

**DECLARING VICTORY AND GETTING OUT
[OF EUROPE]: WHY THE NORTH ATLANTIC
TREATY ORGANIZATION SHOULD
DISBAND**

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I. INTRODUCTION

Following the terrorist attacks on the United States of America on September 11, 2001, the North Atlantic Treaty Organization (NATO) invoked Article 5 of the North Atlantic Treaty,¹ and vowed to help the United States combat international terrorism.² Two ironies exist in this declaration. First, NATO invoked Article 5 after, not during, the Cold War.³ Second, NATO invoked Article 5 to defend the United States instead of Europe.⁴ Some commentators lauded NATO's Article 5 declaration as another step in NATO's "most creative transition"⁵ after the Cold War.⁶ This Comment takes a contrary view,⁷ and argues that the events following September 11th prove that NATO cannot function in the post-Cold War world.⁸

1. Article 5 of the North Atlantic Treaty states:

The Parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all; and consequently they agree that, if such an armed attack occurs, each of them . . . will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area.

North Atlantic Treaty, Apr. 4, 1949, art. 5, 63 Stat. 2241, 2244, 34 U.N.T.S. 243, 246.

2. Suzanne Daley, *For First Time, NATO Invokes Joint Defense Pact with U.S.*, N.Y. TIMES, Sept. 13, 2001, at A17 [hereinafter Daley, *For First Time*].

3. William Drozdiak, *Attack on U.S. is Attack on All, NATO Agrees*, WASH. POST, Sept. 13, 2001, at A25 [hereinafter Drozdiak, *Attack on U.S.*].

4. Suzanne Daley, *NATO, Though Supportive, Has Little to Offer Militarily*, N.Y. TIMES, Sept. 20, 2001, at B5 [hereinafter Daley, *NATO, Though Supportive*].

5. DAVID M. ABSHIRE ET AL., *THE ATLANTIC ALLIANCE TRANSFORMED* 1 (1992).

6. *NATO's Welcome Response*, WASH. TIMES, Sept. 14, 2001, at A22.

7. See *infra* Part III.D.2 (analyzing NATO's invocation of Article 5 after September 11th).

8. Following September 11th, the United States has shouldered much of the

Long before September 11th, commentators debated NATO's relevance.⁹ Some argued that NATO was in transition,¹⁰ and was adapting into a political-military alliance.¹¹ Others said that NATO is the best means to preserve peace in Europe.¹² Finally, others wanted to preserve NATO merely for the sake of preservation.¹³ Former U.S. Senator George D. Aiken once stated that the United States should "declare victory and get out"¹⁴ of Vietnam. Having helped to win the Cold War without firing a shot,¹⁵ NATO should declare victory, disband over a ten-year period, and get out of Europe.

Part II of this Comment details NATO's history and structure. Part III discusses the reasons why NATO should disband, focusing on a changed European security environment for which NATO is unsuitable. Part IV proposes that NATO disband over a ten-year period, allowing the Western European Union and the United Nations (U.N.) Security Council to preserve peace and stability in Europe. Part IV also discusses

military and economic burden in fighting terrorism. See Thomas L. Friedman, *The End of NATO?*, N.Y. TIMES, Feb. 3, 2002, § 4, at 15 [hereinafter Friedman, *End of NATO*]. NATO has not played an integral role in this effort. Wesley K. Clark, *Neglected Allies*, WASH. POST, Feb. 1, 2002, at A25. Although many NATO members have contributed troops, few NATO soldiers took part in the fighting in Afghanistan and NATO's command structure has not been involved. *Old Friends and New—Europe and America*, ECONOMIST, June 1, 2002, at 26. Commentators have viewed NATO's invocation of Article 5 as a merely political measure. See, e.g., Drozdiak, *Attack on U.S.*, *supra* note 3 (noting that the NATO declaration "was a really impressive endorsement").

9. John Newhouse, *A New Alliance Could Nudge Aside the Old*, WASH. POST, Nov. 4, 2001, at B5.

10. ABSHIRE ET AL., *supra* note 5, at 1.

11. See BEATRICE HEUSER, TRANSATLANTIC RELATIONS: SHARING IDEALS AND COSTS 110–11 (1996) (discussing the fact that new problems that have arisen globally have led to the need for a new outlook for NATO encompassing various political and military agendas).

12. ABSHIRE ET AL., *supra* note 5, at 2, 7.

13. TED GALEN CARPENTER, BEYOND NATO: STAYING OUT OF EUROPE'S WARS 112–13 (1994) [hereinafter CARPENTER, BEYOND NATO] (noting the tendency of policy professionals to "cling tenaciously to familiar policies and institutions").

14. 131 CONG. REC. S698 (1985) (statement of Sen. Stafford); see also David M. Hudelson, *Two Choices for NATO's Future*, WASH. POST, Mar. 2, 1997, at C6 (noting that Senator Aiken's advice on how to end the Vietnam War "now seems suited to U.S. policy toward NATO").

15. *Freezing Out the Bear*, ST. LOUIS POST-DISPATCH, Apr. 29, 1998, at B6.

objections to ending NATO, and explains why these objections fail. This Comment concludes that European nations can—and should—assume a greater responsibility for their own defense.

II. BACKGROUND

A. NATO's History

1. The Creation of NATO

NATO's first Secretary-General, Lord Ismay, stated the reason for its existence succinctly—to avoid a third world war in Europe.¹⁶ After World War II, Europe was devastated.¹⁷ Western European nations became concerned about the Soviet Union's actions.¹⁸ Events from 1947 to 1949 confirmed these fears: the Soviet Union blockaded Berlin in April 1948, and later initiated a coup in Czechoslovakia.¹⁹ In response, Western European nations sought strength in numbers.²⁰ British Foreign Secretary Ernest Bevin proposed a Western Union in the House of Commons.²¹ Belgium, France, Luxembourg, the Netherlands, and the United Kingdom negotiated, then signed, the Treaty of Brussels.²² The Brussels Treaty bound these five nations to develop a common defense system and to strengthen the ties between them in a manner which would enable them to resist ideological, political, and military threats to their security.²³ This expression of European solidarity made NATO possible.²⁴

Shortly after the Brussels Treaty was signed, U.S. Senator

16. LORD ISMAY, *NATO: THE FIRST FIVE YEARS, 1949-1954* xi (1956).

17. See, e.g., NORTH ATLANTIC TREATY ORGANISATION, *NATO HANDBOOK* 25 (50th anniversary ed. 1998) [hereinafter *NATO HANDBOOK*] (stating the need for economic reconstruction in Europe in the years after World War II).

18. *Id.*; see also ISMAY, *supra* note 16, at 3 (discussing the “vacuum of strength” left to the Soviet Union following the defeat of Germany and Japan in World War II).

19. *NATO HANDBOOK*, *supra* note 17, at 26.

20. ISMAY, *supra* note 16, at 7.

21. *Id.*

22. *Id.* at 8.

23. Treaty for Collaboration in Economic, Social and Cultural Matters and for Collective Self-Defence, Mar. 17, 1948, 19 U.N.T.S. 53, 53.

24. ISMAY, *supra* note 16, at 9.

Arthur Vandenberg introduced a resolution recommending that the United States associate with “regional and other collective arrangements . . . based on continuous and effective self-help and mutual aid, and as affect its national security.”²⁵ The Vandenberg Resolution passed in the U.S. Senate.²⁶ By proposing that the United States contribute to maintaining peace in Europe,²⁷ the Vandenberg Resolution enabled U.S. involvement in a transatlantic alliance.²⁸ Implicit in the Vandenberg Resolution, however, was the hope that “the Europeans would be producers, and not solely consumers, of security.”²⁹

The United States, Canada, and the Brussels Treaty powers began negotiating a mutual defense treaty on July 6, 1948.³⁰ They wanted a treaty that would remain within the framework of the U.N. Charter.³¹ Seeking “a larger grouping of countries,”³² the Brussels Treaty powers invited Denmark, Iceland, Italy, Norway, and Portugal to participate in the negotiations.³³ Though the Soviet Union tried to disrupt the negotiations, twelve countries signed the North Atlantic Treaty on April 4, 1949.³⁴ By September 1949, all NATO members had ratified the North Atlantic Treaty.³⁵

2. *NATO's First Decade*

The North Atlantic Council (NAC) met for the first time on September 17, 1949.³⁶ The Council established a Defense

25. Vandenberg Resolution, S. Res. 239, 80th Cong. (1948).

26. ISMAY, *supra* note 16, at 10.

27. See Vandenberg Resolution, S. Res. 239, 80th Cong. (1948).

28. ISMAY, *supra* note 16, at 9–10.

29. SEAN KAY, NATO AND THE FUTURE OF EUROPEAN SECURITY 22 (1998).

30. ISMAY, *supra* note 16, at 10.

31. *Id.*

32. *Id.*

33. NATO HANDBOOK, *supra* note 17, at 26.

34. North Atlantic Treaty, *supra* note 1, 63 Stat. at 2241, 34 U.N.T.S. at 244. The twelve countries included Belgium, Canada, Denmark, France, Iceland, Italy, Luxembourg, the Netherlands, Norway, Portugal, the United Kingdom, and the United States. ISMAY, *supra* note 16, at 11.

