic relationship but the global economy as well.

Shift away from multilateralism?

Support for free markets and the international trading order has long been an essential part of US economic and foreign policy; successive administrations from both the Republican and Democratic parties have advocated a more open and transparent world economy, free of tariffs and barriers, and higher environmental, safety and labour standards. Although there are transatlantic distinctions in policy and priorities, the US and Europe have largely taken similar approaches to international trade and investment. The administrations of George W. Bush and Barack Obama worked towards bilateral free-trade agreements (FTAs), as well as multilateral ones such as the Trans-Pacific Partnership (TPP) with Asia-Pacific partners and the Transatlantic Trade and Investment Partnership (TTIP) with the EU.

President Trump's economic and trade teams, echoing his campaign message, are implementing the president's stated desire for trade measures to protect American industries and reduce the deficit in trade in goods. The administration is particularly focused on trade imbalances between the US and other countries (notably Germany, which has the world's highest current-account surplus),[5] as well as on trade in goods rather than on the faster-growing service economy.

[1] World Bank (2018), World Bank Open Data, https://data.worldbank.org (accessed 12 Mar. 2018).
[2] Hamilton, D. S. and Quinlan, J. P. (2017), *The Transatlantic Economy 2017*, Washington DC: American Chamber of Commerce to the European Union (AmCham EU) and Centre for Transatlantic Relations (CTR), p. 14, http://www.amchameu.eu/sites/default/files/170227_full-book.pdf (accessed 8 Mar. 2018).
[3] Office of the United States Trade Representative (undated), 'The People's Republic of China', https://ustr.gov/countries-regions/china-mongolia-taiwan/peoples-republic-china (accessed 8 Mar. 2018).
[4] Hamilton and Quinlan (2017), *The Transatlantic Economy 2017*, p. 17 (accessed 13 Feb. 2018).
[5] Wagner, R. (2018), 'Germany Trumps Asia with world's largest current account surplus', Reuters, 16 January 2018, https://www.reuters.com/article/us-germany-economy-trade/germany-trumps-asia-with-worlds-largest-current-account-surplus-idUSKBN1F50WP (accessed 13 Feb. 2018).

The administration also continues to favour a more bilateral approach to trade relations over multilateral forums. The administration is seeking to renegotiate trade deals such as the North American Free Trade Agreement and the Korea–United States Free Trade Agreement. The economic summits of 2017 demonstrated this focus on trade balances, protectionism and more forceful retaliation against what the US perceives as unfair trade practices.[6]

The first concrete retaliatory action came in January 2018, when the US announced it would impose tariffs to protect US manufacturers of solar panels and washing machines – measures principally affecting Chinese and South Korean producers. This was followed by a decision by President Trump to impose tariffs on steel and aluminium on trading partners in March 2018, which reportedly divided his cabinet.[7] A US investigation of China in respect of intellectual property rights is ongoing and could result in further US action. The aluminium and steel measures emerged from a finding by the Department of Commerce that imports of steel and aluminium threaten national security. The national security basis gives the US more leeway to impose barriers because national security measures are exempt from World Trade Organization (WTO) obligations. Yet though the tariffs are justified on national security grounds, public comments by the president and members of the administration have emphasized a desire to protect US industry more broadly rather than a narrow focus on national security.[8] The US's use of such tactics raises the risk of similar retaliation or trade challenges from other countries, and at the time of writing the EU had raised the possibility of retaliation against certain American sectors.

The combination of a more protectionist message, a willingness to veer away from previous administrations' stances on multilateral negotiations, and a hard-line approach to trade disputes creates uncertainty over the future of the transatlantic economy. By extension, it calls into question the future of TTIP, which has been in negotiation for four years but has been essentially dormant since the Trump administration took office.

President Trump has acknowledged that trade issues with Europe will have to be addressed with the EU and not with individual member states, as this is a competency of the European Commission. His administration has also alleged that the euro is 'grossly undervalued'[9] and manipulated by some EU members to boost their trade surpluses. The EU, however, will be the most natural partner for the US in pressing effectively on anti-dumping claims and enforcement of international standards, particularly in relation to disputes that involve China. China is now the EU's second-largest trading partner, and trade between the two economies has increased substantially in recent years: over €1 billion is traded every day, and the EU is now China's largest source of imports.[10]

[6] Group of 20 (2017), 'G20 Leaders' Declaration', Hamburg, 7–8 July 2017, http://www.g20.utoronto.ca/2017/2017-G20-leaders-declaration.pdf (accessed 13 Feb. 2018); Rajah, R. (2017), 'The G20 is dead. Long live the G20', Lowy Institute for International Policy, 15 July 2017, https://www.lowyinstitute.org/publications/g20-dead-long-live-g20 (accessed 13 Feb. 2018).
[7] Swanson, A. (2018), 'Trump to Impose Sweeping Steel and Aluminum Tariffs', *New York Times*, 1 March 2018, https://www.nytimes.com/2018/03/01/business/trump-tariffs.html (accessed 9 Mar. 2018).
[8] Bown, C. P. (2018), 'Trump's Steel and Aluminum Tariffs Are Counterproductive. Here Are 5 More Things You Need to Know', Peterson Institute for International Economics, 7 March 2018, https://piie.com/blogs/trade-investment-policy-watch/trumps-steel-and-aluminum-tariffs-are-counterproductive-here-are (accessed 9 Mar. 2018).
[9] Gramer, R. and Tamkin, E. (2017), 'Trump Trade Expert Rips Germany for 'Manipulating' Euro', *Foreign Policy*, 31 January 2017, http://foreignpolicy.com/2017/01/31/trump-trade-expert-rips-germany-for-manipulating-euro-trade-protectionism-ttip-transatlantic-controversial-eurozone-european-central-bank/ (accessed 13 Feb. 2018).
[10] European Commission (2017), 'China', http://ec.europa.eu/trade/policy/countries-and-regions/countries/china.

Chinese FDI into the US and the EU now exceeds investment flows in the reverse direction, raising concerns among many European countries about the adequacy of investment screening procedures in strategically significant industries.[11] In 2017, the president of the European Commission, Jean-Claude Juncker, proposed a European framework for screening investments in order to complement existing national mechanisms. An analysis by the Commission in 2018 will focus on strategic sectors and assets.[12] This growing European concern presents opportunities for enhanced US–EU collaboration on standards and processes for promoting investment while protecting strategic interests. The US, through the inter-agency Committee on Foreign Investment in the United States (CFIUS), chaired by the Department of the Treasury, has an established regulatory process and experience in these matters.

Recommendation

The US and the EU should institute a high-level dialogue to exchange experience and coordinate activity on screening inward FDI. This could coincide with the European Commission's preparation of a report on FDI into the EU, as part of the Commission's moves to develop regulatory proposals on investment in strategic assets or sectors.

In December 2016, China brought a case against the EU (but not the US) before the WTO to obtain market economy status (MES) and thereby reduce punitive tariffs in anti-dumping cases.[13] A bipartisan consensus in the US holds that state-owned enterprises, subsidies and interventions in the market demonstrate that China is not a market economy; there are similar concerns about China in Europe. A Chinese victory in this case would dramatically complicate US policy because China would likely next challenge US anti-dumping measures against its companies, a case the US would have to defend alone.

Recommendations

The US should seek to forge a common approach to China's current WTO case with the EU. This joint approach should be framed as a means to defend the rules-based international trading order and productively advance trade fairness internationally.

The US trade representative (USTR) and the EU commissioner for trade should implement a regular, high-level dialogue dedicated to assessing alleged unfair Chinese trade practices as well as the evolution of the MES case at the WTO.

[11] Donnan, S. (2017), 'Surge in Chinese corporate investment into the US', *Financial Times*, 2 January 2017, https://www.ft.com/content/b0cc57c8-d09f-11e6-9341-7393bb2e1b51 (accessed 13 Feb. 2018); Mitchell, T., Chazan, G. and Weinland, D. (2017), 'Chinese investment in EU dwarfs flow the other way', *Financial Times*, 10 January 2017, https://www.ft.com/content/79e3a2b2-d6f7-11e6-944b-e7eb37a6aa8e (accessed 13 Feb. 2018).
[12] European Commission (2017), 'State of the Union 2017 – Trade Package: European Commission proposes framework for screening of foreign direct investments', 14 September 2017, http://europa.eu/rapid/press-release_IP-17-3183_en.htm (accessed 13 Feb. 2018).
[13] Donnan, S., Hornby, L. and Beesley, A. (2016), 'China Challenges EU and US over Market Economy Status', *Financial Times*, 12 December 2016, https://www.ft.com/content/6af8da62-bf5d-11e6-9bca-2b93a6856354 (accessed 15 May 2017).

Moving the mutually beneficial relationship forward

US trade authorities will also need to look beyond manufacturing, as services form a critical component of the trade picture. The US had a surplus of $51 billion on its services trade with the EU in 2014.[14] Global data flows contribute more to global growth than does trade in goods, and the US is the world leader in digitally deliverable services. The US registered a surplus of $71 billion on its trade in these services with Europe in 2015.[15] Shifting the focus to future rather than current trade prospects with Europe and broadening the trade focus to more than just manufactured goods would create a better framework for moving forward.

Recommendation

The existing high-level dialogue between the Office of the USTR and the European Commission Directorate-General for Trade should include a specific and regular discussion on the evolution of the digital economies on each side of the Atlantic, and on how to ensure their compatibility. The next rounds of US–EU trade negotiations should also include a dedicated round on this fast-growing sector to ensure continued attention to it.

2.1.2 Economics, trade and investment – the view from the EU

Despite the Trump administration's initial preference for pursuing bilateral trade deals with individual EU members, the repeated explanations by EU officials and leaders of member states that trade policy falls within the exclusive competency of the EU seem to have had an impact in Washington.[16] With an increased understanding of how EU trade policy is made, President Trump and his team now seem more willing to engage with the EU as a bloc on trade matters.

Given the US administration's goal of reducing the trade deficit, the issue will be of great importance for any discussions with the EU concerning transatlantic trade and investment. In 2016, the EU ran a merchandise trade surplus of €112.9 billion with the US.[17] The EU as a whole – along with individual member states such as Germany, which contributes substantially to the EU's trade surplus with the US – is developing a strategy on how best to respond to US policy by highlighting how transatlantic trade benefits the US.[18]

This has raised some hopes that the TTIP negotiations, which were launched in 2013 but have been 'in the freezer'[19] since Trump's election, might be revived. The US government's *2017 Trade Policy Agenda* states that the administration is 'currently evaluating the status of

[14] Office of the United States Trade Representative (undated), 'European Union', https://ustr.gov/countries-regions/europe-middle-east/europe/european-union (accessed 13 Feb. 2018).
[15] Hamilton and Quinlan, *The Transatlantic Economy 2017*, p. 26.
[16] Dean J., Waterfield, B. and Wright, O. (2017), 'Trump puts EU ahead of Britain in trade queue', *The Times*, 22 April 2017, https://www.thetimes.co.uk/article/trump-puts-eu-ahead-of-britain-in-trade-queue-l7t8zwn7k.
[17] European Commission (2017), 'European Union, Trade in goods with USA', Directorate-General for Trade, http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113465.pdf (accessed 13 Feb. 2018).
[18] See the case made by Germany's deputy finance minister in a recently published article. Spahn, J. (2017), 'It Pays to Look Beyond Germany's Trade Surplus', *Wall Street Journal*, 8 February 2017, https://www.wsj.com/articles/it-pays-to-look-beyond-germanys-trade-surplus-1486587263 (accessed 13 Feb. 2018).
[19] Malmström, C. (2017), 'The future of EU trade policy', European Commission – Speech, http://trade.ec.europa.eu/doclib/docs/2017/january/tradoc_155261.pdf (accessed 13 Feb. 2018).

these negotiations'.[20] More recently, the secretary of commerce and the US trade representative have suggested that the US–EU trade talks could be reopened, without specifying any time frame.[21]

Recommendation

In order to chart a path forward on TTIP, the EU should be willing to rebrand the agreement under a different name, and to abandon negotiations on the most controversial aspects of the deal that have emerged as sticking points during the 15 rounds of talks so far.

In light of the Trump administration's deregulation agenda, addressing regulatory standards in TTIP will likely remain a key challenge. Some of the progress made so far concerning regulatory cooperation in specific sectors could be maintained outside of the TTIP negotiations. For instance, regulators in the US and EU recently struck a deal to mutually recognize inspections of premises where medicines are produced.[22] However, such flexibility runs the risk of leading to a 'TTIP-lite' framework, and decision-makers in the EU may need to weigh the impacts of no TTIP versus a TTIP process that achieves less than was hoped but leaves the door open for further progress later.

Recommendations

To move the transatlantic trade and investment agenda forward, the EU and the US should identify new areas for cooperation: for instance, in areas such as services and the digital economy.

In order to scope out potential areas for collaboration, the Transatlantic Economic Council – a forum for economic dialogue between the US and EU set up in 2007 – should be relaunched at the political level.[23]

There is also scope for a joint approach in tackling unfair trade practices by other countries, for instance regarding overcapacity in China's steel sector. The EU has recently modernized its trade defence instruments so as to: improve how trade defence investigations are conducted, including making investigations faster and more efficient; implement better rules concerning the calculation of the non-injurious price and hence the duty levels; increase transparency, in particular about provisional duties; and provide assistance for small and medium-sized enterprises.[24] With the Trump administration eager to step up responses to unfair trade

[20] Office of the United States Trade Representative (2017), *2017 Trade Policy Agenda and 2016 Annual Report of the President of the United States on the Trade Agreements Program*, March 2017, https://ustr.gov/sites/default/files/files/reports/2017/AnnualReport/AnnualReport2017.pdf (accessed 13 Feb. 2018).
[21] Donnan, S. and Beesley, A. (2017), 'US reopens door to reviving EU trade talks', *Financial Times*, 23 April 2017, https://www.ft.com/content/7996f226-282a-11e7-9ec8-168383da43b7 (accessed 13 Feb. 2018); CSIS (2017), 'U.S. Trade Policy Priorities: Robert Lighthizer, United States Trade Representative', remarks at the Center for Strategic and International Studies, 18 September 2017, https://www.csis.org/events/us-trade-policy-priorities-robert-lighthizer-united-states-trade-representative (accessed 12 Feb. 2018).
[22] European Commission (2017), 'Commission adopts updated EU-US agreement on mutual recognition of inspections of medicine manufacturers', news release, 2 March 2017, http://trade.ec.europa.eu/doclib/press/index.cfm?id=1629 (accessed 13 Feb. 2018).
[23] European Commission (2017), *Transatlantic Trade & Investment Partnership Advisory Group: Meeting report, 9 March 2017*, http://trade.ec.europa.eu/doclib/docs/2017/april/tradoc_155484.pdf (accessed 13 Feb. 2018).
[24] European Commission (2018), 'EU modernises its trade defence instruments', European Commission – Fact Sheet, 23 January 2018, http://europa.eu/rapid/press-release_MEMO-18-396_en.htm.

practices, the US and EU can take joint action to shield their domestic producers more effectively from unfair competition.