35. ISMAY, *supra* note 16, at 11.

36. *Id.* at 24.

Committee, a Military Committee, and Regional Planning Groups to develop defense plans.³⁷ NATO's members agreed that the Council would meet annually and at times deemed necessary by any member.³⁸ NATO developed its first strategic concept in January 1950,³⁹ which called for the "integrated defense of the North Atlantic area."⁴⁰ The main task facing NATO was straightforward—to deter Soviet aggression.⁴¹ Because the Soviet threat was quite significant during NATO's formative years, this task seemed quite formidable.⁴²

Events outside of Europe emboldened NATO members.⁴³ Shortly after the NAC ended its meeting on May 18, 1950, North Korean Communist troops attacked South Korean forces and advanced toward Seoul.⁴⁴ Realizing that Communist aggression could also occur in Europe, NATO's members expedited their defense plans.⁴⁵ The alliance sought an integrated force under the command of an American military officer.⁴⁶ The NAC requested that U.S. President Harry S Truman designate General Dwight D. Eisenhower as Supreme Commander of the integrated force, and President Truman agreed.⁴⁷

In 1952, NATO invited Greece and Turkey to join the Atlantic Alliance.⁴⁸ Two years later, West Germany received an invitation to join NATO.⁴⁹ The topic of West Germany produced mixed emotions among NATO's members.⁵⁰ After extensive negotiations and numerous compromises, however, West

37. *Id.* at 25.

38. *Id.* at 24.

39. *Id.* at 27.

40. *Id.*

41. NATO HANDBOOK, *supra* note 17, at 23.

42. ISMAY, *supra* note 16, at 29.

43. *Id.* at 31–32.

44. *Id.* at 31.

45. *Id.* at 32.

46. *Id.* at 35.

47. *Id.*

48. *Id.* at 11. Spain joined NATO in 1982, but its support for NATO has been ambiguous at best. HEUSER, *supra* note 11, at 29.

49. ISMAY, *supra* note 16, at x.

50. *Id.* at 33.

Germany joined NATO.⁵¹ The Soviet Union created its own alliance—the Warsaw Treaty Organization—only nine days after West Germany’s admission into NATO.⁵² The Warsaw Pact mirrored the key provisions of the North Atlantic Treaty.⁵³ With “all the Soviet Union’s Communist neighbors”⁵⁴ in the Warsaw Treaty Organization, Europe’s security division became completely formalized.⁵⁵

3. *Countering the Soviet Threat*

By the mid-1950s, NATO had successfully established itself.⁵⁶ Gradually, however, tension arose between the Alliance’s members.⁵⁷ West German membership in NATO, as well as the Suez Canal crisis, caused France to rethink its NATO membership.⁵⁸ France proposed a Franco-Anglo-American triumvirate that would act outside of NATO.⁵⁹ The United States and Great Britain rejected this proposal quickly.⁶⁰ French President Charles de Gaulle then “ordered the removal of American nuclear weapons from French soil, withdrew the French fleet from the integrated NATO command, and . . . withdrew France from the NATO command altogether.”⁶¹

Though France sought security independence as NATO developed, most NATO members increased their security

51. NATO HANDBOOK, *supra* note 17, at 26. West Germany’s admission into NATO was controversial. Previously, France had proposed carrying out German rearmament “through an all-European army which would grant Paris authority over German military activity.” KAY, *supra* note 29, at 47. This idea, however, failed. *Id.* In the end, a British suggestion to bring Germany into NATO through the Western Union carried the day. *Id.* at 48.

52. LAWRENCE S. KAPLAN, NATO AND THE UNITED STATES, UPDATED EDITION: THE ENDURING ALLIANCE 67 (updated ed. 1994).

53. *Id.*

54. *Id.*

55. *Id.* at 68.

56. *Id.* at 72.

57. *See id.* at 77 (“The waning days of the Eisenhower Administration saw no resolution to any of the problems facing the alliance.”).

58. *Id.* at 84–85.

59. *Id.* at 86.

60. HENRY KISSINGER, DIPLOMACY 611 (1994) [hereinafter KISSINGER, DIPLOMACY].

61. *Id.* at 612.

dependence on the United States.⁶² During the Cold War, the United States and its NATO allies enjoyed a “fundamental compatibility of interests,”⁶³ yet did not have a similarity of resources.⁶⁴ This dissimilarity of resources contradicted NATO’s goal of providing a common defense for people on both sides of the Atlantic.⁶⁵ As this arrangement developed, the United States became dissatisfied with its NATO allies.⁶⁶

By the 1970s, the Warsaw Pact’s military strength rivaled NATO’s military strength.⁶⁷ Between 1971 and 1976, NATO decreased its military activity; Soviet military spending, however, increased by five percent.⁶⁸ U.S. President Jimmy Carter proposed a modest increase in the defense budgets of NATO members.⁶⁹ The Soviet Union, however, achieved a first-strike nuclear capability in Europe when it deployed SS-20 cruise missiles.⁷⁰ By the 1980s, the Soviet Union’s military strength had increased tremendously.⁷¹

NATO, however, held firm during the 1980s.⁷² Its “soft power” imposed political pressure on the Soviet Union.⁷³ The

62. KAY, *supra* note 29, at 48.

63. CARPENTER, *BEYOND NATO*, *supra* note 13, at 8.

64. KEITH A. DUNN, *IN DEFENSE OF NATO: THE ALLIANCE’S ENDURING VALUE* 57 (1990).

65. ISMAY, *supra* note 16, at 15–16.

66. KAY, *supra* note 29, at 48–49 (discussing the introduction of the Mansfield Resolution in the U.S. Senate in 1971, which sought to reduce U.S. troop levels in Europe); *see also* MELVYN KRAUSS, *HOW NATO WEAKENS THE WEST* 112 (1986).

67. *NATO Warned of Soviet Weapon Gains*, *AV. WK. & SPACE TECH.*, Dec. 13, 1976, at 25.

68. *Politics, Fund Cuts Hamper NATO Effort*, *AV. WK. & SPACE TECH.*, Mar. 17, 1975, at 43.

69. Robert G. Kaiser, *Vance Says U.S. Will Seek Rise in ‘81 Arms Budget*, *WASH. POST*, July 31, 1979, at A1.

70. *Si vis pacem*, *ECONOMIST*, May 24, 1980, at 11.

71. *See* KISSINGER, *DIPLOMACY*, *supra* note 60, at 763 (“[A]t the beginning of the 1980s, it was as if communist momentum might sweep all before it . . .”).

72. *See id.* at 820.

73. Vojtech Mastny, *Did NATO Win the Cold War?: Looking over the Wall*, *FOREIGN AFF.*, May–June 1999, at 182. For an explanation of the term “soft power,” *see* Daniel I. Fisher, Note, “*Super Jumbo*” Problem: Boeing, Airbus, and the Battle for the Geopolitical Future, 35 *VAND. J. TRANSNAT’L. L.* 865, 892 n.10 (2002) (citing JOSEPH NYE, JR., *BOUND TO LEAD* 1–20, 220–36 (1955)).