However, for the EU to explore any trade and investment pathways with the US, it needs to address two internal challenges. First, it will have to face the challenge of its own domestic backlash against trade. Public support for a US–EU trade agreement is low: 53 per cent of EU citizens viewed TTIP favourably and 34 per cent viewed it negatively at the end of 2016.[25] Because President Trump is unpopular in the EU, resuming trade talks with the US would likely face further public opposition. US decision-makers will likely pause to consider carefully before resuming negotiations.

Second, the UK's decision to leave the EU will complicate any trade and investment discussions with the US. Not only does Brexit mean that the EU will lose a major economy among its members, but until the nature of the post-Brexit arrangement is known, US negotiators will not be able to assess its impact on the remaining EU27 market. This will hamper discussions about a trade deal between the US and the EU. In addition, US officials will not be able to ascertain accurately the value of access to the UK market in the context of bilateral talks (whether formal or informal) on free trade until the talks about the future relationship between the UK and the EU have been concluded.

2.2 Data flows and the new economy

2.2.1 Data flows and the new economy – the view from the US

The US and the EU have different approaches to privacy, data protection and the technology industry. While the US favours a more sectoral approach that relies on a combination of legislation, regulation and self-regulation, the EU tends to rely more heavily on legislation. US companies dominate in the digital economy, and major US technology firms such as Alphabet and Apple recently have been subject to legal action from EU competition authorities. This causes trade tensions that complicate the relationship. However, the two sides share the goal of allowing data to flow between Europe and the US while ensuring a high level of protection for their respective citizens' privacy and personal data.[26]

EU-U.S. Privacy Shield

To bridge the transatlantic gap in approaches to data privacy, the European Commission and US Department of Commerce designed the EU-U.S. Privacy Shield framework. This followed the invalidation by the European Court of Justice of the Safe Harbor framework in October 2015, and came into force in July 2016 to remedy the resultant legal void. The new framework provides companies with a mechanism for complying with EU data protection requirements when they transfer personal data from the EU to the US in the context of trade. Compliance

[25] European Commission (2017), 'Public Opinion on a free trade and investment agreement between the EU and the USA', Eurobarometer Interactive, http://ec.europa.eu/commfrontoffice/publicopinion/index.cfm/Chart/getChart/chartType/lineChart//themeKy/29/groupKy/179/countries/EU/savFiles/702,698,805,646,838/periodStart/112014/periodEnd/112016 (accessed 13 Feb. 2018).

[26] As the EU commissioner for justice, consumers and gender equality, Věra Jourová, recently put it, 'In a world where cross-border data flows have become a central feature of global trade, strong data protection rules would be meaningless if the data can travel abroad without protections. This applies in the transatlantic context as with any other trading relationship.' Public remarks at CSIS, 31 March 2017, https://www.csis.org/events/eu-us-data-flows-and-privacy-shield (accessed 13 Feb. 2018).

is enforceable by the Federal Trade Commission (FTC) once a company decides to self-certify to the Department of Commerce, which started issuing certifications in August 2016.

Privacy Shield underwent its first annual review in September 2017. Over 2,400 companies from a wide range of industries have so far self-certified under the framework. Major companies such as Amazon, Deloitte, Alphabet, Facebook, Northrop Grumman, IBM, Microsoft, Boeing and Twitter are all Privacy Shield-compliant.[27] 'Adequacy' status from the EU allows US companies to transfer data that are crucial to their business models and, in turn, to generate huge benefits for the US and transatlantic economies while ensuring a high level of protection for personal data.

EU–US digital economy

The transatlantic digital economy forms a huge part of transatlantic trade, and its contribution to global economic growth is now greater than that of trade in goods. The internet economy is projected to grow by 8 per cent yearly over the next four years in G20 countries, and by 18 per cent in developing economies.[28] Digitally deliverable services[29] play a huge role in the growth of trade in services, massively expanding its potential. In 2014, the US exported $400 billion worth of digitally deliverable services globally, representing 56 per cent of US services exports. Trade in digitally deliverable services recorded a $159 billion surplus in that year.[30] Today, US–EU data flows are the most intensive and integrated in the world. They are twice as important as flows between the US and Asia. Digitally deliverable services from the EU are critical to US companies' manufacturing competitiveness, and vice versa. The US's exports to Europe of digitally deliverable services were worth $184.5 billion in 2015.[31] In the interests of US prosperity, the Trump administration, which is focusing on trade in goods, must reckon with the huge economic potential of digital services.

Data flows and the digital economy do not only concern internet giants such as Facebook or Google (the largest subsidiary of Alphabet); they matter to companies across all industries, as shown by the wide range of companies certified under the Privacy Shield framework.

Recommendation

The Department of Commerce and the FTC should encourage more companies to self-certify within the EU-U.S. Privacy Shield framework, thereby taking into consideration Europe's different approach to data protection while safeguarding important and growing trade linkages.

The framework itself, which became operational in August 2016, will also need support from trade and commerce authorities to ensure its proper functioning and enforcement. This is central to its sustainability. In September 2017, the US appointed 16 of its required 20 independent

[27] https://www.privacyshield.gov/ (accessed 13 Feb. 2018).
[28] Hamilton and Quinlan, *The Transatlantic Economy 2017*, p. 24.
[29] The US Department of Commerce defines digitally deliverable services as 'services that may be, but are not necessarily, delivered digitally'. See Noonan, R. (2015), 'Digitally Deliverable Services Remain an Important Component of U.S. Trade', 28 May 2015, http://esa.doc.gov/economic-briefings/digitally-deliverable-services-remain-important-component-us-trade (accessed 13 Feb. 2018).
[30] Ibid.
[31] Hamilton and Quinlan, *The Transatlantic Economy 2017*, p. 25.

arbitrators to the Privacy Shield Arbitration Panel, thus making progress on a key commitment.[32] The positive ongoing collaboration between the US attorney general, the US commerce secretary and the EU commissioner for justice is a sign that authorities on both sides are ready to take these issues forward,[33] as exemplified during the first annual review, in which relevant agencies were represented. It is also important that both sides continue to seek input from the private sector and civil society on a regular basis, and to expand such consultation wherever possible.

More broadly, on the US side, the annual review stressed the need to fill all core vacancies in oversight bodies, particularly on the Privacy and Civil Liberties Oversight Board. The review also stressed the importance of recruiting for the State Department's vacant position of Under Secretary for Economic Growth, Energy and the Environment, as this is the designated ombudsperson for Privacy Shield.

Recommendations

The Trump administration should keep in place privacy protections for foreigners, enshrined in Presidential Policy Directive 28,[34] to guarantee protection for transatlantic data flows. The administration and the Federal Communications Commission (FCC) should consider this issue when drafting future rules.

The FCC should consult with the EU data protection officer and representatives from the European Commission's Directorate-General for Communications Networks, Content and Technology to ensure future compatibility of any US regulation with data protection rules and the EU Digital Single Market.

2.2.2 Data flows and the new economy – the view from the EU

Among the more challenging items on the EU's transatlantic agenda is the regulation of personal and commercial data flows in a way that protects personal privacy, as enshrined in the EU Charter of Fundamental Rights, while meeting the requirements of national security and supporting economic growth. As outlined above, this will require continued attention to the Privacy Shield agreement with the US, as well as careful consultation over the implementation of the General Data Protection Regulation (GDPR) in 2018. It will also require additional efforts among policymakers to connect over initiatives around the role of the EU Digital Single Market in encouraging innovation.

Privacy Shield and potential challenges

The vast transatlantic commercial relationship is increasingly underpinned by large streams of data that are either personal or industrial/commercial in significance. Issues around such data streams have flared up in recent years, including over the Snowden revelations and in

[32] Lynch, G. R. (2017), 'U.S., EU Name First Privacy Shield Data Transfer Compliant Arbitrators', Bloomberg BNA, 5 September 2017, https://www.bna.com/us-eu-name-b73014464133/ (accessed 26 Sep. 2017).
[33] European Commission (2017), 'Joint Press Statement from US Secretary of Commerce Ross and Commissioner Jourová on the EU-U.S. Privacy Shield Review', press release, 21 September 2017, http://europa.eu/rapid/press-release_STATEMENT-17-3342_en.htm (accessed 13 Feb. 2018).
[34] Office of the Press Secretary, The White House (2014), 'Presidential Policy Directive – Signals Intelligence Activities', 17 January 2014, https://obamawhitehouse.archives.gov/the-press-office/2014/01/17/presidential-policy-directive-signals-intelligence-activities (accessed 13 Feb. 2018).

recent court cases such as the *Maximillian Schrems v Data Protection Commissioner* decision, which abolished the Safe Harbor framework,[35] and the *Google Spain SL, Google Inc. v Agencia Española de Protección de Datos (AEPD), Mario Costeja González* case. The EU-U.S. Privacy Shield framework seeks to enshrine a series of commitments to protect the data of European citizens gathered by US firms, but it faces potential challenges on both sides of the Atlantic. Legal challenges have started – for example, by Digital Rights Ireland[36] – and are working their way through the court processes. There is nothing to suggest from recent judgments that the Court of Justice of the EU has had a change of heart on issues such as bulk data collection or retention; this is evidenced by the recent joined cases of Tele2 Sverige (C-203/15) and Tom Watson.[37]

Implementation of the General Data Protection Regulation

A key task for EU officials will be to keep their US counterparts informed about the implementation of the new GDPR, which takes effect in 2018, as well as to help prepare firms doing business in the US and Europe to meet the new requirements.

Beyond managing these immediate pressures, it will be important to develop a broader strategy to address the inevitable tensions around data protection that will arise in the context of differing political preferences and government structures. If European and US lawmakers and regulators set rules that are contradictory or excessively restrictive, they risk undermining the potential benefits of the digital economy for innovation and growth.

Recommendation

Transatlantic cooperation is needed on a process of norm-building, such as developing agreements in principle on data security and mobility, that would outline broadly agreed principles and help frame inevitable disagreements.

A more constructive approach might acknowledge the inevitable trade-offs between privacy, security and innovation, while committing the EU and the US to consulting each other on any new rules that affect data movement. These complex questions will need to be tackled alongside an even more politically sensitive debate about autonomous technologies, including their impact on industrial productivity, labour markets and public safety. Engaging with industry will be crucial at every step of the way.

Women in the digital economy

In terms of growth in the digital economy, a recent initiative within the context of the W20 (the Women's 20 group of the G20 process), spearheaded by Chancellor Angela Merkel

[35] Court of Justice of the European Union, Luxembourg, 6 October 2015, Judgment in Case C-362/14, Maximillian Schrems v Data Protection Commissioner.
[36] Ustaran, E., Cohen, B. and Gasztonyi, K. (2016), 'Details of Legal Challenge to Privacy Shield Revealed', *Chronicle of Data Protection*, Hogen Lovells, 14 November 2016, https://www.hldataprotection.com/2016/11/articles/consumer-privacy/details-of-legal-challenge-to-privacy-shield-revealed/.
[37] InfoCuria (2016), 'Judgment of the Court (Grand Chamber)', 21 December 2016, http://curia.europa.eu/juris/document/document.jsf?text=&docid=186492&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=79526 (accessed 12 Feb. 2018); European Broadcasting Union (2017), 'Case note on joined cases C-203/15 Tele2 Sverige AB and C-698/15 Tom Watson a.o.', https://www.ebu.ch/files/live/sites/ebu/files/News/2017/02/Legal%20Case%20note%20Tele2%20Sverige%20and%20Tom%20Watson%20a.o.pdf (accessed 12 Feb. 18).

of Germany and IMF Managing Director Christine Lagarde,[38] includes an opportunity for women to develop the global economy within the digital sphere through a fund for the empowerment of women.[39] Only 1.1 billion of 7.4 billion people worldwide have access to high-speed internet connections. Women are particularly affected by the digital divide,[40] and the digital gender divide appears to be widening.[41] Beyond the W20, the EU is also working to bridge the gender digital divide.[42]

Recommendation

The EU and the US should enhance efforts to support economic growth through empowering women in the digital domain.

2.3 Law enforcement and counterterrorism

2.3.1 Law enforcement and counterterrorism – the view from the US

The US and Europe face many of the same challenges in fighting terrorism and other serious crimes. With the growing mobility of people, resources and information, it is increasingly important for governments and policymakers on both sides of the Atlantic to adopt common or harmonized approaches wherever possible. The Trump administration has made clear its intention to act more forcefully in the fight against terrorism and serious crimes, as exemplified by executive orders signed in February and March 2017 concerning transnational criminal organizations and foreign entry into the US respectively (the latter order has been challenged in court and will be reviewed by the Supreme Court in 2018). US officials have also raised the prospect of significant changes to the Visa Waiver Program, which could spark a backlash in Europe and complicate transatlantic cooperation on data sharing. While EU–US cooperation in law enforcement and counterterrorism has been a fruitful aspect of transatlantic relations for years, recent terrorist attacks in Europe have increased the urgency of improving capacity in the EU.