Soviet Union mistakenly viewed “NATO’s endemic bickering as a symptom [of] the [A]lliance’s demise, rather than grasping that this expression of diverse interests was its abiding strength.”⁷⁴ The deployment of Pershing II cruise missiles in western Europe constituted a credible deterrent to Soviet aggression.⁷⁵ Though the Soviet Union had more troops and weapons than most NATO members, NATO’s members possessed sophisticated and effective weapons that the Soviets could not match.⁷⁶ In 1989 and 1990, the Soviet Union imploded dramatically.⁷⁷ Though commentators have debated what caused the Soviet Union’s demise,⁷⁸ one can certainly say that NATO helped defeat the Soviet Union.⁷⁹ At the end of the Cold War, NATO could claim that it was the most successful international organization in history.⁸⁰

4. NATO’s Post-Cold War Transition

After the Cold War, NATO unveiled a new strategic concept.⁸¹ This new strategic concept “outlined a broad approach to security based on dialogue, cooperation and the maintenance

74. Mastny, *supra* note 73, at 180. Although the Soviet Union walked out of arms talks in Geneva in 1983, it failed to foment discord in NATO. KAPLAN, *supra* note 52, at 145–46.

75. Mastny, *supra* note 73, at 185.

76. *Id.* at 186–87.

77. See KAPLAN, *supra* note 52, at 156–57, 162–63.

78. KISSINGER, *DIPLOMACY*, *supra* note 60, at 802 (“Victory in the Cold War . . . came about as a result of the confluence of forty years of American bipartisan effort and seventy years of communist ossification.”); see, e.g., DINESH D’SOUZA, *RONALD REAGAN: HOW AN ORDINARY MAN BECAME AN EXTRAORDINARY LEADER* 197 (1997) (“In the cold war, Reagan turned out to be our Churchill; it was his vision and leadership that led us to victory.”). But see Robert Skidelsky, *The State and Economy: Reflections on the Transition from Communism to Capitalism in Russia*, in *POSTCOMMUNISM: FOUR PERSPECTIVES* 89 (Michael Mandelbaum ed., 1996) (“The proximate cause of the fall of the Soviet Union was state bankruptcy.”); Strobe Talbott, *Rethinking the Red Menace*, *TIME*, Jan. 1, 1990, at 66, 69 (concluding that “[t]he doves in the Great Debate of the past 40 years were right all along”).

79. August Gribbin, *With Cold War Won, NATO Fights 1st Battle; Kosovo to Dampen 50th Anniversary as 1,700 Delegates Gather in Washington*, *WASH. TIMES*, Apr. 18, 1999, at C1.

80. See Mastny, *supra* note 73, at 189.

81. NATO HANDBOOK, *supra* note 17, at 27.

of a collective defence capability.”⁸² NATO created the North Atlantic Cooperation Council (NACC) to establish beneficial relations with Eastern European countries.⁸³ At a meeting of the NAC in January 1994, NATO invited all NACC members and other nations to join the “Partnership for Peace” (PfP).⁸⁴ The PfP sought to increase defense consultation, enhance peace-keeping abilities, and forge security partnerships among European nations.⁸⁵

Additionally, NATO sought “constructive and cooperative relations with Russia.”⁸⁶ Building on the framework of NACC, Russia joined the PfP on June 22, 1994.⁸⁷ NATO and Russia broadened their relationship by signing the “Founding Act on Mutual Relations, Cooperation and Security between NATO and the Russian Federation” on May 27, 1997.⁸⁸ The Act established a Permanent Joint Council (PJC) through which NATO and Russia can develop a security partnership.⁸⁹ Despite the best efforts of both NATO and Russia,⁹⁰ the PJC has not been tremendously successful.⁹¹ Recently, NATO and Russia effectively revived the PJC by inaugurating a NATO-Russia

82. *Id.*

83. *Id.* at 27–28. The Euro-Atlantic Partnership Council (EAPC) replaced NACC in 1997. *Id.* at 28.

84. *Id.* at 29.

85. *Id.* at 86–87.

86. *Id.* at 97.

87. *Id.* at 97–98.

88. NORTH ATLANTIC TREATY ORGANIZATION, NATO LOGISTICS HANDBOOK 19 (3d ed. 1997) [hereinafter NATO LOGISTICS HANDBOOK].

89. NATO HANDBOOK, *supra* note 17, at 99–102.

90. *See id.* at 101–02 (demonstrating that NATO and Russia met frequently and adopted measures to “further strengthen the cooperation between NATO and Russia and to identify opportunities for joint decisions and joint action”).

91. Susan B. Glasser, *Russia and NATO Go Back to Start; Rise of New Joint Council Comes After Collapse of Old One*, WASH. POST, May 25, 2002, at A21 (describing the PJC as a “failed predecessor born with . . . rhetorical flourish”). Though the PJC was designed “for the 19 NATO members plus Russia to meet regularly to consult and even make joint decisions,” *id.*, the meetings produced no significant agreements. *Id.* The PJC became “a mere talking shop.” Keith B. Richburg, *NATO, Russia Form Limited Partnership; New Policy Council to Give Moscow Voice, but not Veto, on Select Issues*, WASH. POST, May 29, 2002, at A10 [hereinafter Richburg, *NATO, Russia Form Limited Partnership*].

Council.⁹² Whether the NATO-Russia Council will achieve any relevance remains to be seen.⁹³

Article 10 of the North Atlantic Treaty allows NATO's members, "by unanimous agreement, [to] invite any other European State in a position to further the principles of [the North Atlantic] Treaty and to contribute to the security of the North Atlantic area to accede to [the North Atlantic] Treaty."⁹⁴ At the Brussels Summit in January 1994, NATO invited former Warsaw Pact nations to join the Atlantic Alliance.⁹⁵ Supporters of NATO expansion argued that it would preserve security in Eastern Europe.⁹⁶ They also argued that NATO expansion served a symbolic, cooperative function.⁹⁷ At the Madrid Summit in July 1997, NATO's members selected the Czech Republic, Hungary, and Poland to join NATO.⁹⁸ All three nations became NATO members in April 1999.⁹⁹ Despite criticism that NATO expansion would increase tension with Russia,¹⁰⁰ NATO officials stressed that expansion would not alter the fundamentally defensive character of the Atlantic Alliance.¹⁰¹ NATO expansion is an ongoing process.¹⁰² At a summit in Prague in November

92. Richburg, *NATO, Russia Form Limited Partnership*, *supra* note 91.

93. *Id.* ("[T]he NATO-Russia Council remains a work in progress."). If nothing else, the NATO-Russia Council will decrease Russian opposition to NATO expansion. *Id.*; see Glasser, *supra* note 91.

94. North Atlantic Treaty, *supra* note 1, art. 10, 63 Stat. at 2246, 34 U.N.T.S. at 248.

95. NATO HANDBOOK, *supra* note 17, at 81.

96. CARPENTER, *BEYOND NATO*, *supra* note 13, at 13.

97. *Id.* at 12 ("[P]roponents of an enlarged NATO often speak in the most ethereal terms about fostering political cooperation and promoting stability.").

98. SIMON DUKE, *THE ELUSIVE QUEST FOR EUROPEAN SECURITY: FROM EDC TO CFSP 150-51* (2000) [hereinafter DUKE, *THE ELUSIVE QUEST*].

99. Mary Dejevsky, *NATO Welcomes its Former Foes*, *INDEPENDENT* (London), Mar. 12, 1999, at 13.

100. Michael E. Brown, *Minimalist NATO; A Wise Alliance Knows When to Retrench*, *FOREIGN AFF.*, May-June 1999, at 206 (1999). Some commentators argued that NATO expansion would cost too much. Vladimir Petrov, *Don't Enlarge NATO—Downsize It*, *WASH. POST*, Feb. 5, 1997, at A27. Other commentators argued that NATO expansion would inject NATO into conflicts it could not adequately solve. Karl-Heinz Kamp, *The Folly of Rapid NATO Expansion*, *FOREIGN POL'Y*, Mar. 22, 1995, at 119.

101. NATO HANDBOOK, *supra* note 17, at 81 ("It threatens no one.").

102. NATO LOGISTICS HANDBOOK, *supra* note 88, at 17.

2002, seven former Communist countries were formally invited to join NATO.¹⁰³

5. *Bosnia*

The Atlantic Alliance undertook its first military engagement during the Bosnia conflict.¹⁰⁴ In response to “the siege of Sarajevo,” NATO demanded that the Bosnian Serbs “withdraw their heavy weapons to a distance of twenty kilometers from the city center, or place them under the control of the United Nations.”¹⁰⁵ Shortly after delivering this ultimatum, NATO aircraft shot down four Serb warplanes that had violated the U.N.’s “No-Fly Zone” over Bosnia-Herzegovina.¹⁰⁶ NATO members enforced the “No-Fly Zone,” implemented U.N. resolutions, and attacked Bosnian Serb sites.¹⁰⁷ Due to a combination of air strikes and diplomatic pressure, the Bosnian Serbs signed “the Bosnian Peace Agreement between the Republic of Bosnia and Herzegovina, the Republic of Croatia, and the Federal Republic of Yugoslavia” (Bosnian Peace Agreement).¹⁰⁸

NATO created a multinational “Implementation Force” (IFOR) to implement the Bosnian Peace Agreement.¹⁰⁹ IFOR troops ensured compliance with the cease-fire and monitored the withdrawal of Serbian troops from the “zone of separation back to their . . . territories.”¹¹⁰ Eventually, IFOR’s mandate expired and NATO established a “Stabilisation Force” (SFOR) to preserve security in Bosnia.¹¹¹ Though NATO envisioned SFOR

103. Michael Evans & Roland Watson, *Warsaw Pact Allies Sign Up to a New NATO*, *TIMES* (London), Nov. 22, 2002, at 18. The seven countries were Bulgaria, Romania, Slovenia, Slovakia, Estonia, Latvia, and Lithuania. *Id.*

104. NATO HANDBOOK, *supra* note 17, at 116.

105. LAURA SILBER & ALLAN LITTLE, *YUGOSLAVIA: DEATH OF A NATION* 315–16 (rev. ed. 1997). For a thorough discussion of the origins of the Bosnia conflict, see *id.* at 31–47.

106. NATO HANDBOOK, *supra* note 17, at 116.

107. *Id.* at 116–19.

108. *Id.* at 119–20.

109. *Id.* at 120.

110. *Id.* IFOR troops also performed peace-building functions, such as demining, repair of bridges and railroads, and supervision of elections. *Id.* at 123.

111. *Id.* at 124.

to have an eighteen-month mission, NATO has renewed SFOR's mandate frequently, and has transformed SFOR into a multinational force.¹¹²

Having prepared to fight Soviet tanks in central Europe, NATO instead fought "a handful of inferior planes—home-grown Yugoslav technology from the 1960s."¹¹³ Differing opinions exist concerning NATO's actions in Bosnia.¹¹⁴ One opinion is that NATO became a true political-military alliance.¹¹⁵ Another opinion is that NATO killed itself in Bosnia.¹¹⁶ One commentator cautioned that NATO's campaign in Bosnia would drag it into conflicts in which "NATO will be called upon to use military force in pursuit of the most nebulous political objectives."¹¹⁷ NATO's Bosnia mission was an awkward transition into the post-Cold War world.¹¹⁸ In a conflict where no single aggressor or certain course of action existed, the Atlantic Alliance found it difficult to work by consensus.¹¹⁹

6. Kosovo

NATO intervened in another politically divisive conflict in Kosovo.¹²⁰ Responding to ethnic cleansing committed against Kosovar Albanians by Slobodan Milosevic's Serbian army,¹²¹

112. *Id.* at 124, 128. NATO has reduced forces in Bosnia from 18,500 troops to 12,000. Peter Finn, *NATO Plans to Trim Balkan Force; Alliance Cites Better Security, Stability in Bosnia and Kosovo*, WASH. POST, May 11, 2002, at A20 [hereinafter Finn, *NATO Plans to Trim Balkan Force*].

113. CARPENTER, BEYOND NATO, *supra* note 13, at 87–88 (quoting Barton Gellman, *For NATO, A First That Took 45 Years*, WASH. POST., Mar. 1, 1994, at A13).

114. Compare Mastny, *supra* note 73, at 188 ("In its unfamiliar role as peacekeeper, [NATO] acquitted itself well, though only after a costly delay."), with James Chace, *Exit, NATO*, N.Y. TIMES, June 14, 1993, at A15 ("The Western alliance is dead.").

115. Robert E. Hunter, *Maximizing NATO; A Relevant Alliance Knows How to Reach*, FOREIGN AFF., May-June 1999, at 190.

116. Chace, *supra* note 114.

117. CARPENTER, BEYOND NATO, *supra* note 13, at 107 (footnote omitted).

118. See, e.g., Brown, *supra* note 100, at 208.

119. See CARPENTER, BEYOND NATO, *supra* note 13, at 77 (noting that Hungary refused to cooperate with NATO's efforts to police the "No-Fly Zone" over Bosnia due to concerns over Hungarian minorities).

120. Gribbin, *supra* note 79.

121. IVO H. DAALDER & MICHAEL E. O'HANLON, WINNING UGLY: NATO'S WAR TO SAVE KOSOVO 1, 11–12 (2000). As the Kosovo Liberation Army (KLA) grew stronger

NATO went to war against one man.¹²² The Atlantic Alliance conducted an extensive bombing campaign against the Serbian army.¹²³ After seventy-eight days, Milosevic agreed to withdraw the Serbian army from Kosovo.¹²⁴ The bombing campaign occurred while NATO celebrated its fiftieth anniversary and the unity of its members during the Cold War.¹²⁵ The Kosovo conflict, however, was politically divisive: both Russia and China threatened to veto any U.N. resolution authorizing the use of force against Serbia.¹²⁶ Having intervened in Kosovo after excessive deliberation,¹²⁷ NATO conducted the bombing campaign with insufficient deliberation.¹²⁸ The results of the bombing campaign were erratic.¹²⁹ Some have questioned whether the bombing campaign even helped to end the Kosovo conflict.¹³⁰

Commentators have also questioned the legality of NATO's intervention in Kosovo.¹³¹ Whether one believes that NATO did

and sought independence for Kosovar Albanians, Milosevic initiated a brutal crackdown on the KLA in March 1998. *Id.* at 17.

122. *Id.* at 1.

123. John Barry & Evan Thomas, *The Kosovo Cover-Up*, NEWSWEEK, May 15, 2000, at 23.

124. *Id.*

125. Gribbin, *supra* note 79.

126. DAALDER & O'HANLON, *supra* note 121, at 36.

127. Brown, *supra* note 100, at 214 ("NATO's leaders did nothing but issue diplomatic protests when Milosevic began his crackdown in Kosovo in early 1998 . . .").

128. See DAALDER & O'HANLON, *supra* note 121, at 92-93 (discussing the mistaken assumption of the Clinton Administration that the bombing campaign would force Milosevic to capitulate quickly).

129. Tania Voon, *Pointing the Finger: Civilian Casualties of NATO Bombing in the Kosovo Conflict*, 16 AM. U. INT'L L. REV. 1083, 1100-12 (2001) (discussing five incidents in which NATO bombing resulted in civilian casualties); Steven Lee Myers, *NATO Raid Hits China Embassy; Beijing Cites 'Barbarian Act'; Allies Admit Striking Hospital*, N.Y. TIMES, May 8, 1999, at A1 [hereinafter Myers, *NATO Raid*] (discussing NATO's accidental bombing of the Chinese embassy in Belgrade).

130. Barry & Thomas, *The Kosovo Cover-Up*, *supra* note 123, at 23.

131. See John Sloboda, *So Much Expended for So Little Good*, in KOSOVO: THE POLITICS OF DELUSION 114 (Michael Waller et al. eds., 2001) (arguing that NATO's involvement in Kosovo "fell outside NATO's core rationale as a purely defensive alliance"). *But see* DAALDER & O'HANLON, *supra* note 121, at 16 ("The story of the Kosovo crisis is largely a saga of NATO . . . doing the right thing . . . the wrong way.").

the right thing,¹³² did “the right thing . . . the wrong way,”¹³³ or did the wrong thing,¹³⁴ the Kosovo conflict raised more questions about NATO than it answered.¹³⁵ One can ponder the following questions: whether the bombing campaign forced Milosevic to withdraw the Serbian army;¹³⁶ whether NATO will become involved in other intra-state conflicts;¹³⁷ and whether NATO will forge a lasting peace in Kosovo.¹³⁸ These questions remain unanswered.¹³⁹

B. NATO's Structure

The North Atlantic Treaty¹⁴⁰ is NATO's legal, contractual basis.¹⁴¹ It provides for collective defense.¹⁴² NATO's primary committee is the NAC, the only body mentioned explicitly in the North Atlantic Treaty.¹⁴³ All NATO members meet at the NAC

132. Sergio Balanzino, *NATO's Actions to Uphold Human Rights and Democratic Values in Kosovo: A Test Case for a New Alliance*, 23 *FORDHAM INT'L L.J.* 364, 376–77 (1999) (“The Kosovo crisis also provided a resounding affirmation of our new approach to security, based on the primacy of human values . . .”).