The EU's new capacities, as laid out in the paragraphs below, make it a more valuable law enforcement and counterterrorism partner for the US than ever before, and should demonstrate the value of engaging the EU as part of the US government's core objective of protecting its people.

Information sharing as the basis for law enforcement cooperation

Judicial cooperation is one aspect of this productive, broader law enforcement relationship. Europol, the US Department of Homeland Security and the Federal Bureau of Investigation (FBI)

[38] González, A. (2017), 'Can The G20 Put Women At The Centre Of The Global Economy?', *Huffington Post*, 3 May 2017, http://www.huffingtonpost.com.linkis.com/m90XL (accessed 13 Feb. 2018).
[39] Khan, G. A. (2017), 'Saudi Arabia, Germany agree to set up $200m fund for women empowerment', Arab News, 2 May 2017, http://www.arabnews.com/node/1093371/saudi-arabia (accessed 13 Feb. 2018).
[40] betterplace lab (2017), *Bridging the Digital Gender Gap*, http://www.w20-germany.org/fileadmin/user_upload/documents/BDGG-Brochure-Web-ENGLISH.pdf (accessed 13 Feb. 2018).
[41] Broadband Commission for Sustainable Development, International Telecommunication Union, UNESCO (2017), *Working Group on the Digital Gender Divide: Recommendations for action: bridging the gender gap in Internet and broadband access and use*, March 2017, http://broadbandcommission.org/Documents/publications/WorkingGroupDigitalGenderDivide-report2017.pdf (accessed 13 Feb. 2018).
[42] European Institute for Gender Equality (2015), 'Digital Agenda', http://eige.europa.eu/gender-mainstreaming/policy-areas/digital-agenda (accessed 13 Feb. 2018).

have agreed to tighten cooperation in areas such as the return of foreign fighters and illegal immigration.[43] One of the most important tools for transatlantic cooperation in this field is information sharing. The EU and the US would benefit from greater information sharing about movements of persons of potential concern to law enforcement bodies on each side. This sort of information sharing is complex and sensitive. The long-term objective should be to bring this to its fullest potential within the law. Information sharing is also where the most promising developments have taken place in the past few years, and where the biggest potential lies for US interests, since improvements in European information sharing can provide the US administration with valuable data it would otherwise not be able to get or would have to collect itself, thus having to mobilize larger forces and financial resources.

Passenger Name Record and Umbrella Agreement

Building on a longer list of agreements dating back to 2004, the EU and the US signed a Passenger Name Record (PNR) agreement in 2012 to enhance data sharing regarding passengers flying across the Atlantic in the context of investigations into serious crimes and terrorism. This was a significant step, considering that in 2015 about 65 million travellers flew between the EU and North America, a 4.3 per cent increase from 2014.[44] The agreement put in place important provisions for privacy protections and was complemented by the Umbrella Agreement, signed in 2016, which implemented a framework ensuring a high level of protection of personal data in the specific context of EU–US cooperation on criminal law enforcement. Recent talks between EU Justice Commissioner Věra Jourová and US Attorney General Jeff Sessions show both sides remain committed to the Umbrella Agreement, and both sides have agreed to ensure its full and efficient implementation.

The EU agreed to a European PNR in 2016 following terrorist attacks in Brussels and Paris. The system will be used to monitor not only travel from third countries into the EU but also intra-EU flights that are relevant to law enforcement operations. Member states have shown a greater willingness to make full use of the intra-EU provision. This more comprehensive framework creates a common EU approach to data that is essential in fighting cross-border crime and terrorism, and it offers a new and improved way to process large amounts of data. This data processing is key for EU authorities, as it provides them with accessible, analysed data and thus speeds up potential investigations. In addition, the EU PNR sets up national Passenger Information Units (PIUs) that will sort through and process this information, in turn serving as clear points of contact for US law enforcement and relevant border authorities. The EU PNR Directive was adopted in April 2016, and member states have two years to transpose and implement it at the national level. While most states have made progress on implementation, few yet have a full-fledged PNR. A working EU PNR would complement the EU–US agreement and enhance security cooperation, provided the two systems are compatible.

[43] Europol (2015), 'Increased Law Enforcement Cooperation Between the United States and Europe', 25 February 2015, https://www.europol.europa.eu/newsroom/news/increased-law-enforcement-cooperation-between-united-states-and-europe (accessed 13 Feb. 2018).
[44] Eurostat (2016), 'File:Extra-EU-28 transport of passengers in 2015.jpg', Eurostat: Statistics Explained, 18 November 2016, http://ec.europa.eu/eurostat/statistics-explained/index.php/File:Extra-EU-28_transport_of_passengers_in_2015.jpg (accessed 13 Feb. 2018).

Recommendations

The US should encourage its European partners to speed up the process of operationalizing EU Passenger Name Record (PNR) systems at the national level. The US and the EU should also explore grounds for expanded sharing of data from their respective internal PNR systems.

Dialogue should be intensified between the Department of Homeland Security and other relevant US law enforcement agencies and their EU counterparts in the Passenger Information Units (PIUs), at Europol and in national law enforcement agencies. This would enhance the exchange of best practices. It would also advance the prospect for further integrated information exchanges to be introduced between the US and EU PNR systems in the future, in accordance with relevant laws and regulations, and respecting political and legal concerns regarding the exchange of data.

European Counter Terrorism Centre and entry-exit systems

Two more recent changes at the EU level may prove valuable for the Trump administration's focus on law enforcement and counterterrorism. One is Europol's European Counter Terrorism Centre (ECTC), founded in 2016. The ECTC focuses on tracking foreign fighters, online propaganda and extremism, and arms trafficking, as well as on sharing intelligence and expertise on terrorism financing through Financial Intelligence Units (FIUs). The ECTC provides EU member states with a framework for international cooperation, and works with the European Cybercrime Centre and the European Migrant Smuggling Centre to offer a more comprehensive basis for investigations.

The other tool, still in the development phase, is an EU Entry-Exit System that would compile the biometric data of third-country travellers crossing the external border of the Schengen area. The data would reside in a central database that could be accessed by border and visa authorities, Europol and national law enforcement authorities.[45] The system would provide travel history records to the relevant agencies, enabling them to identify persons overstaying their visas (another priority of the Trump administration) as well as suspects in terror-related investigations. Given that the US is developing a biometric entry-exit system for its biggest airports – an aim initially formulated under the Obama administration – there is scope for enhanced transatlantic cooperation, as outlined below:

Recommendation

The Department of Homeland Security, as the implementing authority for new border security and immigration enforcement mechanisms, could share best practices and guidelines with its European counterparts, and engage on issues related to potential future interoperability between US and EU entry-exit systems.

Recognizing that such developments would represent a new phase in transatlantic information sharing and law enforcement cooperation, it may be possible to build a broader EU–US entry-exit system that institutes a higher level of communication between the two sides while still ensuring full respect of their respective legal and political constraints.

[45] Council of the European Union (2017), 'Entry-exit system: Council agrees on its negotiating mandate', press release 99/17, 2 March 2017, http://www.consilium.europa.eu/en/press/press-releases/2017/03/02-entry-exit-system/ (accessed 13 Feb. 2018).

Illicit financial flows

Cooperation in the tracking of illicit financial flows, an important aspect of counterterrorism operations, is a further piece of the information sharing puzzle. Productive transatlantic collaboration in this realm already exists through the EU–US Terrorist Finance Tracking Programme (TFTP) Agreement, which was launched in 2010.[46] The US Department of the Treasury established its own Terrorist Finance Tracking Program (US TFTP) after the terrorist attacks of 11 September 2001 to track financial messaging data and to prevent and combat terrorism financing. Recognizing the important contributions of the US TFTP to the fight against terrorism financing, the EU–US TFTP Agreement allows for the transfer of the relevant data from the EU to the Department of the Treasury in a way that safeguards data protection rights while certifying that the data are necessary for investigations into terrorism financing. The EU–US TFTP Agreement thus allows more effective and rapid transatlantic cooperation on counterterrorism operations and the tracking of illicit financial flows. Europol has an important role in this agreement, as it continues to provide a point of contact for US officials at the Department of the Treasury. Data provided through the EU–US TFTP Agreement assisted such high-profile counterterrorism investigations as the ones into the 2013 Boston marathon bombings and the 2011 attacks in Norway perpetrated by Anders Breivik.[47]

Recommendations

Cooperation such as the EU–US Terrorist Finance Tracking Programme (TFTP) Agreement should be maintained and strengthened to include, for example, data on financial flows associated with foreign interference or illicit intelligence operations.

A high-level dialogue between the EU and the US Department of the Treasury – including the Financial Crimes Enforcement Network – should be established in addition to ongoing technical discussions so as to sustain support at the political level within the US administration for important programmes for tracking illicit financial flows.

2.3.2 Law enforcement and counterterrorism – the view from the EU

The Security Union – a long-held vision for the EU – is now a reality and is developing into a genuine security partner for other regions and countries, including the US. Over recent years, the EU has transformed its approach to European and international security. In 2015, the European Commission adopted the European Agenda on Security,[48] which prioritizes tackling

[46] *Official Journal of the European Union* (2010), 'Agreement between the European Union and the United States of America on the processing and transfer of Financial Messaging Data from the European Union to the United States for the purposes of the Terrorist Finance Tracking Program', 27 July 2010, http://eur-lex.europa.eu/resource.html?uri=cellar:84c098b4-275c-49d7-bbf8-73e978be1818.0016.01/DOC_2&format=PDF (accessed 13 Feb. 2018); see also European Commission (undated), 'Data protection', http://ec.europa.eu/justice/data-protection/international-transfers/pnr-tftp/pnr-and-tftp_en.htm (accessed 13 Feb. 2018).

[47] European Commission (2013), 'Joint Report from the Commission and the U.S. Treasury Department regarding the value of TFTP Provided Data pursuant to Article 6 (6) of the Agreement between the European Union and the United States of America on the processing and transfer of Financial Messaging Data from the European Union to the United States for the purposes of the Terrorist Finance Tracking Program', 27 November 2013, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-is-new/news/news/docs/20131127_tftp_annex_en.pdf (accessed 13 Feb. 2018).

[48] European Commission (2018), 'European Agenda on Security', https://ec.europa.eu/home-affairs/what-we-do/policies/european-agenda-security_en (accessed 13 Feb. 2018).

terrorism, organized crime and cybercrime, and created the position of commissioner for the Security Union.[49] In the following months, the European Commission set about revising the EU firearms directive with an action plan on firearms and explosives. It also adopted a directive on combating terrorism, an action plan on terrorist financing and steps towards the establishment of the above-mentioned EU Entry-Exit System.

In September 2016, the European Commission presented its communication on 'Enhancing security in a world of mobility', which addressed the need for strict border security while maintaining mobility and facilitating legal entry to the EU. A significant part of the approach to security is embedded in information sharing between the EU institutions, between member states, and between the EU and other countries, including the US. All travellers, including EU citizens, crossing the EU's external borders are now subject to mandatory systematic checks against relevant databases, including the Schengen Information System, the Interpol Stolen and Lost Travel Documents Database and, if needed, national systems and other Interpol databases. As an extra measure, non-EU citizens are subject to checks when exiting the EU.

The EU–US PNR agreement[50] has been in operation since 2012 and is jointly reviewed every two years.[51] In addition, the European Commission has proposed the establishment of a European Travel Information and Authorisation System (ETIAS)[52] as part of the Security Union and the first deliverable of the priorities for action identified in the Bratislava Roadmap.[53] ETIAS, which will be managed by the European Border and Coast Guard in cooperation with member states and Europol, will collect information about visa-free travellers to the EU, enabling advanced security checks with the purpose of managing EU external borders more effectively and improving internal EU security. ETIAS will enable border checks through coordination and joint assessments of visa-exempt third-country nationals, while the decision to grant or refuse entry will remain with national border guards.

Recommendation

The European Travel Information and Authorisation System (ETIAS) is an important EU instrument, and will assist the joint endeavours of the US and the EU to fight terrorism and to counter extremism. As such, ETIAS needs urgent and sustained support from both sides of the Atlantic.

The PNR Directive and ETIAS are examples of how the EU's collective approach to Europe-wide security is enhancing the security of the continent, individual member states and the

[49] European Commission (2014), 'Julian King', https://ec.europa.eu/commission/commissioners/2014-2019/king_en (accessed 13 Feb. 2018).
[50] EUR-Lex (2007), 'Agreement on the processing and transfer of passenger name record data by air carriers to the United States Department of Homeland Security (2007 PNR Agreement)', http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=LEGISSUM:l33277&from=GA (accessed 13 Feb. 2018).
[51] PNR data include the name, travel dates, travel itinerary, ticket information, contact details, travel agent at which the flight was booked, means of payment used, seat number and baggage information. Council of the European Union (2016), 'Council adopts EU Passenger Name Record (PNR) directive', press release, 21 April 2016, http://www.consilium.europa.eu/en/press/press-releases/2016/04/21-council-adopts-eu-pnr-directive/ (accessed 13 Feb. 2018).
[52] European Commission (2016), 'Security Union: Commission proposes a European Travel Information and Authorisation System', press release, 16 November 2016, http://europa.eu/rapid/press-release_IP-16-3674_en.htm (accessed 13 Feb. 2018).
[53] Council of the European Union (2016), 'Bratislava Declaration and Roadmap', press release, 16 September 2016, http://www.consilium.europa.eu/en/press/press-releases/2016/09/16-bratislava-declaration-and-roadmap/ (accessed 13 Feb 2018).

US. Individual state approaches to European security would be less efficient and effective than a collaborative and coherent approach. Member states contribute their knowledge and information; the collective analysis is thus more than the sum of the parts, and all participating countries benefit.

The enhanced capabilities of the EU through the ECTC,[54] coupled with the efficiency of the European Arrest Warrant, have enabled a new level of partnership between the EU and others, including EU member state security forces and those of external partners. This is significant given the persistence of terrorist attacks in European countries. The new EU focus on counterterrorism is matching the US emphasis on the same set of issues.