133. DAALDER & O'HANLON, *supra* note 121, at 16.

134. Kyril Drezov & Bülent Gökay, *Bombing Yugoslavia: It is Simply the Wrong Thing to Do*, in *KOSOVO: THE POLITICS OF DELUSION*, *supra* note 131, at 74.

135. See, e.g., Brown, *supra* note 100, at 208 (raising questions about NATO's ability to promote stability in the remote corners of the European continent).

136. Barry & Thomas, *The Kosovo Cover-Up*, *supra* note 123, at 23–25 (stating the bombing campaign “against the Serb military in Kosovo was largely ineffective,” and noting that the accuracy and effectiveness of the bombing campaign were overstated).

137. Gary Dempsey, *Kosovo Questions Without Answers*, *WASH. TIMES*, Oct. 7, 1998, at A17 (“Indeed, if NATO can intervene in Kosovo, it can theoretically intervene anywhere.”).

138. Keith B. Richburg, *Patrols on Kosovo's Borders Increased; NATO Troops Won't Enter Macedonia*, *WASH. POST*, Mar. 17, 2001, at A17 [hereinafter Richburg, *Patrols on Kosovo's Borders*].

139. See, e.g., Brown, *supra* note 100, at 208–09 (stating that NATO's involvement in Kosovo was not plainly effective, and noting that many of the mission's objectives were not met). Despite these unanswered questions, the situation in Kosovo has gradually become more stable. See Finn, *NATO Plans to Trim Balkan Force*, *supra* note 112 (noting that the NATO-led force in Kosovo “will fall from 38,000 troops to 33,200”).

140. North Atlantic Treaty, *supra* note 1, 63 Stat. at 2242, 34 U.N.T.S. at 246.

141. NATO HANDBOOK, *supra* note 17, at 23.

142. *Id.*

143. North Atlantic Treaty, *supra* note 1, art. 9, 63 Stat. at 2244, 34 U.N.T.S. at

at least once a week at the alliance's headquarters in Brussels, Belgium.¹⁴⁴ The NAC also meets at higher levels involving foreign ministers, defense ministers, and heads of state.¹⁴⁵ The NAC operates by consensus; each NATO member has an equal right to express its views.¹⁴⁶ The Secretary-General of NATO normally chairs the NAC.¹⁴⁷ The NAC considers all major issues facing NATO, and can establish committees or planning groups to consider particular issues.¹⁴⁸

NATO's core provision is Article 5,¹⁴⁹ which provides that an attack on one NATO member is an attack on all NATO members.¹⁵⁰ All NATO members must "maintain and develop their individual and collective capacit[ies] to resist armed attack."¹⁵¹ The NAC provides a forum for discussion when a NATO member might suffer or has suffered an attack.¹⁵² If a member suffers an attack, all NATO members will assist that nation.¹⁵³ NATO then immediately reports any action to the U.N. Security Council.¹⁵⁴ NATO must cease collective defense action "when the Security Council has taken the measures necessary to restore and maintain international peace and security."¹⁵⁵

The Defence Planning Committee (DPC), although normally composed of permanent representatives, meets at the level of defense ministers at least twice a year, and discusses the status of NATO's forces.¹⁵⁶ With the exception of France,¹⁵⁷ all NATO

248.

144. NATO HANDBOOK, *supra* note 17, at 35, 234.

145. *Id.* at 35.

146. *Id.* at 35, 37.

147. *Id.* at 37.

148. *Id.* at 35.

149. ISMAY, *supra* note 16, at 13.

150. North Atlantic Treaty, *supra* note 1, art. 5, 63 Stat. at 2244, 34 U.N.T.S. at

246.

151. *Id.* art. 3, 63 Stat. at 2242, 34 U.N.T.S. at 246.

152. *Id.* art. 4, 63 Stat. at 2242, 34 U.N.T.S. at 246.

153. *Id.* art. 5, 63 Stat. at 2244, 34 U.N.T.S. at 246.

154. *Id.*

155. *Id.*

156. NATO HANDBOOK, *supra* note 17, at 38.

157. See *supra* notes 56-61 and accompanying text (discussing France's withdrawal from NATO's military command).

members participate in the DPC.¹⁵⁸ The DPC has many subordinate committees with detailed responsibilities.¹⁵⁹ Defense ministers also meet in the Nuclear Planning Group (NPG), which discusses policy issues relating to NATO's nuclear capacity.¹⁶⁰ The main issues facing the NPG are security of nuclear weapons, nuclear arms control, and nuclear proliferation.¹⁶¹

Following the genesis of the PfP,¹⁶² NATO formed the Political-Military Steering Committee on Partnership for Peace.¹⁶³ The committee includes all NATO and PfP members.¹⁶⁴ To advise the NAC on political questions, the Political Affairs Committee (PAC) meets frequently.¹⁶⁵ The Economic Affairs Committee (EAC) advises the NAC periodically to consider the economic issues that NATO faces.¹⁶⁶ Lastly,¹⁶⁷ the Special Committee exists to advise the NAC "on espionage and terrorist or related threats which might affect [NATO]."¹⁶⁸

"The Headquarters of Allied Command Europe (ACE)[,] . . . referred to as the Supreme Headquarters Allied Powers Europe (SHAPE) . . . is located at Casteau, near Mons, Belgium."¹⁶⁹ NATO's principal military office is the Supreme Allied Commander Europe (SACEUR), whose mandate is to take all military measures within NATO's authority.¹⁷⁰ SACEUR makes

158. NATO HANDBOOK, *supra* note 17, at 38.

159. *Id.* at 39. One subordinate committee is the Military Committee; although subordinate to the NAC and the DPC, it has a special status as NATO's senior military authority. *Id.* at 40.

160. *Id.* at 39.

161. *Id.*

162. *See supra* notes 83–85 and accompanying text (discussing the PfP).

163. NATO HANDBOOK, *supra* note 17, at 44.

164. *Id.*

165. *Id.* at 47.

166. *Id.* at 53.

167. Many other NATO committees have existed or exist currently. *Id.* at 42-56. For purposes of brevity, however, I have attempted to discuss only NATO's principal committees.

168. *Id.* at 56.

169. *Id.* at 251.

170. *Id.* at 249. NATO has always appointed an American as SACEUR. *See KRAUSS, supra* note 66, at 119.

recommendations to NATO's political leaders and meets with the NAC frequently.¹⁷¹ SACEUR also develops military contacts with NATO's PFP partners.¹⁷² SACEUR has three principal commanders who report to him: the Commander-in-Chief Allied Forces Northwestern Europe; the Commander-in-Chief Allied Forces Central Europe; and the Commander-in-Chief Allied Forces Southern Europe.¹⁷³

III. WHY NATO SHOULD DISBAND

A. *NATO's Diminished Utility in the Current International System*

NATO grew out of a bipolar security system.¹⁷⁴ During the Cold War, the United States and the Soviet Union sought diplomatic and political gains at the other's expense.¹⁷⁵ NATO's primary mission was collective defense—"protecting NATO members against possible attack."¹⁷⁶ NATO succeeded because the Soviet Union knew the United States would respond to a Soviet attack on Europe.¹⁷⁷ NATO symbolized the West's resolve to deter Soviet aggression.¹⁷⁸ Thus, the Atlantic Alliance remains a creature of its time.¹⁷⁹ It is a collective defense organization whose sole adversary no longer exists.¹⁸⁰

Since the creation of NATO, however, the international system has changed.¹⁸¹ Presently, nations focus on security,

171. NATO HANDBOOK, *supra* note 17, at 243, 249.

172. *Id.* at 249.

173. *Id.* at 250.

174. Noel Malcolm, *Furiously in All Directions: NATO Wasn't Set Up for Handling Situations Like Bosnia—and It Isn't*, NAT'L REV., Mar. 7, 1994, at 49.