The 2017 *EU Terrorism Situation and Trend Report* (TE-SAT)[55] outlined 142 failed, foiled and completed attacks reported by eight member states. It was produced by Europol in consultation with the 2017 TE-SAT Advisory Board, which is made up of representatives of the Presidency Troika,[56] representatives of member states, the EU Intelligence Analysis Centre, Eurojust, the office of the EU Counter Terrorism Coordinator, and Europol staff. A specific counterterrorism platform has recently been created within the EU's Secure Information Exchange Network Application (SIENA). The new tool is designed to enhance the exchange of restricted content and intelligence so that information can be sent directly to Europol and shared directly between counterterrorism authorities.

In May 2017, the EU High-Level Expert Group on Information Systems and Interoperability proposed the creation of 'a single-search interface to query several information systems simultaneously and to produce combined results on one single screen; the establishment of a shared biometric matching service and a common repository of data for different information systems'.[57] The European Criminal Records Information System,[58] an electronic system for exchanging information on convictions by criminal courts in the EU, has been improved, as has the EU asylum fingerprint database, EURODAC, which provides fingerprint comparison evidence to assist member states in processing asylum applications.[59] In addition, the online activities of terrorist and extremist groups are now being monitored, analysed and referred via the Internet Referral Unit. Also in May 2017 the European Commission proposed a new approach for the interoperability of information systems;[60] this approach was put into effect from July,[61]

[54] Europol (2018), 'European Counter Terrorism Centre – ECTC', https://www.europol.europa.eu/about-europol/european-counter-terrorism-centre-ectc (accessed 13 Feb. 2018).
[55] Europol (2017), '2017 EU Terrorism Report: 142 failed, foiled and completed attacks, 1002 arrests and 142 victims died', press release, 15 June 2017, https://www.europol.europa.eu/newsroom/news/2017-eu-terrorism-report-142-failed-foiled-and-completed-attacks-1002-arrests-and-142-victims-died (accessed 13 Feb. 2018).
[56] The 'Troika' is comprised of the past, present and future presidencies of the Council of the EU. At the time of writing, these were Slovakia, Malta and Estonia.
[57] European Commission (2017), *High-level expert group on information systems and interoperability*: *Final report*, May, 2017, Brussels: European Commission, http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetailDoc&id=32600&no=1 (accessed 13 Feb. 2018).
[58] European Commission (undated), 'Criminal justice', http://ec.europa.eu/justice/criminal/files/ecris_tcn_commission_proposal_en.pdf (accessed 13 Feb. 2018).
[59] European Commission (2018), 'Identification of applicants (EURODAC)', https://ec.europa.eu/home-affairs/what-we-do/policies/asylum/identification-of-applicants_en (accessed 13 Feb. 2018).
[60] European Commission (2017), 'European Agenda on Security: Commission sets out new approach on interoperability of information systems', press release, 16 May 2017, http://europa.eu/rapid/press-release_IP-17-1303_en.htm (accessed 13 Feb. 2018).
[61] European Commission (2017), 'Security Union: Commission delivers on interoperability of EU information systems', press release, 29 June 2017, http://europa.eu/rapid/press-release_IP-17-1788_en.htm (accessed 13 Feb. 2018).

in order to ensure the interoperability and efficacy of EU information systems for security and border management through the operational management of the large scale IT system eu-LISA.

The EU–US TFTP Agreement has also proved to be a useful instrument for providing timely, accurate and reliable information to help identify and track terrorists and their support networks around the world. According to a recent evaluation:

> The Agreement proved instrumental in moving forward specific investigations relating to terrorist attacks on EU soil, including the January 2015 Charlie Hebdo attack and the November 2015 Paris attacks, and in providing information on the EU-based recruiting of terrorist fighters for Syria. TFTP-related data gave key insights into the financial support for networks of terrorist organizations, helping to identify persons involved in the US, the EU and elsewhere.[62]

Recommendations

Enhancing EU–US cooperation in counterterrorism and information sharing is now easier, and should continue to be fast-tracked through the ECTC mechanisms that include the European Migrant Smuggling Centre and the European Cybercrime Centre.

The increased interoperability and liaison between the US and the EU should continue to be supported and implemented.

2.4 Security and defence

2.4.1 Security and defence – the view from the US

For years, US administrations from both the Republican and Democratic parties have called on their European allies (and on Canada) to shoulder a greater share of the defence burden, as the imbalance between the transatlantic allies inexorably widened in the post-Cold War decades. At the 2014 NATO summit, allied leaders for the first time endorsed the goal of spending 2 per cent of GDP on defence, setting 2024 as the target date for achieving this. While the commitment was contingent on renewed economic growth in Europe, leaders reaffirmed this goal at the 2016 NATO summit. The Trump administration has focused at the political level on promoting increased European defence spending as well as on increasing NATO's role in counterterrorism efforts. Although President Trump has abandoned the stance that NATO is obsolete, there remain suggestions that the US could moderate its commitment to defending NATO members in the future if they do not shoulder a greater share of the financial burden. This hyper-transactional stance has been criticized in the US because it risks decoupling the country's security from that of Europe and thus reducing it. It is not surprising that European leaders would want to simultaneously strengthen their contributions to NATO defence and build European defence capabilities.

It might seem that burden sharing is solely a NATO issue. But the growing role of the EU in security and defence, driven by member states and the European Commission, and reflected in the EU's 2016 Global Strategy, can make a tangible contribution to increasing defence capabilities – to the benefit both of the EU and the transatlantic relationship.

[62] European Commission (2017), 'Security Union: Commission reports on the implementation of the EU-US TFTP and PNR Agreements', press release, 19 January 2017, http://europa.eu/rapid/press-release_IP-17-99_en.htm (accessed 13 Feb. 2018).

The EU contributes to transatlantic security in three major ways that the US should recognize and encourage. The first is through its engagement in the fight against terrorism and instability. The EU missions in Mali, the Sahel, the Central African Republic, the Horn of Africa and the Mediterranean represent significant efforts to prevent the spread of extremism and terrorism in regions crucial to European and US security. Put simply, if the EU were not engaged in these regions, the US would likely have to send military forces to protect its interests. The fragile security and political situation in the Western Balkans is another example where US and European interests are aligned. This underscores the importance of the role played by the EU missions in Bosnia and Herzegovina and Kosovo.

The second major EU contribution to transatlantic security is through the European Defence Action Plan and Permanent Structured Cooperation, which can enhance defence capabilities, and which the US should welcome. Measures to encourage the pooling and sharing of military assets, and to introduce a coordinated annual EU review of member states' plans for defence capabilities, will bring new value. It remains vital, as EU declarations have underscored, to coordinate these measures with NATO so that states belonging to both the EU and NATO are not confronted with a choice between meeting the requirements of one in preference to those of the other. Coordination is also vital for increasing cost-effectiveness, particularly in the case of smaller member states whose defence budgets are small (even when they reach the 2 per cent defence spending target).

The Defence Action Plan represents a welcome new initiative by the European Commission to create a European Defence Fund and promote technology development and capability acquisition. The amounts that would be made available during the current multiannual financial framework (which runs to 2020) are quite modest. Only €90 million is available in 2017 for research, but the sums might grow to €500 million per year in the post-2020 financial framework. Although this latter figure would still be a fraction of current US spending, it would represent one-quarter of EU members' current defence research spending. Funding for capability development after 2020 is proposed at €1 billion per year, which would be complemented by up to €4 billion per year in national co-financing, adding to the approximately €200 billion that EU member states spend on defence. The ultimate success of the European Defence Fund will depend on the willingness of member states to engage in multinational projects under the terms of the funding. If successful, the European Defence Fund will foster capabilities that serve national, EU and (in the case of dual members) NATO defence as well.

The EU's third major contribution to transatlantic security is through its cooperation with NATO. This area saw rapid institutional progress in 2016 with the signing of the Joint Declaration and agreed implementation measures. These measures cover the full range of civilian–military action, including cyber defence and 'hybrid' threats. In November 2017 the EU announced a new effort to improve military mobility in Europe, the present limitations of which have been identified by NATO military commanders as a significant hindrance to rapid reinforcement of forces and ultimately to military deterrence. The European Commission and the High Representative announced an action plan in March 2018 identifying operational measures to tackle physical, procedural and regulatory barriers which hamper military mobility.[63]

[63] European Defence Agency (2018), 'EU announces Action Plan on Military Mobility', 28 March 2018, https://www.eda.europa.eu/info-hub/press-centre/latest-news/2018/03/28/eu-announces-an-action-plan-on-military-mobility.

Recommendations

The US should welcome the European Defence Fund as an innovative form of burden sharing and encourage the EU to explore the possibility of increasing these resources further.

The US should publicly recognize and encourage continued progress in the EU's cooperation with NATO, especially in exercises that promote preparedness for modern threats across both the EU and NATO. The US should support NATO–EU dialogue to coordinate efforts to improve military mobility. These could contribute to updates to the Joint Declaration and propel future collaborative work.

It is inconceivable that a crisis involving NATO would not also involve the EU, and the US should advocate the closest possible practical relationship that enables a seamless response. The various centres of excellence that NATO (strategic communications and cyber) and the EU (hybrid warfare) have fostered have become laboratories for policy analysis and research. The US and the EU should find ways to ensure that the best practices and innovations which these centres identify become policy standards across both the EU and NATO, which would strengthen NATO–EU response and complementarity.

2.4.2 Security and defence – the view from the EU

NATO–EU cooperation

In focusing primarily on peacekeeping, conflict prevention and strengthening international security, the EU's Common Security and Defence Policy (CSDP) complements and supports NATO's mandate for European and transatlantic security.[64]

The 2016 NATO–EU Joint Declaration has resulted in mutually reinforcing efforts including: countering hybrid threats; broadening operational cooperation at sea and on migration; expanding coordination on cybersecurity and defence; developing coherent, complementary and interoperable defence capabilities; facilitating a stronger defence industry; increasing coordination on exercises; and building defence and security capacities of partners in Europe's east and south. Biannual reporting to the Council of the EU and to the North Atlantic Council on the implementation of the Joint Declaration commenced in December 2016.[65]

The Trump administration has developed its policy towards NATO in a more positive direction, and in April 2017 the president announced that, in his view, the organization was 'no longer obsolete'. However, this statement does not necessarily herald a change in approach or policy. Demands that NATO allies meet the agreed defence spending target of 2 per cent of GDP have

[64] European External Action Service (2018), 'The Common Security and Defence Policy (CSDP)', https://eeas.europa.eu/headquarters/headquarters-homepage/431/common-security-and-defence-policy-csdp_en (accessed 13 Feb. 2018).
[65] Council of the European Union (2016), 'Council Conclusions on the Implementation of the Joint Declaration by the President of the European Council, the President of the European Commission and the Secretary General of the North Atlantic Treaty Organization', Outcome of Proceedings, 6 December 2016, http://data.consilium.europa.eu/doc/document/ST-15283-2016-INIT/en/pdf (accessed 13 Feb. 2018).

been and will continue to be made because this is a NATO-wide agreed commitment.[66] These demands were reiterated by President Trump at the NATO summit in May 2017.[67] Additional contributions by members to joint EU–NATO security and defence measures would assist many EU member states in meeting spending targets, including for counterterrorism and cybersecurity, which are important issues for NATO.

CSDP, PESCO and the Global Strategy

The CSDP is supported by the EU Global Strategy in the area of security and defence through three strategic priorities: responding to external conflicts and crises; building the capacities of partners; and protecting the EU and its citizens. The CSDP is being improved to increase reaction speed and efficiency, with civilian–military synergies enhanced as part of an integrated approach. These measures include a Military Planning and Conduct Capability that now works with the Civilian Planning and Conduct Capability through a joint support coordination cell.[68]

Conflicts and crises abound, including terrorism in major European cities, migration flows, the continued annexation of Crimea and fighting in Ukraine, the war in Syria, North Korea's nuclear threats, and famine in war-torn African countries, including Somalia and South Sudan. The Brexit negotiations are taking place at a time of turmoil and change in Europe and the US. As the UK prepares to leave the EU, cooperation between the EU and NATO increases in significance, and the need for trilateral political and military cooperation between France, Germany and the UK becomes paramount.[69] For example, the CSDP maritime operations off Somalia and in the Mediterranean are both based out of Northwood in the UK.[70] Rather than recreate a whole new command structure for these missions, it would be better to establish a mechanism that would enable them to remain as they are. There are ways to do this which would assist in maintaining the EU–US relationship. The UK–French security and defence relationship is facilitated not only through NATO but also through two 2010 Lancaster House treaties.[71] The UK and Germany are negotiating a new defence cooperation agreement that includes work on cybersecurity, training and maritime patrols.[72] Although the situation is far from ideal for the EU, the security

[66] It is worth noting that calls for increased European financial contributions go back to the 1950s, and in 2016 President Obama called some European NATO member states 'free-riders'. Goldberg, J. (2016), 'The Obama Doctrine: The U.S. president talks through his hardest decisions about America's role in the world', *The Atlantic*, April 2016, https://www.theatlantic.com/magazine/archive/2016/04/the-obama-doctrine/471525/ (accessed 13 Feb. 2018).

[67] Huggler, J. and Chazan, D. (2017), 'Trump demands Europe pay more toward Nato in excoriating speech at Brussels summit', *The Telegraph*, 25 May 2017, http://www.telegraph.co.uk/news/2017/05/25/trump-demands-europe-pay-toward-nato-excoriating-speech-brussels/ (accessed 13 Feb. 2018).

[68] Council of the European Union (2017), 'Security and defence: Council reviews progress and agrees to improve support for military missions', press release, 6 March 2017, http://www.consilium.europa.eu/en/press/press-releases/2017/03/06-defence-security/ (accessed 13 Feb. 2018).

[69] Keohane, D. (2017), 'Three's company? France, Germany, the UK and European defence post-Brexit', Elcano Royal Institute, 5 January 2017, http://www.realinstitutoelcano.org/wps/portal/rielcano_en/contenido?WCM_GLOBAL_CONTEXT=/elcano/elcano_in/zonas_in/ari1-2017-keohane-threes-company-france-germany-uk-european-defence-post-brexit (accessed 13 Feb. 2018).