175. Henry Kissinger, *What to Do with the New Russia*, WASH. POST, Aug. 14, 2001, at A15 [hereinafter Kissinger, *What to Do*].

176. Malcolm, *supra* note 174, at 20.

177. *Id.*

178. *See supra* notes 25–35 and accompanying text (discussing the creation of NATO).

179. David Pryce-Jones, *Unfinished Business*, NAT'L REV., May 17, 1999, at 20.

180. *See* Chace, *supra* note 114 ("A nationalist Russia is more likely to be bogged down in conflict within the former Soviet Union than to be poised to strike through the Fulda Gap into a powerful Germany.").

181. David S. Broder, *Wonders of a New World*, WASH. POST, Oct. 14, 2001, at

which connotes many economic, political, and military threats.¹⁸² By contrast, defense indicates one particular threat.¹⁸³ Thus, security is a broader concept.¹⁸⁴ Because it was designed to focus primarily on defense,¹⁸⁵ NATO is not useful in a security-oriented international system.¹⁸⁶ The composition of coalitions varies from crisis to crisis in the post-Cold War world;¹⁸⁷ conflict exists where the major powers find it.¹⁸⁸ Nations devote more time to issues such as weapons proliferation, international terrorism, and economic crises.¹⁸⁹ Recent events have forced nations to recognize the threat that international terrorism poses to world security.¹⁹⁰ NATO cannot solve these problems because it cannot respond to an act of terrorism or to a regional conflict unless one of its members suffers an attack.¹⁹¹ With no intelligence capability of its own,¹⁹² NATO cannot contribute much to the fight against international terrorism.¹⁹³

B7 (“The events of Sept. 11 have proved to be transformative, and people are doing things and acting in ways that no one could have foreseen.”).

182. James Eberle, *NATO Reborn*, in *EUROPEAN SECURITY WITHOUT THE SOVIET UNION 21* (Stuart Croft & Phil Williams eds., 1992).

183. *Id.*

184. *Id.*

185. *See supra* notes 25–35 and accompanying text (discussing the creation of NATO).

186. *See* Malcolm, *supra* note 174, at 20.

187. *See* Chace, *supra* note 114. An example of a crisis-developed coalition would be if “the U.S., France and Russia [intervened] in a Hungarian-Romanian conflict over the lost Hungarian lands now part of Romanian Transylvania. Even if done under a U.N. umbrella, it would be a very traditional way of preserving the peace.” *Id.*

188. *See* Newhouse, *supra* note 9.

189. *See id.*

190. *See* Lally Weymouth, *Fighting Terrorism Together*, WASH. POST, Feb. 4, 2002, at A17.

191. North Atlantic Treaty, *supra* note 1, art. 5, 63 Stat. at 2244, 34 U.N.T.S. at 246; *see, e.g.*, Malcolm, *supra* note 174, at 50 (“NATO is the servant; its master is the agreed policy of [nineteen] member governments—[thirty-eight] arms and [thirty-eight] legs. On a contentious issue . . . , those arms and legs may put most of their energy into kicking and striking one another.”).

192. Daley, *NATO, Though Supportive*, *supra* note 4.

193. Newhouse, *supra* note 9.

B. Diverging Security Interests Between the United States and Europe

During the Cold War, the security interests of the United States and Europe converged on one threat: the Soviet Union.¹⁹⁴ The United States and Europe, however, still disagreed on many issues.¹⁹⁵ Following the Cold War, the United States and Europe have gradually diverged on security issues.¹⁹⁶ Tension over issues such as the Middle East,¹⁹⁷ Iraq,¹⁹⁸ missile defense,¹⁹⁹ and European security institutions²⁰⁰ has developed in the transatlantic relationship.²⁰¹ “A certain amount of discord has been a constant feature between the United States and its European allies. . . .”²⁰² As European nations achieve greater integration, this tension will become more pronounced.²⁰³ Rather

194. SIMON DUKE, *THE NEW EUROPEAN SECURITY DISORDER* 176 (1994) [hereinafter DUKE, *NEW EUROPEAN SECURITY DISORDER*].

195. KRAUSS, *supra* note 66, at 27.

196. See Malcolm, *supra* note 174, at 51 (noting the disagreements between NATO members over how to resolve the Bosnia conflict).

197. David Ignatius, *The Transatlantic Rift is Getting Serious*, WASH. POST, Feb. 15, 2002, at A33 (noting that NATO is “like a marriage that has gotten out of sync—with one partner feeling left behind as the other becomes more successful”); see also Jim Hoagland, *Fog of Peace*, WASH. POST, Aug. 16, 2001, at A25 (analogizing NATO to “an unsuccessful marriage [of] two people sleeping in the same bed but dreaming different dreams”).

198. See Steven Erlanger, *So Far, Europe Breathes Easier Over Free Hand Given the U.S.*, N.Y. TIMES, Sept. 29, 2001, at B1.

199. Brown, *supra* note 100, at 210. U.S. President George W. Bush has repeatedly hinted at overthrowing Iraqi President Saddam Hussein. Dana Milbank & Mike Allen, *U.S. Will Take Action Against Iraq, Bush Says; ‘All Options Are on the Table’ Against States that Pose Threat*, WASH. POST, Mar. 14, 2002, at A1. NATO members, however, prefer a diplomatic rather than a military solution. Keith B. Richburg, *Europe, U.S. Diverging on Key Policy Approaches*, WASH. POST, Mar. 4, 2002, at A13 [hereinafter Richburg, *Europe, U.S. Diverging*]. Additionally, German defense minister Rudolf Scharping has stated that a U.S. military strike “should be ‘the last solution.’” Michael R. Gordon, *Saudis Warn Against Attack on Iraq by the United States*, N.Y. TIMES, Mar. 17, 2002, at A16. Among NATO members, the United Kingdom has given the most support to the United States concerning policy toward Iraq. Alan Sipress, *Britain Backs U.S. on Iraqi Weapons*, WASH. POST, Mar. 12, 2002, at A14.

200. Daley, *For First Time*, *supra* note 2.

201. See Kamp, *supra* note 100, at 120.

202. Richburg, *Europe, U.S. Diverging*, *supra* note 199.

203. *Id.*

than exacerbate this political tension, NATO should cease to exist.²⁰⁴

C. The Capabilities Gap Between the United States and Europe

The longer NATO remains, the longer it constrains the defense capabilities of European nations.²⁰⁵ Concern has existed that European nations did not pay their “fair share” of NATO expenses.²⁰⁶ This concern reached its zenith during the 1980s.²⁰⁷ Former U.S. Senator Sam Nunn sponsored an amendment proposing that 90,000 of the 360,000 U.S. troops in Europe “be withdrawn within five years unless the European allies increase their conventional forces.”²⁰⁸ Even NATO’s supporters recommended that European NATO members increase their participation in the Atlantic Alliance.²⁰⁹

Though some have waxed poetic about a mutual commitment to a “Europe whole and free,”²¹⁰ the United States remains “the acknowledged locomotive perpetually lugging NATO into movement.”²¹¹ This fact was plainly emphasized in Afghanistan, where “a new generation of U.S. military technology was on display, . . . years ahead of what Europe has today.”²¹² Simply put, NATO has perpetuated the European

204. See Ignatius, *supra* note 197.

205. See Dempsey, *supra* note 137.

206. KRAUSS, *supra* note 66, at 19–21, 70. This concern exists today. John Chalmers & Paul Taylor, *Rumsfeld Urges NATO Action to Counter New Threats*, WASH. POST, June 7, 2002, at A21 (“NATO Secretary General George Robertson urged the ministers to spend more to ensure the alliance was able to respond to new threats.”).

207. See KRAUSS, *supra* note 66, at 111.

208. *Id.*

209. *Id.* at 119 (detailing a proposal by former U.S. Secretary of State Henry Kissinger that NATO appoint a European, not an American, as SACEUR).

210. Tod Lindberg, *The More, the Merrier; NATO Enlargement Serves U.S. Interests*, WASH. TIMES, May 1, 2001, at A17.

211. Gribbin, *supra* note 79. Simple statistical analysis proves this: last year, the United States spent about 3.3% of its gross domestic product on defense, while the average military spending among its European allies was 1.8%. Chalmers & Taylor, *supra* note 206.