[70] Ghez, J., Kirchner, M., Shurkin, M., Knack, A., Hall, A. and Black, J. (2017), *Defence and security after Brexit: A snapshot of international perspectives on the implications of the UK's decision to leave the EU*, RAND Corporation, http://www.rand.org/pubs/perspectives/PE225.html (accessed 13 Feb. 2018).

[71] UK Government (2010), 'Treaty between the United Kingdom of Great Britain and Northern Ireland and the French Republic for Defence and Security Co-Operation', 2 November 2010, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/238153/8174.pdf (accessed 13 Feb. 2018); UK Government (2012), 'Treaty between the United Kingdom of Great Britain and Northern Ireland and the French Republic relating to Joint Radiographic/Hydrodynamics Facilities', 2 November 2010, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/238226/8289.pdf (accessed 13 Feb. 2018).

[72] Wagstyl, S. and Parker, G. (2017), 'Britain and Germany set to sign defence co-operation deal', *Financial Times*, 19 March 2017, https://www.ft.com/content/2deb3c7c-0ca7-11e7-b030-768954394623 (accessed 13 Feb. 2018).

and defence of Europe in the wake of Brexit will require creative thought and actions. The strong security and defence relationship between the US and the UK could assist in facilitating, through NATO at least, a significant contribution to European security for both countries.

Confidence and trust in transatlantic security and defence cooperation cut both ways. Renewed proposals for the withdrawal of remaining US troops from Europe would send the wrong signal to Russia and, increasingly importantly, to Turkey. The EU would find significant support within NATO – on both sides of the Atlantic – if it managed to prevent such a move.

Under the Lisbon Treaty, a group of EU member states may strengthen their cooperation in military matters, and the possibility of European Permanent Structured Cooperation (PESCO) is now being discussed. This would be open to all member states and would enhance defence integration. The concept is taking root more quickly than envisaged, no doubt spurred on by the increasingly worrying global security situation and the understanding throughout Europe of the need for a united front in security and defence.[73] One way forward for EU–US security and defence cooperation would be to carry out joint and collaborative threat-perception exercises using scenario simulations to plan for future joint approaches. Scenarios could include situations such as electoral interference by foreign powers, lone-actor terrorist incidents or cyberattacks on critical infrastructure.

The EU Global Strategy lays out collaborative defence capability priority areas: intelligence-surveillance reconnaissance, remotely piloted aircraft systems, satellite communications and autonomous access to space and permanent earth observation; high-end military capabilities including strategic enablers; and capabilities to ensure cybersecurity and maritime security.[74] Collaborative research, development and procurement would promote the European defence industry, and increase R&D and cooperation programmes with the US, including in cyber and space technologies such as Galileo II and GovSatcom.

Cybersecurity

The transatlantic community faces an unprecedented array of new challenges, such as the exploitation of cyberspace and the weaponization of false and misleading information. These affect political processes in Europe as well as in the US. Transatlantic cooperation is vital for tackling these cyberattacks, as well as for addressing more insidious and dangerous threats to critical infrastructure and financial institutions. The 2016–17 UN Group of Governmental Experts (GGE) on Information Security was unable to reach an agreed report for the UN secretary-general. Consequently, the US and the EU will need to plan their next steps following on from the GGE study process; they will also need to plan a global approach to cybersecurity.

[73] European External Action Service (2017), 'Remarks by Federica Mogherini at the press conference following the Informal Meeting of EU Ministers of Defence', 28 April 2017, https://eeas.europa.eu/headquarters/headquarters-homepage_en/25219/Remarks%20by%20Federica%20Mogherini%20at%20the%20press%20conference%20following%20the%20Informal%20Meeting%20of%20EU%20Ministers%20of%20Defence (accessed 13 Feb. 2018).

[74] European Commission (2016), 'Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions: European Defence Action Plan', 30 November 2016, http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016DC0950&from=EN (accessed 13 Feb. 2018).

President Trump's recent executive order on cybersecurity[75] deems international cooperation vital. It tasks the secretary of state with a coordination exercise and the production of a report outlining an engagement strategy for international cooperation in cybersecurity.

Recommendation

President Trump's executive order on cybersecurity presents an opportunity for the EU to engage with the US on how to collaborate and coordinate effectively on cybersecurity within international discussions and policymaking bodies, and on how to chart the direction for both the EU and the US.

Non-proliferation and disarmament

The EU plays an important role in preventing the proliferation of weapons of mass destruction (WMD) and supporting disarmament. Non-proliferation and prevention programmes include the European Commission Directorate-General for International Cooperation and Development's chemical, biological, radiological and nuclear capacity-building programmes in third countries and support for the main treaty implementation organizations: the Organisation for the Prohibition of Chemical Weapons (OPCW), the Comprehensive Nuclear-Test-Ban Treaty Organization (CTBTO), the Biological Weapons Convention Implementation Support Unit (BWC ISU), the International Atomic Energy Agency (IAEA) and the UN Office for Disarmament Affairs. The EU also provides an important counterweight to actors who aim to undermine international law and agreed commitments at the UN during meetings of states parties to the WMD treaties and in treaty negotiations in Geneva, Vienna and New York.

The 2018 US Nuclear Posture Review (NPR) reiterated the US commitment to non-proliferation and arms control and stated that 'although the United States will not seek ratification of the Comprehensive Nuclear Test Ban Treaty, it will continue to support the Comprehensive Nuclear Test Ban Treaty Organization Preparatory Committee as well as the International Monitoring System and the International Data Center'.[76] The US has maintained its commitment to a moratorium on nuclear testing – and called on all states possessing nuclear weapons to similarly declare or maintain a moratorium on nuclear weapons testing. However, the US does caveat the commitment by providing a possible exemption if it is judged 'necessary to ensure the safety and effectiveness of the U.S. nuclear arsenal'.

The 2018 NPR laid out the challenges of Iran's and North Korea's nuclear programmes. The continuing escalation of North Korea's nuclear weapons capabilities is a direct threat to the US and its allies in northeast Asia, notably Japan and South Korea. Increasing tensions between the US and the DPRK is causing rising concern within the EU. The EU has a policy of 'critical engagement' (meaning maximum pressure coupled with dialogue) towards the DPRK, focusing on reducing tensions, pursuing non-proliferation policies and improving human rights.

[75] The White House (2017), 'Presidential Executive Order on Strengthening the Cybersecurity of Federal Networks and Critical Infrastructure', 11 May 2017, https://www.whitehouse.gov/the-press-office/2017/05/11/presidential-executive-order-strengthening-cybersecurity-federal (accessed 13 Feb. 2018).

[76] Office of the Secretary of Defense (2018), *Nuclear Posture Review, February 2018*, p. 17, https://www.defense.gov/News/SpecialReports/2018NuclearPostureReview.aspx.

Most EU countries have formal diplomatic relations with the DPRK, and the EU established diplomatic relations in May 2001. The EU has engaged directly, providing humanitarian assistance to vulnerable communities in the DPRK and conducting regular political dialogues between 1998 and 2015.[77] The EU's sanction regime on the DPRK has been characterized as 'the most restrictive towards any country in the world'.[78]

Of particular concern to the EU is divergence from the US on the Joint Comprehensive Plan of Action (JCPOA) curbing Iran's nuclear programme. President Trump has said that the JCPOA was 'the worst deal in history', and waived US sanctions again in January 2018. However, he has also said that the US would withdraw from the JCPOA unless the US Congress and European allies are able to 'fix' the agreement by May 2018.[79] The three EU parties to the JCPOA – France, Germany and the UK – and the EU itself have made clear their view that the JCPOA is working and that it must continue. According to press reports, US sanctions could be waived again in May according to a commitment from France, Germany and the UK to try to 'improve' the JCPOA over time.[80] Washington is running the risk of a major rift with the UK, France, Germany and the EU, undercutting the collective bargaining power that the West was able to leverage in the E3/EU+3 process with Iran. The unity of approach is being undermined, thereby enabling Russia and China to dominate the debate.

Recommendation

Regular EU engagement with the US Congress on progress with the implementation of and developments within the JCPOA needs to be sustained.

2.5 Foreign policy

2.5.1 Foreign policy – the view from the US

Though the EU and the US are active on every continent and in virtually every country, this section does not present an exhaustive picture of their international engagement. It focuses on the most current and salient areas of direct EU–US cooperation, interests and potential collaboration or divergence. It does not address situations in which the EU and the US are involved within broader international frameworks, such as the coalition against Islamic State of Iraq and Syria (ISIS), the attempts under UN auspices to end the Syrian civil war, or the Middle East peace process. EU–US foreign policy coordination on third-country and regional situations is an essential part of transatlantic efforts to shape the global political environment.

[77] EU External Action (2016), 'DPRK and the EU', 26 June 2016, https://eeas.europa.eu/headquarters/headquarters-homepage/4186/dprk-and-eu_en.
[78] EU External Action (2018), 'Speech by High Representative/Vice-President Federica Mogherini at the European Parliament plenary session on peace prospects for the Korean Peninsula in the light of recent developments', 13 March 2018, https://eeas.europa.eu/headquarters/headquarters-homepage/41269/speech-high-representativevice-president-federica-mogherini-european-parliament-plenary_en, 13 March 2018.
[79] Lee, M. (2018), 'Trump hands nuke deal 'last chance,' waives Iran sanctions', *Washington Post*, 12 January 12 2018, https://www.washingtonpost.com/world/national-security/officials-iran-deal-survives-trump-will-waive-sanctions/2018/01/12/02677228-f7b1-11e7-9af7-a50bc3300042_story.html?utm_term=.8a0106a69398.
[80] Reuters (2018), 'Forget Nixing Iran Deal, For Now DC Just Wants Partners To Agree To Fix It', 18 February 2018, http://www.jpost.com/Middle-East/Iran-News/Forget-nixing-Iran-deal-for-now-DC-just-wants-partners-to-agree-to-fix-it-542943.

The coordination of US and EU sanctions policies against third countries such as Iran, Russia, Syria, North Korea and, most recently, Venezuela has played an increasing role in EU–US foreign policy. The advantages for both sides are clear: they gain increased traction and international credibility by acting together. The US can multiply its political and economic leverage by winning the support of the EU for specific sanctions.

In fact, the EU's trade with Russia was 11 times larger than the US's trade with Russia before the adoption of the joint sanctions. A coordinated approach has therefore multiplied the impact of US sanctions. For this reason, the US Congress and the Trump administration need to resist the temptation to implement sanctions unilaterally.

Likewise, on Iran, as the US's trade with Iran at the time of the adoption of the nuclear-related sanctions was already largely reduced, it was the parallel sanctions adopted by the EU that proved decisive. The latter's sanctions against Iran helped to reduce the country's oil revenue by roughly 50 per cent and ultimately helped to build enough pressure on Iran to enable conclusion of the JCPOA (in which Iran, in exchange for sanctions relief, has pledged to give up any aspiration to acquire nuclear weapons).

The benefits of sanctions coordination are manifest, and uncoordinated approaches carry significant risks. At a minimum, they diminish effectiveness. They also have the potential to spark a transatlantic rift affecting cooperation across the board. The demand from President Trump that the US's European partners must join Washington in amending the nuclear deal with Iran has set the US and Europe on a precarious path. While key European countries have expressed readiness to consider coordinated action on matters of concern outside the JCPOA, such as Iran's ballistic missile programme, any US insistence that Europe help to reopen discussion of the nuclear deal's terms will only cause divisions with Washington's most important allies in dealing with Iran.

Russia

Despite predictions that 2017 would see major changes in US policy towards Russia, continuity has characterized the approach thus far. Following the codification and strengthening by Congress of US sanctions, US–Russia relations are at a low point, and it is easy to argue that the same is true between Europe and Russia. US policy on Russia will undoubtedly be more effective if the US and the EU positions remain aligned. The joint EU–US sanctions policy against Russia remains in place. It complements the diplomatic efforts by US Special Representative Kurt Volker, and by Germany and France in the 'Normandy format', to convince Russia to chart a different course towards the full implementation of the Minsk Agreements.

The attempts by Russia to exploit weaknesses in Western societies require a unified transatlantic response that delivers consequences for Russian actions and, more importantly, addresses the sources of vulnerability that have become clear in recent years.

Recommendation

The US and the EU should prioritize coordinated actions with regard to Russia (involving NATO where appropriate). These could include strengthened financial intelligence and information sharing, improved transparency measures, new approaches to arms control and strategic stability, and the provision of assistance to non-EU members in Europe to bolster independent media, civil society and judicial independence.

It is also important that Washington coordinate the implementation of congressionally mandated sanctions towards Russia in order to avoid unintended effects on the transatlantic relationship.

Regarding Ukraine, the Trump administration has continued the US policy of non-recognition of Russia's illegal annexation of Crimea and opposition to Russian intervention in Ukraine, while supporting the role that Germany and France have played in the 'Normandy format' of talks. The principal transatlantic tool for addressing Russia's intervention in Ukraine has consisted of coordinated sanctions. The US has welcomed the Russian proposal for a UN peacekeeping mission in eastern Ukraine as a possible indication of Russia's readiness to negotiate. From a US perspective, any UN peacekeeping mission would have to strengthen the sovereignty and territorial integrity of Ukraine rather than simply entrench the existing line of control between Ukrainian authorities and Russian-backed separatists.

The transatlantic relationship faces two principal challenges with regard to Ukraine: holding firm against Russia's stoking of the conflict in eastern Ukraine; and supporting the Ukrainian authorities as they build institutions that will promote prosperity, an effective state (including in the military and security sectors) and the pursuit of the country's ambitions for closer relations with the EU and NATO. A harmonized transatlantic policy will hold the best prospects for success.

Recommendations

The US and the EU should prioritize high-level dialogue and coordination on development assistance and policy approaches in support of Ukrainian reform, in order to minimize the gaps in their approaches and to ensure that neither works counterproductively.

The US and the EU should continuously assess the efficacy of their assistance to Ukraine, as this plays a key role in modernizing its institutions and strengthening its sovereignty.

Although Europe has not joined the US in approving lethal assistance to Ukrainian armed forces, the US and Europe should nonetheless explore dual-use capabilities in cases where technological assistance could help Ukraine's defence industry adapt to a rapidly changing battlefield. The US authorities should consult with their European counterparts on shared approaches.

Western Balkans

There have been two stabilizing factors in the Western Balkans: the prospect of EU (and in some cases NATO) membership for countries in the region, and the ability of the West to intervene militarily if necessary.[81] But in the absence of US commitments, these factors are no longer sufficient to ensure the region's long-term stability as continued political and economic stagnation takes a toll.

The EU is a critical player in the economic development of the Western Balkans. It is the region's largest trading partner, accounting for over 76 per cent of regional trade,[82] and its financial assistance through the Instrument for Pre-Accession Assistance is critical for the integration of the Balkan economies. The US contributes funding and has requested $57 million from Congress in the 2018 fiscal year for institutions that promote democracy, human rights, good governance, education and social services, and peace and security.[83]

However, generous European economic assistance to the Western Balkans and last-minute diplomatic attempts to stave off potential conflict do not compensate for US absence from the region, or for uneven EU policy towards it. Russia is actively backing anti-EU and anti-NATO political parties, and is increasing its influence in the region with dramatic effect, such as in the case of the alleged coup attempt in Montenegro in October 2016.

Recommendation

In the face of increased regional instability, the US and the EU must initiate a new high-level dialogue on the Western Balkans, preferably at the level of US deputy secretaries and their EU counterparts, to ensure that policy goals and assistance programmes are in alignment.

Russian interference in the democratic processes of Balkan states must also be addressed. Therefore:

Recommendation

The US and the EU should enhance anti-corruption mechanisms and institution-building efforts in the Western Balkans, including more rigorous benchmarking of rule-of-law conditions, to help the most vulnerable countries build greater resilience to democratic backsliding and to Russian influence.[84] Both the US and the EU should support the aspirations of the region's countries to join the transatlantic community. Continuing US leadership is critical in this, alongside engagement by the EU.[85]

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[81] *Financial Times* (2017), 'Europe and the US face a challenge in the Balkans', editorial, 10 March 2017, https://www.ft.com/content/ce3bd714-058a-11e7-ace0-1ce02ef0def9 (accessed 13 Feb. 2018).
[82] European Commission (2017), 'Western Balkans', http://ec.europa.eu/trade/policy/countries-and-regions/regions/western-balkans/ (accessed 13 Feb. 2018).
[83] ForeignAssistance.gov (2017), 'Foreign Assistance Worldwide', http://beta.foreignassistance.gov/explore (accessed 13 Feb. 2018).
[84] Conley, H. A., Mina. J., Stefanov, R. and Vladimirov, M. (2016), *The Kremlin Playbook: Understanding Russian Influence in Central and Eastern Europe,* Washington DC: Center for Strategic and International Studies, https://csis-prod.s3.amazonaws.com/s3fs-public/publication/1601017_Conley_KremlinPlaybook_Web.pdf (accessed 13 Feb. 2018).
[85] McCain, J. (2017), 'The Balkans are Heating Up Again – and Washington is Nowhere to be Seen', *Washington Post*, 27 April 2017, https://www.washingtonpost.com/news/democracy-post/wp/2017/04/27/the-balkans-are-heating-up-again-and-washington-is-nowhere-to-be-seen/?utm_term=.45ca945f0978 (accessed 13 Feb. 2018).

Eastern Mediterranean and Turkey

The Eastern Mediterranean and the Middle East have been foreign policy priorities of the US and Europe for decades. Since the articulation of the Truman Doctrine in 1947, the US has viewed the region geostrategically, while the EU has worked towards better governance and stability in what is its immediate neighbourhood. The civil war in Syria, the conflict in Libya and the migration crisis have renewed the necessity for the EU to engage in the region. The transatlantic challenge is to avoid dissonance in approaches that other actors in the region could exploit.

Nowhere is this more visible than in Turkey. A NATO member, the country is home to the Incirlik airbase, used by planes carrying out anti-ISIS strikes; and the Konya airbase, from where NATO's AWACS surveillance aircraft operate. For the EU, Turkey has been critical to restricting migrant flows to Europe since the beginning of the migration crisis in 2015, particularly through the Facility for Refugees in Turkey.[86] But the broader relationship between Turkey, the US and the EU remains fraught, with tensions escalating between Turkey and some EU members in the face of the country's increased crackdown on foreign journalists and activists. The Trump administration has focused principally on security collaboration and cooperation with Turkey in the fight against terrorism, and the US appears more willing than the EU to overlook Turkey's deteriorating democratic standards. This is complicated, however, by the US's heavy reliance on the Kurds in the fight against ISIS. Democratic backsliding in a NATO member is detrimental to the alliance's and American interests.

Recommendation

The US should carry out a high-level dialogue with the EU and European partners on their approach to the Eastern Mediterranean, seeking convergence of long-term strategies.

There will inevitably be disjuncture between the US and EU approaches, because some states in the region (Greece and Cyprus) are members of the EU and Turkey is a candidate for EU membership.

Recommendation

The high-level dialogue on the Eastern Mediterranean should include a focus on how NATO can support the EU in dealing with the humanitarian and migration aspects of instability. It should also address recently discovered energy resources in the region to ensure that their extraction does not create instability but instead establishes the basis for productive regional collaboration.

Africa

The spread of extremism and growing instability in the Sahel and North Africa in recent years have become dangers to US and European security, and have spurred migration into Europe through the Central Mediterranean.

[86] European Commission (undated), 'The EU Facility for Refugees in Turkey', https://ec.europa.eu/neighbourhood-enlargement/news_corner/migration_en (accessed 13 Feb. 2018).

On the one hand, close to 40 per cent of US development assistance in recent years has been provided to countries in sub-Saharan Africa, totalling $7.5 billion in fiscal 2016.[87] This money provides critical support for public and reproductive health, agricultural development, education, food aid and civil society. On the other hand, due to its proximity and historical ties to the continent, Europe has traditionally been a strong economic partner to countries in Africa. The EU is Africa's largest trading partner (with €57 billion worth of exports to the region in 2016), and the continent is the EU's largest recipient of development assistance ($6.8 billion in 2016 from EU institutions).[88] These figures are complemented by the development assistance of individual EU member states, the five largest providers of which in 2016 were Germany ($4 billion), the UK ($3.9 billion), France ($3.2 billion), Sweden ($896 million) and Italy ($379 million).[89]

While the EU and its member states have contributed to the security and socio-economic development of countries across Africa, their efforts are best complemented by US foreign aid and security-sector reform efforts.

Recommendation

A high-level dialogue – bringing together the US undersecretary of defence for policy, the USAID deputy administrator, the US undersecretary of state for political affairs and their EU counterparts – should coordinate the prioritization and distribution of foreign and military aid in Africa to avoid competition across the continent and the duplication of resources.

The US recognizes and supports the EU's security and development contribution in Africa. It also recognizes the national security benefit to be reaped if Washington improves policy coordination with the EU and sustains current levels of engagement. Diplomacy and civil engagement reduce the incentives for irregular migration into Europe. They are important for tackling the rise of violent extremism, which challenges national security objectives on both sides of the Atlantic, since instability in sub-Saharan Africa and the Sahel can spread to North Africa and the Middle East.

Recommendation

A high-level US–EU dialogue on Africa should draft a potential joint political strategy for the continent, and take into account the assessments and views of regional organizations such as the African Union and sub-regional groupings such as the Economic Community of West African States.

China and the Asia-Pacific

The withdrawal of the US from the Trans-Pacific Partnership (TPP), three days after President Trump took office in January 2017, dealt a potential blow to the concept of a 'Pacific Century'. Designed to foster more integrated trade links among 12 countries (including the US) and to

[87] USAID (2017), 'Foreign Aid Explorer', https://explorer.usaid.gov/aid-dashboard.html#2016 (accessed 13 Feb. 2018).
[88] European Commission (2017), 'EU trade policy and ACP countries', http://ec.europa.eu/trade/policy/countries-and-regions/regions/africa-caribbean-pacific/ (accessed 13 Feb. 2018); European Commission (2015), 'EU Aid Overview', https://euaidexplorer.ec.europa.eu/AidOverview.do (accessed 13 Feb. 2018).
[89] European Commission (2018), 'EU Aid Explorer', https://euaidexplorer.ec.europa.eu/DevelopmentAtlas.do (accessed 8 Mar. 2018).

further American economic interests in the Asia-Pacific region, the TPP was also meant to push back against growing Chinese economic influence. The EU, meanwhile, has steadily continued bilateral negotiations (whether over FTAs or smaller investment-protection agreements) with seven out of the 10 members of the Association of Southeast Asian Nations (ASEAN), and it has finalized FTAs with two of them (Vietnam and Singapore, both of which are members of the TPP). While the EU and the US did not align their economic strategies in the Asia-Pacific during the Obama administration, they shared common strategic interests in ensuring that liberal economic values and trade standards were upheld in the region. President Trump's withdrawal of the US from the TPP has reduced US economic engagement in the Asia-Pacific but not the EU's presence.

From a security angle, the threat posed by North Korea has intensified through its nuclear tests and increasingly provocative missile tests. President Trump showed a willingness to adjust his trade policy towards China in an attempt to gain its help in containing North Korea's nuclear and missile programmes. Until recently, this approach had some success in respect of the more cooperative role played by China in the sharpening crisis in northeast Asia, and in terms of the effectiveness of US efforts within the UN Security Council on sanctions (though trade tariffs introduced in March 2018 could affect Beijing's views). It is unclear whether tariffs on Chinese metals and goods (as well as the ongoing investigation into intellectual property) will affect US–China cooperation on North Korea. The EU's limited ability to project military force in Asia (anti-piracy capabilities notwithstanding) also reinforces the US's unique position in being able to balance both engagement and power projection to contain China's increasingly bold moves, particularly in the South China Sea.

Interestingly, from an economic point of view, the Trump administration's stated preference for bilateral relationships over multilateral forums aligns the US and the EU on trade policy in the Asia-Pacific – though they come at this from different angles – since the EU has pursued bilateral FTAs in the region for almost a decade.[90] Though some of these are part of a stated EU goal to move towards an ASEAN-wide FTA, the current bilateral framework creates an opportunity for transatlantic policymakers to align their efforts in the region and build a common trade strategy.

Recommendation

Policymakers have an opportunity to align their efforts in the Asia-Pacific and build a common trade strategy that would benefit both the US and the EU. At the very least, the US and the EU should avoid contradictory economic policies that would jeopardize hopes of raising labour and economic standards in the Asia-Pacific. This alignment could entail a country-by-country dialogue to identify issues such as the need for reforms and potential coordination of US and EU engagements with third countries on those issues.

A country-by-country dialogue with Asia-Pacific countries, along with diplomatic efforts, could incentivize political or economic reforms, as was the case with the efforts that led the US to restore diplomatic ties with Myanmar in 2012.[91]

[90] European Commission (2017), 'Association of South East Asian Nations (ASEAN)', http://ec.europa.eu/trade/policy/countries-and-regions/regions/asean/ (accessed 13 Feb. 2018).
[91] U.S. Department of State (2017), 'U.S. Relations with Burma', Fact Sheet, 27 January 2017, https://www.state.gov/r/pa/ei/bgn/35910.htm (accessed 13 Feb. 2018).

A US retreat could embolden China's increasing assertiveness in the region, not only in the economic realm but also in the strategic and geopolitical spheres. Diminished US engagement in the Asia-Pacific allows China to present itself as the defender of free trade and international norms. The EU seems to welcome this Chinese position, as exemplified by EU foreign policy chief Federica Mogherini when she stated in April 2017 that the EU–China strategic partnership had reached 'an unprecedented level of maturity'.[92]

Recommendation

The Trump administration should engage with its European partners to avoid divergent and potentially competing policies regarding China, and to rebuild a true transatlantic strategy towards the country and the Asia-Pacific region.

Israeli–Palestinian peace negotiations

President Trump has stated his commitment to brokering what he has called 'the ultimate deal' between Israel and the Palestinians. He has charged his son-in-law and senior adviser, Jared Kushner, to lead the effort along with the US Middle East envoy. President Trump has backed away from the long-standing US policy of supporting a two-state solution, and he has recognized Jerusalem as the capital of Israel, a matter the international community (and all previous US administrations) believe should be a subject of final-status talks. This has created uncertainty about American objectives for a settlement and has complicated diplomacy with the Palestinians. In the region, multiple obstacles stand in the way. Israel's prime minister, Benjamin Netanyahu, is under investigation for bribery and other possible offences. This brings a new element of unpredictability into his country's politics. It will likely increase his reliance on right-wing members of his governing coalition and reduce Israeli flexibility on key issues, such as settlements, that would be part of a comprehensive peace deal. The divides among the Gulf countries complicate the task of assembling a supportive coalition of Arab countries that can bolster a settlement politically and underwrite it financially.

As part of the Middle East Quartet, alongside the US, Russia and the UN, the EU is an important actor in the international politics of the region. The EU and its member states support a two-state solution and have been among the most important supporters of peace efforts, with the European Neighbourhood Instrument providing the Palestinian Authority and Palestinian refugees with €220 million in funding in 2017 and €291 million in 2016. Assistance will be essential in years to come, especially in the context of an eventual comprehensive settlement. The prospects for a settlement in the near term appear dim.

Recommendation

The US should create more robust consultation mechanisms with European partners on its peace efforts in the Middle East, and should craft coordinated development assistance approaches towards the region in anticipation of a potential Israeli–Palestinian peace agreement, however far away that may be.

[92] Zalan, E. (2017), 'China and EU push for global free trade', EUObserver, 20 April 2017, https://euobserver.com/eu-china/137619 (accessed 13 Feb. 2018).