212. Ignatius, *supra* note 197. Concern regarding the capabilities gap also existed in the Persian Gulf War and in the conflict in Kosovo. Peter Finn, *Military Gap Grows Between U.S., NATO Allies*, WASH. POST, May 19, 2002, at A22 [hereinafter Finn, *Military Gap Grows*].

welfare state in security matters.²¹³ As the capabilities gap between the United States and Europe widens, the stability of NATO will become further threatened.²¹⁴ Yet European NATO members have shown much reluctance to spend money on defense matters.²¹⁵ Both the Cold War and the East-West security divide have ended.²¹⁶ European nations should follow the words of the “Sinatra doctrine”²¹⁷ and “do it [their own] way”²¹⁸ on defense matters. NATO must disband to enable European security integration.²¹⁹

D. NATO's Structural Limitations

1. “Out-of-Area” Operations

The conflicts in Bosnia-Herzegovina and Kosovo illustrate NATO's structural limitations.²²⁰ In Bosnia, NATO “failed year after year to take effective action.”²²¹ In Kosovo, NATO conducted what some commentators call an ineffective bombing

213. KRAUSS, *supra* note 66, at 137.

214. Finn, *Military Gap Grows*, *supra* note 212.

215. *Id.*

216. Peter W. Rodman, *Will NATO Survive?*, NAT'L REV., July 31, 1995, at 35 (“Today's East-West balance of power on the [European] Continent is a benign one . . .”).

217. Michael Dobbs, *Changes Prove to Be Bonus for Gorbachev*, WASH. POST, Nov. 10, 1989, at A1 (noting that the Soviet Union had adopted the “Frank Sinatra doctrine” regarding the internal politics of eastern European countries, which would let every country be able to say “I do it my way”).

218. *Id.*

219. See Dempsey, *supra* note 137. NATO's supporters acknowledge the current “free-rider” security problem between the United States and Europe. See, e.g., Ronald D. Asmus, *United We'll Stand; Recasting NATO to Face a Perilous World Together*, WASH. POST, May 6, 2002, at A21 (“Europe is too weak militarily.”). NATO's supporters, however, claim that “sidelining NATO” will encourage European nations to become free riders. *Id.* European dependence on NATO, however, has created the current “free-rider” problem. KRAUSS, *supra* note 66, at 137. Some commentators have advocated “giv[ing] NATO a new mission and the tools to combat weapons of mass destruction.” Asmus, *supra*. It is entirely unclear, however, how these proposals will solve NATO's problems.

220. Brown, *supra* note 100, at 208–09; Lorenzo R. Cortes, *NATO's Attack on Serbia as a Doctrinal Paradigm*, PARAMETERS, Spring 2001, at 136–37.

221. Brown, *supra* note 100, at 206. NATO's intervention in Bosnia demonstrated NATO's deviation from its original, defensive purpose. CARPENTER, *BEYOND NATO*, *supra* note 13, at 87–88.

campaign.²²² NATO's legal authority to intervene in Kosovo is questionable.²²³ Though none of its members were attacked, NATO intervened under the general mantra of humanitarian intervention.²²⁴ Commentators have thoroughly debated the question of whether NATO's intervention in Kosovo was legal,²²⁵

222. See generally Barry & Thomas, *The Kosovo Cover-Up*, *supra* note 123 (noting that planes on NATO bombing runs "destroyed" a fake bridge of polyethylene sheeting stretched over a river by the Serbs).

223. Cortes, *supra* note 220, at 136.

224. Pryce-Jones, *supra* note 179, at 20.

225. Some commentators argue that NATO's intervention in Kosovo was entirely legal. Clinton W. Alexander, *NATO's Intervention in Kosovo: The Legal Case for Violating Yugoslavia's National Sovereignty in the Absence of Security Council Approval*, 22 HOUS. J. INT'L L. 403, 449 (2000) (concluding that NATO "had no choice but to intervene" in Kosovo "to prevent the Serbian government from eliminating the ethnic Albanian population from the province"); Leslie A. Burton, *Kosovo: To Bomb or Not To Bomb? The Legality Is the Question*, 7 ANN. SURV. INT'L & COMP. L. 49, 62 (2001) ("As an exercise of humanitarian intervention, NATO's decision to bomb Kosovo was justified, moral, and most of all, legal . . ."); Laura Geissler, *The Law of Humanitarian Intervention and the Kosovo Crisis*, 23 HAMLIN L. REV. 323, 346 (2000) ("In applying the law on humanitarian intervention to the conflict in Kosovo, the NATO operation was legal."); Major J.D. Godwin, *NATO's Role in Peace Operations: Reexamining the Treaty After Bosnia and Kosovo*, 160 MIL. L. REV. 1, 11 (1999) ("NATO does not need express UN Security Council approval . . . particularly when NATO performs humanitarian interventions and interventions on behalf of democratic governments."). One commentator doubts that NATO's intervention in Kosovo was legal. Ved P. Nanda, *NATO's Armed Intervention in Kosovo and International Law*, 10 U.S.A.F. ACAD. J. LEG. STUD. 1, 19 (1999/2000) ("Thus, there are serious questions about the validity of NATO's 'humanitarian intervention' in Kosovo under international law."). Other commentators deem NATO's intervention in Kosovo illegal, or criticize the doctrine and application of humanitarian intervention. H.B. McCullough, *Intervention in Kosovo: Legal? Effective?*, 7 ILSA J. INT'L & COMP. L. 299, 311–12 (2001) (noting that "one cannot help but be struck by the dissonance between NATO's actions and the preamble to the North Atlantic Treaty," and judging NATO's intervention in Kosovo illegal); Ruth Wedgwood, *NATO's Campaign in Yugoslavia*, 93 AM. J. INT'L L. 828, 833 (1999) (asserting that "humanitarian intervention has inconstant support"). It has been claimed that NATO's intervention in Kosovo provides support for the doctrine of humanitarian intervention, which now enjoys greater support in international law. Thomas M. Franck, *When, if Ever, May States Deploy Military Force Without Prior Security Council Authorization?*, 5 WASH. U. J.L. & POL'Y 51, 68 (2001) ("[I]t is [now] possible to conclude that the use of force by a state or regional or mutual-defense system is likely to be tolerated if there is . . . an egregious and potentially calamitous violation of humanitarian law by a government against its own population or a part of it."); Christopher C. Joyner & Anthony Clark Arend, *Anticipatory Humanitarian Intervention: An Emerging Legal Norm?*, 10 U.S.A.F. ACAD. J. LEG. STUD. 27, 27–28 (1999/2000) ("[T]his action by NATO may be viewed as evidence of an emerging legal rule that permits states to use military

and a full examination of the international legal dimensions of the Kosovo conflict is beyond this Comment's scope. At a minimum, however, the Kosovo conflict illustrates NATO's current identity crisis.²²⁶ If NATO follows the logic of its intervention in Kosovo, then many "out-of-area" missions will await NATO.²²⁷ Assuming that NATO's intervention in Kosovo "set[s] a new precedent of ethnic self-determination or humanitarian concern trumping national sovereignty,"²²⁸ many candidates will appear at NATO's doorstep.²²⁹

Though the North Atlantic Treaty limits when it can act,²³⁰ NATO still intervened in Bosnia and Kosovo and expanded its geographical reach.²³¹ At a minimum, history should discourage

coercion to impede a government from committing large-scale atrocities in its own territory . . ."); John J. Merriam, Note, *Kosovo and the Law of Humanitarian Intervention*, 33 CASE W. RES. J. INT'L L. 111, 154 (2001) ("So long as states retain the right to intervene when the elaborate machinery of international security fails to protect the innocent, intervention will have a place in international law."); Professor Aaron Schwabach, *Yugoslavia v. NATO, Security Council Resolution 1244, and the Law of Humanitarian Intervention*, 27 SYRACUSE J. INT'L L. & COM. 77, 101 (2000) ("It thus appears that the doctrine of humanitarian intervention has taken an important step towards acceptance as a rule of international law."). One commentator, however, doubts that NATO's campaign in Kosovo will bolster the doctrine of humanitarian intervention. Jules Lobel, *Benign Hegemony? Kosovo and Article 2(4) of the U.N. Charter*, 1 CHI. J. INT'L L. 19, 32 (2000) ("The difficulty of articulating a principled and effective doctrine of humanitarian intervention makes it unlikely that the Kosovo campaign will usher in a new norm of international law . . .").