2.5.2 Foreign policy – the view from the EU

The EU's Global Strategy, released in 2016, argues that the world needs 'a strong European Union like never before'.[93] Individually, no member state has the capacity to deal with the full range of global threats, but the EU has enormous potential to be far more than the sum of its parts. It is the second-largest global economic power in terms of GDP and invests more in development cooperation than the rest of the world combined.[94]

In going forward with the US in bilateral and multilateral initiatives, the EU's strength lies in harnessing its economic power and diplomatic influence to the fullest extent possible. Even though many have characterized the Trump administration's policy as 'America First', true isolationism is almost impossible in today's connected world; even the most isolated countries find themselves affected by the actions of others and often needing to work with unlikely allies. Since President Trump took office, a great deal of his time has been taken up by issues such as the conflict in Syria and the threats from North Korea. In order to tackle these, his administration has reached out to other countries bilaterally and multilaterally, e.g. through the UN over Syria. While this approach may be seen as transactional or opportunistic, in application it does not deviate very far from the common practice of like-minded initiatives and the development of partnerships that the EU undertakes.

Thus far, Trump has largely strayed rhetorically rather than practically from traditional US foreign policy objectives. Outside of rhetoric, the major difference has been the lessened emphasis on human rights in statements on issues such as international trade. This, broadly, is likely to mean financial cuts to aid and development programmes at USAID and the State Department, and an overall shift to focusing to a greater degree on a narrower range of issues, especially countering Islamist extremism and fighting terrorism.[95]

This represents a mixed blessing for the EU. On the one hand, with the US stepping away from a values-driven foreign policy (alongside the UK leaving the EU), the EU may find it more difficult to project soft power in complex environments such as the Balkans, Egypt or the Persian Gulf. On the other hand, the US intentionally limiting its soft-power capabilities creates opportunities for the EU to step in and fill the gap, giving the EU the potential for an enhanced presence and an opportunity to set the tone for the future. Whether this potential will be realized is another question, however. More likely, changes in some EU member states and in the US approach to development assistance will cause difficulties for the EU, particularly in ensuring that the maximum benefit for developing countries is achieved and that commitments to the UN Sustainable Development Goals are achieved and sustained.

There could be particular challenges for the EU's engagement in the Middle East peace processes, including between Israel and the Palestinians and in Syria. Both require US and Russian support, but both processes also could benefit from the behind-the-scenes approach espoused by the EU. In particular, the relationship between the EU and Iran will be important,

[93] European Union (2016), *Shared Vision, Common Action: A Stronger Europe*, European Union Global Strategy, June 2016, http://europa.eu/globalstrategy/sites/globalstrategy/files/pages/files/eugs_review_web_13.pdf (accessed 13 Feb. 2018).
[94] Grey, A. (2016), 'The world's 10 biggest economies in 2017', World Economic Forum, 9 March 2017, https://www.weforum.org/agenda/2017/03/worlds-biggest-economies-in-2017/ (accessed 12 Mar. 2018).
[95] Wadhams, N. (2017), 'Tillerson Seeking 9% Cut to U.S. State Department Workforce, Sources Say', Bloomberg Politics, 28 April 2017, https://www.bloomberg.com/politics/articles/2017-04-28/tillerson-said-to-seek-9-cut-to-u-s-state-department-workforce (accessed 13 Feb. 2018).

as the country is a critical and influential player in most of the conflicts in the Middle East. The US relationship with Iran has not improved since President Trump took office, and the JCPOA remains vulnerable to negative US assessments and threats of pulling out. Iran's influence over Hezbollah is a continuing source of concern for Israel and other states in the region; the EU's relationship with Iran may help in brokering peace agreements and conflict prevention measures in the Middle East. This could be important also in Yemen and more generally in the Gulf. The partnership between the EU and the UN could also prove useful in leveraging EU influence in Libya, given recent meetings on the migrant crisis in Brussels, Paris, The Hague and the United Arab Emirates.

On Russia, the EU's approach linking sanctions to the Minsk peace process for Ukraine was largely (though not entirely) aligned with the US approach until the election of Trump. As a candidate, Trump promised a radically different approach, offering sanctions relief in exchange for a new nuclear arms treaty, and even at one point suggesting that the US might recognize Russia's annexation of Crimea.

As president, though, Trump's actions suggest that his policy will be much closer than expected to Obama's. Given recent senior-level appointments, the Trump administration may move in the direction of more cautious dealings with Russia. On the off chance that the US recognizes Russia's annexation of Crimea, the EU would be put in an incredibly difficult bind. However, the more likely scenario is that relations between Trump and President Vladimir Putin stagnate or deteriorate, and that the EU can effectively continue its existing Russia policies with the explicit or implicit support of the US. In that instance there would be the possibility that Trump might switch to an exceptionally hawkish line on Russia, which would carry obvious risks for the EU but might also give Washington the opportunity to demonstrate its value as a steady European ally.

Similarly, the US approach towards China over the past few months suggests that the EU position may not be as far from that of the US as previously thought. Underpinning this approach has been the need to contain North Korea, an issue of more immediate relevance to the US, given defence and security commitments to South Korea and Japan, than to the EU. However, the announcement in March 2018 that the US would apply tariffs to imports of steel and aluminium has the potential to make US–China relations more confrontational, despite Trump's previously cordial relationship with President Xi Jinping. A stable US–Chinese economic relationship is critical for the EU–Chinese relationship, given that the EU is China's largest trading partner and China is the EU's second-largest trading partner. Bilateral trade between the EU and China was worth over €500 billion in 2016, and the two sides have agreed a €1 trillion target for 2020.[96]

Multilateralism

The EU and its member states set great store by multilateral efforts in international relations. The EU extensively partners with, and works through, the UN and its associated organizations, the different multilateral treaty bodies, and regional and sub-regional organizations. This also

[96] European Commission (2017), 'China', http://ec.europa.eu/trade/policy/countries-and-regions/countries/china/ (accessed 13. Feb. 2018).

used to be true for the US, but in recent years its enthusiasm for multilateralism has fluctuated. The Trump administration has warned that it will reduce its financial contribution to the various bodies in the multilateral system. The US pays for approximately 22 per cent of the UN's regular budget, and – along with most other countries – contributes financially and in kind on a voluntary basis. It has long felt that its contribution is comparatively high and that countries such as China, Japan, Germany and Russia should contribute more. Although several other countries would agree with that analysis, it should be noted that EU member states contribute approximately 40 per cent of the UN budget for peacekeeping operations and 50 per cent of the voluntary payments into the UN system as a whole. The Trump administration has announced, for example, a cut of $32.5 million from its contribution to the UN Population Fund, and more cuts are expected to its funding of other parts of the UN.[97] These cuts and what they represent in terms of the US attitude to multilateral efforts will cause great stresses for the EU in the near term and medium term, as did a similar approach taken by the George W. Bush administration between 2001 and 2008. Yet in those years, the EU developed a strategy of effective multilateralism that allowed it to maintain good relations with the US during a difficult period and then make progress at a later date.

Recommendation

The EU should take a similar line to the patient multilateralist strategy that it developed successfully during the George W. Bush administration. It should stick to its Global Strategy, working with the US where possible and waiting for the Trump administration to adapt or shift its position.

2.6 Energy and climate change

2.6.1 Energy and climate change – the view from the EU

Since President Trump's March 2017 executive order[98] to review President Obama's Clean Power Plan,[99] concerns have been growing in Europe about the long-term impact of Trump's energy policies. The executive order directed government agencies to review and finalize plans to address (by 24 September 2017) existing regulations that 'potentially burden the development of domestic energy resources, and appropriately suspend, revise, or rescind regulations that unduly burden the development of US energy resources beyond what is necessary to protect the public interest or otherwise comply with the law'. As directed in the executive order, each agency is to establish a Regulatory Reform Task Force to identify regulations in need of modification or repeal. Several agencies have announced a review of standards with regard to greenhouse gas

[97] Borger, J. (2017), 'UN funding: alarm at reports Trump will order sweeping cuts', *Guardian*, 26 January 2017, https://www.theguardian.com/us-news/2017/jan/26/un-funding-alarm-at-reports-trump-will-order-sweeping-cuts (accessed 13 Feb. 2018).
[98] Environmental Protection Agency (2017), 'Review of the Clean Power Plan: Proposed Rule by the Environmental Protection Agency', *Federal Register*, 82(63), 4 April 2017, https://www.federalregister.gov/documents/2017/04/04/2017-06522/review-of-the-clean-power-plan (accessed 13 Feb. 2018).
[99] Environmental Protection Agency (2015), 'Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units: A Rule by the Environmental Protection Agency', *Federal Register*, 80(205), 23 October 2015, https://www.federalregister.gov/documents/2015/10/23/2015-22842/carbon-pollution-emission-guidelines-for-existing-stationary-sources-electric-utility-generating (accessed 15 Feb. 2018).

emissions.[100] Specifically, although coal is unlikely to be competitive, the executive order lifts the ban on new coal-mine leases on federal lands; as well as restrictions on the production of oil, natural gas and shale energy. It also instructs the agencies to use the 'best available science and economics in regulatory analysis'. President Trump has also signed a presidential memorandum and granted a presidential permit to clear roadblocks to building the Keystone XL Pipeline, and he has signed a presidential memorandum enabling the completion of the Dakota Access Pipeline.

In running for office in 2016, Trump promised to eliminate the Clean Power Plan on the grounds that the plan would 'increase monthly electric bills by double-digits without any measurable improvement in the climate'.[101] Since he took office, an America First Energy Plan has been articulated as a set of energy policies that seek to lower costs, maximize resource use and eliminate dependence on foreign oil. To achieve this, the administration intends to reduce energy industry regulations, including by lifting the restrictions of the Climate Action Plan and the 'Waters of the United States' rule. The administration will 'embrace' national shale oil and gas resources and develop 'clean coal technology', boosting domestic energy production and achieving energy independence. At the same time, the White House has stated its commitment to the protection of clean air and clean water and the conservation of natural habitat.

In April 2017, the Environmental Protection Agency announced that it was withdrawing from the 2015 proposals for a federal plan to implement the greenhouse gas emission guidelines, for model trading rules for implementation of the guidelines, and for amendments to the Clean Air Act framework regulations.[102]

These policy changes will have a limited global impact on energy supplies and prices. It is possible that the export of US liquefied natural gas will encourage Russia's Gazprom to keep its prices lower and its supply stable, contributing to lower natural gas prices.[103] Russia is currently the largest oil and gas producer, providing over 20 per cent of the world's exported natural gas. Additional gas supplies from the US – along with Iran's significant gas reserves – may change the global energy and energy investment picture over the next decade rather than in the immediate term.

Recommendation

The EU should use changes in US energy policy to reinforce its own strategy for security of supply, competiveness and sustainability, and to provide added impetus to the EU 2030 Energy Strategy.

[100] Environmental Protection Agency (2017), 'Complying with President Trump's Executive Order on Energy Independence', https://www.epa.gov/Energy-Independence (accessed 13 Feb. 2018).
[101] The White House (2017), 'President Trump's Energy Independence Policy', 28 March 2017, https://www.whitehouse.gov/briefings-statements/president-trumps-energy-independence-policy/ (accessed 13 Feb. 2018).
[102] Environmental Protection Agency (2017), 'Withdrawal of Proposed Rules: Federal Plan Requirements for Greenhouse Gas Emissions From Electric Utility Generating Units Constructed on or Before January 8, 2014; Model Trading Rules; Amendments to Framework Regulations; and Clean Energy Incentive Program Design Details', *The Federal Register*, 82(62).
[103] Goldberg, S. (2017), 'Trump's Energy Policies Will Weaken Natural Gas Prices', Bloomberg, 3 March 2017, https://www.bloomberg.com/view/articles/2017-03-03/trump-s-energy-policies-will-weaken-natural-gas-prices (accessed 13 Feb. 2018).

Climate change

Of likely greater concern to the EU is the impact of US policy shifts on global climate change mitigation strategies and the 2015 Paris Agreement on climate change. President Trump's March 2017 executive order also disbanded the US Interagency Working Group on the Social Cost of Greenhouse Gases;[104] American leadership on tackling climate change is no longer expected.[105] In addition, the Cardin-Lugar anti-bribery rule, which required the disclosure of payments from oil, gas and mining projects to governments, has been repealed.[106] As a result, the climate action leadership mantle is falling on the shoulders of the EU and China. The EU played a significant role in persuading the US to become more proactive in international efforts to address climate change, recognizing the current leadership gap.[107] How the new EU Policy for the Arctic,[108] with its emphasis on the environment, climate change and international cooperation, will be implemented in the face of new US policies on climate change and environmental issues is unclear at this stage.

The immediate impact of the Trump administration's decision to withdraw the US from the Paris Agreement[109] is more political than material. The US is likely to suffer a loss in power and influence, a vacuum that will be filled by the EU and China – as both are moving forward with renewable-energy technologies at a fast pace – and by sub-national actions in the US. For more than a decade, American cities and states have been ahead of the federal government in cutting carbon emissions,[110] and the immediate shift away from meeting greenhouse gas goals will be small. In the longer run, much will depend on the way in which the decisions of the federal government affect carbon emissions and, more significantly, how long such an attitude dominates in federal decision-making. Depending on whether President Trump serves for one or two terms, the longer-term physical impact such as on sea-level rise and Arctic melt may not be as significant as feared.

Working in favour of the successful implementation of the Paris Agreement and of the 2030 Agenda for Sustainable Development is the fact that the transition to a low-carbon economy is well under way in the US and the rest of the world. This is due to precipitous declines in the costs of renewables and storage technologies, along with the growth of international

[104] Leggett, J. A. (2017), *Federal Citations to the Social Cost of Greenhouse Gases*, Congressional Research Service, 21 March 2017, https://www.hsdl.org/?view&did=799816 (accessed 13 Feb. 2018).
[105] Bailey, R. (2016), 'The Climate vs. Donald Trump', Chatham House Expert Comment, 19 November 2016, https://www.chathamhouse.org/expert/comment/climate-vs-donald-trump (accessed 13 Feb. 2018).
[106] Mahanta, S. (2017), 'The House Kills an Anti-Corruption Measure', *The Atlantic*, 1 February 2017, https://www.theatlantic.com/international/archive/2017/02/exxon-mobil-tillerson-state-corruption-russia-sec/515244/ (accessed 13 Feb. 2018).
[107] For example, the EU climate action commissioner, Miguel Árias Cañete, recently stated that '… there cannot be vacuums, there can only be drivers, and we are committed to driving this agenda forward'. Smith, D., Enders, C. and Rushe, D. (2017), 'EU leads attacks on Trump's rollback of Obama climate policy', *Guardian*, 28 March 2017, https://www.theguardian.com/environment/2017/mar/28/climate-change-eu-leader-trump-executive-order (accessed 13 Feb. 2018).
[108] The EU Policy for the Arctic aims at i) protecting and preserving the Arctic, and supporting research to address environmental impacts and climate change; ii) promoting sustainable use of resources and economic development together with people living in the region; iii) enhancing international cooperation through engagement and dialogue with Arctic states, indigenous peoples and other partners. European Commission (2016), 'Joint Communication to the European Parliament and the Council: An integrated European Union policy for the Arctic', 27 April 2016, https://eeas.europa.eu/arctic-policy/eu-arctic-policy_en (accessed 13 Feb. 2018).
[109] United Nations (2015), 'Paris Agreement', 12 December 2015, http://unfccc.int/files/essential_background/convention/application/pdf/english_paris_agreement.pdf (accessed 13 Feb. 2018).
[110] Saha, D. and Muro, M. (2016), 'Growth, carbon, and Trump: State progress and drift on economic growth and emissions 'decoupling', Brookings Institution, 8 December 2016, https://www.brookings.edu/research/growth-carbon-and-trump-state-progress-and-drift-on-economic-growth-and-emissions-decoupling/#footref-2 (accessed 13 Feb. 2018).

standards, regulatory frameworks and global markets for low-carbon technologies. In its shift to a sustainable low-carbon, circular economy, the EU is setting standards and regulations in a number of key industries. For example, the transport sector produces approximately 25 per cent of Europe's greenhouse gas emissions. The EU's move towards low-emission mobility has the potential to create innovations within the energy and vehicle manufacturing sectors. The EU and China are moving forward rapidly with transformative investments in renewable, smart-energy technologies. If the Trump administration carries out its declared intention to withdraw the US from the Paris Agreement, there would be structural disadvantages for American firms that decide against adopting higher standards for carbon emissions. Manufacturing to the highest standards is attractive in terms of economies of scale so that the same models of, for example, cars, aeroplanes and railway engines can be sold globally.

Standards are increasingly global. Most industries in the automobile, aircraft and shipping domains are global and driven by multinational corporations. This means that large markets such as the EU and China can drive standards through their regulations.

The EU possesses significant power and influence in this regard. Its internal market and its stakeholder platforms for financial investment mean that common standards and regulations provide clear incentives for manufacturers. Common standards in the internal market for alternative fuels,[111] and a standard for the availability of infrastructure for those fuels – providing for publicly available electric recharging points and natural gas or hydrogen filling stations in every European country – have the potential to transform transport and reduce emissions not only in the EU but globally.[112]

Recommendations

The EU should recognize that it possesses significant power and influence within the Paris Agreement and in global moves to address climate change.

The EU should work globally, with and alongside China, to maintain and improve common standards and regulations; and to limit the impact of retrograde energy and climate policies in the US by creating disadvantages for American firms that do not adopt European standards.

[111] *Official Journal of the European Union* (2014), 'Directive 2014/94/EU of the European Parliament and of the Council of 22 October 2014 on the deployment of alternative fuels infrastructure', EUR-Lex, 28 October 2014, http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32014L0094 (accessed 13 Feb. 2018).

[112] European Commission (2016), 'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A European Strategy for Low-Emission Mobility', EUR-Lex, 20 July 2016, http://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A52016DC0501 (accessed 13 Feb. 2018).

3. Conclusions

The Trump administration began deeply sceptical about the value of cooperation with the EU. The president seemed to view the EU primarily as an economic competitor rather than as a partner. Questions remain about what the Trump administration seeks in the US's broad-based relationship with the EU.

Beyond the headlines, there are numerous areas of important collaboration between the US and the EU. Fundamentally, both sides share core interests in security, economic and normative issues, which transcend any one country's domestic politics. The two sides bring different attributes to the table, but the rules-based international order is fundamentally a project from which both benefit in diverse and substantive ways.

That should not understate the difficulties that the US–EU relationship faces, many of which pre-date Trump's election. On issues from China to migration to Russia, the EU and the US have notably different perceptions and interests, the navigation of which requires nuanced diplomacy.

Ultimately, however, as history demonstrates, the depth of the issues that bring the two sides together is much greater than those that might divide them. How the EU responds to the Trump administration will be the hallmark of how it sees its role in the world and its potential for influence, as well as how it will succeed in promoting its worldview.

4. Recommendations

Economics, trade and investment

- The US and the EU should institute a high-level dialogue to exchange experience and coordinate activity on screening inward FDI. This could coincide with the European Commission's preparation of a report on FDI into the EU, as part of the Commission's moves to develop regulatory proposals on investment in strategic assets or sectors.
- The US should seek to forge a common approach to China's current WTO case with the EU. This joint approach should be framed as a means to defend the rules-based international trading order and productively advance trade fairness internationally.
- The USTR and the EU commissioner for trade should implement a regular, high-level dialogue dedicated to assessing alleged unfair Chinese trade practices as well as the evolution of the MES case at the WTO.
- The existing high-level dialogue between the Office of the USTR and the European Commission Directorate-General for Trade should include a specific and regular discussion on the evolution of the digital economies on each side of the Atlantic, and on how to ensure their compatibility. The next rounds of US–EU trade negotiations should also include a dedicated round on this fast-growing sector to ensure continued attention to it.
- In order to chart a path forward on TTIP, the EU should be willing to rebrand the agreement under a different name, and to abandon negotiations on the most controversial aspects of the deal that have emerged as sticking points during the 15 rounds of talks so far.
- To move the transatlantic trade and investment agenda forward, the EU and the US should identify new areas for cooperation: for instance, in areas such as services and the digital economy.
- In order to scope out potential areas for collaboration, the Transatlantic Economic Council – a forum for economic dialogue between the US and EU set up in 2007 – should be relaunched at the political level.

Data flows and the new economy

- The Department of Commerce and the FTC should encourage more companies to self-certify within the EU-U.S. Privacy Shield framework, thereby taking into consideration Europe's different approach to data protection while safeguarding important and growing trade linkages.

- The Trump administration should keep in place privacy protections for foreigners, enshrined in Presidential Policy Directive 28, to guarantee protection for transatlantic data flows. The administration and the FCC should consider this issue when drafting future rules.
- The FCC should consult with the EU data protection officer and representatives from the European Commission's Directorate-General for Communications Networks, Content and Technology to ensure future compatibility of any US regulation with data protection rules and the EU Digital Single Market.
- Transatlantic cooperation is needed on a process of norm-building, such as developing agreements in principle on data security and mobility, that would outline broadly agreed principles and help frame inevitable disagreements.
- The EU and the US should enhance efforts to support economic growth through empowering women in the digital domain.

Law enforcement and counterterrorism

- The US should encourage its European partners to speed up the process of operationalizing EU PNR systems at the national level. The US and the EU should also explore grounds for expanded sharing of data from their respective internal PNR systems.
- Dialogue should be intensified between the Department of Homeland Security and other relevant US law enforcement agencies and their EU counterparts in the PIUs, at Europol and in national law enforcement agencies. This would enhance the exchange of best practices. It would also advance the prospect for further integrated information exchanges to be introduced between the US and EU PNR systems in the future, in accordance with relevant laws and regulations, and respecting political and legal concerns regarding the exchange of data.
- The Department of Homeland Security, as the implementing authority for new border security and immigration enforcement mechanisms, could share best practices and guidelines with its European counterparts, and engage on issues related to potential future interoperability between US and EU entry-exit systems.
- Cooperation such as the EU–US TFTP Agreement should be maintained and strengthened to include, for example, data on financial flows associated with foreign interference or illicit intelligence operations.
- A high-level dialogue between the EU and the US Department of the Treasury – including the Financial Crimes Enforcement Network – should be established in addition to ongoing technical discussions so as to sustain support at the political level within the US administration for important programmes for tracking illicit financial flows.
- ETIAS is an important EU instrument, and will assist the joint endeavours of the US and the EU to fight terrorism and to counter extremism. As such, ETIAS needs urgent and sustained support from both sides of the Atlantic.

- Enhancing EU–US cooperation in counterterrorism and information sharing is now easier, and should continue to be fast-tracked through the ECTC mechanisms that include the European Migrant Smuggling Centre and the European Cybercrime Centre.
- The increased interoperability and liaison between the US and the EU should continue to be supported and implemented.

Security and defence

- The US should welcome the European Defence Fund as an innovative form of burden sharing and encourage the EU to explore the possibility of increasing these resources further.
- The US should publicly recognize and encourage continued progress in the EU's cooperation with NATO, especially in exercises that promote preparedness for modern threats across both the EU and NATO. The US should support NATO–EU dialogue to coordinate efforts to improve military mobility. These could contribute to updates to the Joint Declaration and propel future collaborative work.
- It is inconceivable that a crisis involving NATO would not also involve the EU, and the US should advocate the closest possible practical relationship that enables a seamless response. The various centres of excellence that NATO (strategic communications and cyber) and the EU (hybrid warfare) have fostered have become laboratories for policy analysis and research. The US and the EU should find ways to ensure that the best practices and innovations which these centres identify become policy standards across both the EU and NATO, which would strengthen NATO–EU response and complementarity.
- President Trump's executive order on cybersecurity presents an opportunity for the EU to engage with the US on how to collaborate and coordinate effectively on cybersecurity within international discussions and policymaking bodies, and on how to chart the direction for both the EU and the US.
- Regular EU engagement with the US Congress on progress with the implementation of and developments within the JCPOA needs to be sustained.

Foreign policy

Russia

- The US and the EU should prioritize coordinated actions with regard to Russia (involving NATO where appropriate). These could include strengthened financial intelligence and information sharing, improved transparency measures, new approaches to arms control and strategic stability, and the provision of assistance to non-EU members in Europe to bolster independent media, civil society and judicial independence.

- The US and the EU should prioritize high-level dialogue and coordination on development assistance and policy approaches in support of Ukrainian reform, in order to minimize the gaps in their approaches and to ensure that neither works counterproductively.
- The US and the EU should continuously assess the efficacy of their assistance to Ukraine, as this plays a key role in modernizing its institutions and strengthening its sovereignty.
- Although Europe has not joined the US in approving lethal assistance to Ukrainian armed forces, the US and Europe should nonetheless explore dual-use capabilities in cases where technological assistance could help Ukraine's defence industry adapt to a rapidly changing battlefield. The US authorities should consult with their European counterparts on shared approaches.

Western Balkans

- In the face of increased regional instability, the US and the EU must initiate a new high-level dialogue on the Western Balkans, preferably at the level of US deputy secretaries and their EU counterparts, to ensure that policy goals and assistance programmes are in alignment.
- The US and the EU should enhance anti-corruption mechanisms and institution-building efforts in the Western Balkans, including more rigorous benchmarking of rule-of-law conditions, to help the most vulnerable countries build greater resilience to democratic backsliding and to Russian influence. Both the US and the EU should support the aspirations of the region's countries to join the transatlantic community. Continuing US leadership is critical in this, alongside engagement by the EU.

Eastern Mediterranean and Turkey

- The US should carry out a high-level dialogue with the EU and European partners on their approach to the Eastern Mediterranean, seeking convergence of long-term strategies.
- The high-level dialogue on the Eastern Mediterranean should include a focus on how NATO can support the EU in dealing with the humanitarian and migration aspects of instability. It should also address recently discovered energy resources in the region to ensure that their extraction does not create instability but instead establishes the basis for productive regional collaboration.

Africa

- A high-level dialogue – bringing together the US undersecretary of defence for policy, the USAID deputy administrator, the US undersecretary of state for political affairs and their EU counterparts – should coordinate the prioritization and distribution of foreign and military aid in Africa to avoid competition across the continent and the duplication of resources.

- A high-level US–EU dialogue on Africa should draft a potential joint political strategy for the continent, and take into account the assessments and views of regional organizations such as the African Union and sub-regional groupings such as the Economic Community of West African States.

China and the Asia-Pacific

- Policymakers have an opportunity to align their efforts in the Asia-Pacific and build a common trade strategy that would benefit both the US and the EU. At the very least, the US and the EU should avoid contradictory economic policies that would jeopardize hopes of raising labour and economic standards in the Asia-Pacific. This alignment could entail a country-by-country dialogue to identify issues such as the need for reforms and potential coordination of US and EU engagements with third countries on those issues.
- The Trump administration should engage with its European partners to avoid divergent and potentially competing policies regarding China, and to rebuild a true transatlantic strategy towards the country and the Asia-Pacific region.

Israeli–Palestinian peace negotiations

- The US should create more robust consultation mechanisms with European partners on its peace efforts in the Middle East, and should craft coordinated development assistance approaches towards the region in anticipation of a potential Israeli–Palestinian peace agreement, however far away that may be.

Multilateralism

- The EU should take a similar line to the patient multilateralist strategy that it developed successfully during the George W. Bush administration. It should stick to its Global Strategy, working with the US where possible and waiting for the Trump administration to adapt or shift its position.

Energy and climate change

- The EU should use changes in US energy policy to reinforce its own strategy for security of supply, competiveness and sustainability, and to provide added impetus to the EU 2030 Energy Strategy.
- The EU should recognize that it possesses significant power and influence within the Paris Agreement and in global moves to address climate change.
- The EU should work globally, with and alongside China, to maintain and improve common standards and regulations; and to limit the impact of retrograde energy and climate policies in the US by creating disadvantages for American firms that do not adopt European standards.

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Cover image: European Council President Donald Tusk speaks to US President Donald Trump as he welcomes him at EU headquarters in Brussels as part of a NATO meeting, 25 May 2017.

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