226. Robert A. Manning, *Assessing Damage to Policy . . . and Strategy: Long-Term Impact*, WASH. TIMES, Apr. 26, 1999, at A18 ("The war against Serbia is a sobering event that occurs coincidentally on the eve of NATO's 50th anniversary, as NATO ponders what it wants to do when it grows up.").

227. See Dempsey, *supra* note 137 ("Kosovo is just one of a number of places where a minority group within an established state has engaged in a violent effort to achieve national independence . . .").

228. Manning, *supra* note 226.

229. *Id.* (listing the Kurds, the Basques, the Kashmiris, and the Tibetans as likely visitors to NATO headquarters).

230. North Atlantic Treaty, *supra* note 1, art. 5, 63 Stat. at 2244, 34 U.N.T.S. at 246. Article 6 of the North Atlantic Treaty extends Article 5's coverage to the forces, vessels, or aircraft of any of the Parties, when in or over these territories or any other area in Europe. *Id.* art. 6, 63 Stat. at 2444, 34 U.N.T.S. at 246-48.

231. See *supra* notes 104-30 and accompanying text (discussing NATO's involvement in Bosnia and Kosovo).

NATO from conducting another “out-of-area” operation.²³² Increasing NATO “out-of-area” missions is “the classic expression of an institution’s instinct to survive and expand whatever the continued usefulness of its original function.”²³³ Those who support NATO’s intervention in Kosovo want to expand NATO’s jurisdiction without amending the North Atlantic Treaty.²³⁴ Following that logic, NATO should prevent discrimination against ethnic minorities in the “Near-Abroad,”²³⁵ or protect the Kurds from atrocities.²³⁶ It is unclear how far NATO will travel to undertake an “out-of-area” operation.²³⁷ After the Cold War, NATO had to go “out-of-area or out of business.”²³⁸ Having gone “out-of-area” twice with very limited success, however, NATO might go out of business.²³⁹

NATO refuses to acknowledge its obsolescence.²⁴⁰ Its

232. Hunter, *supra* note 115, at 201–02.

233. Adrian Hamilton, *Fundamental NATO Flaws*, THE OBSERVER (London), Feb. 12, 1995, at 25.

234. See Dempsey, *supra* note 137 (noting former Secretary of State Madeleine Albright’s statement that “NATO should extend its geographic reach beyond the European continent and evolve into ‘a force for peace from the Middle East to Central Africa’”); see also Madeleine Albright, *Why Europe Doubts*, WASH. POST, May 22, 2002, at A37 (“[W]hy did we not use NATO members to help in the training of Georgian helicopter pilots? Could the alliance be involved in some out-of-area action in the greater Middle East?”).

235. See Timothy Garton Ash, *A New War Reshapes Old Alliances*, N.Y. TIMES, Oct. 12, 2001, at A25; see also Philip Chase, Note, *Conflict in the Crimea: An Examination of Ethnic Conflict Under the Contemporary Model of Sovereignty*, 34 COLUM. J. TRANSNAT’L L. 219, 229 (1995). This most likely will not happen. See Kamp, *supra* note 100, at 119–20 (doubting that NATO would “really be prepared to inject military forces into conflicts that might arise in Central or Eastern Europe”).

236. See Ash, *supra* note 235.

237. See, e.g., Daley, *NATO, Though Supportive*, *supra* note 4.

238. Brown, *supra* note 100, at 205. For an example of a new “out-of-area” operation, see Thomas L. Friedman, *How About Sending NATO Somewhere Important?*, N.Y. TIMES, Sept. 4, 2001, at A23 [hereinafter Friedman, *How About Sending*] (proposing a 30,000-troop NATO force to supervise and maintain a demilitarized Palestinian state).

239. See, e.g., Pryce-Jones, *supra* note 179, at 20 (arguing that NATO’s credibility was on the line in former Yugoslavia).

240. Chase, *supra* note 114. Many commentators, however, have proposed transforming NATO into a purely political alliance. Charles Krauthammer, *Re-Imagining NATO*, WASH. POST, May 24, 2002, at A35 (“[NATO’s] new role should be to serve as incubator for Russia’s integration into Europe and the West.”); see *A Nastase Shock for NATO?*, ECONOMIST, Apr. 6, 2002, at 46 (“NATO membership is at least as

members could have amended—or at least analyzed—the intricacies of the North Atlantic Treaty at NATO’s Fiftieth Anniversary Summit.²⁴¹ They lost this opportunity to end NATO’s identity crisis.²⁴² This inaction is unwise.²⁴³ Instead of “becoming . . . a caricature of itself”²⁴⁴ by undertaking more “out-of-area” operations, NATO should set a timetable for its termination.²⁴⁵

2. *Old Wine Into New Bottles: Applying Article 5 in the Post-Cold War World*

NATO’s architects designed Article 5, the core of the North Atlantic Treaty,²⁴⁶ to be flexible.²⁴⁷ Each NATO member must only commit as many troops as it deems necessary.²⁴⁸ History explains the flexibility of Article 5 logically.²⁴⁹ If NATO had invoked Article 5 during the Cold War, the United States would have defended Europe and countered Soviet aggression.²⁵⁰ NATO policymakers have averred that the Atlantic Alliance can apply

much a mark of civic propriety as of military worth.”); *NATO’s Expansion*, WASH. POST, Apr. 7, 2002, at B6 (“The real benefit of NATO growing . . . lies in the leverage it offers to shape the political and economic development of European countries . . .”). Such a transformation, combined with the admission of new members, would likely reduce NATO to a “security talking-shop.” *A Moment of Truth—The Future of NATO*, ECONOMIST, May 4, 2002, at 23. It is doubtful that this newly-transformed NATO would last very long. *Id.*

241. Cortes, *supra* note 220, at 136.

242. *Id.* (“Instead of really working on the intricacies of the [North Atlantic] [T]reaty, the NATO summit was more of an opportunity for the member states to announce how proud of themselves they were that [Operation] Allied Storm was ‘succeeding.’”).

243. *Id.* (“Unless NATO fixes the legal trap created by Article 5, it cannot realistically pursue a new doctrine without continually running afoul of international law.”).

244. Gribbin, *supra* note 79.

245. *Id.*

246. ISMAY, *supra* note 16, at 13.

247. *Id.* (stating that each NATO member must take action under Article 5, but noting that “the kind of action is left to the judgment of each member state in relation to the facts of the situation”); see also NATO HANDBOOK, *supra* note 17, at 68, 72.

248. North Atlantic Treaty, *supra* note 1, art. 5, 63 Stat. at 2244, 34 U.N.T.S. at 246.

249. See Daley, *NATO, Though Supportive*, *supra* note 4.

250. Drozdiak, *Attack on U.S.*, *supra* note 3.

Article 5 to issues such as international terrorism.²⁵¹

Recent events have proved that Article 5 is a creature of the Cold War.²⁵² Commentators have viewed NATO's recent activation of Article 5 as a political endorsement of U.S. efforts to combat international terrorism.²⁵³ It is quite ironic that NATO, a collective defense organization, now gives political endorsements.²⁵⁴ Though some view this development positively,²⁵⁵ they should not. Political support for a coalition against international terrorism is important; adapting NATO to achieve that goal, however, belies the history of the Atlantic Alliance.²⁵⁶ On the other hand, if Article 5 arguably mandates that NATO members contribute troops, then Article 5 no longer reflects the political and military balance in Europe.²⁵⁷

Multiple situations exist in which circumstances render Article 5 useless. The North Atlantic Treaty does not prohibit a NATO member from refusing to contribute troops if a fellow member is attacked.²⁵⁸ If a NATO member considers participation in a particular conflict too burdensome or unwieldy, that member can refuse to contribute troops.²⁵⁹ Applying Article 5 proves troublesome if two NATO members declare war against each other and request NATO assistance under Article 5.²⁶⁰ Uneasy choices present themselves in that

251. *Id.*

252. *See* Daley, *NATO, Though Supportive*, *supra* note 4.

253. *Id.*

254. *Compare* ISMAY, *supra* note 16, at 13 (“[A] promise to stand together in the event of an armed attack is no real deterrent to an aggressor *unless it is backed by armed strength.*” (emphasis added)), *with* Daley, *For First Time*, *supra* note 2 (“NATO’s secretary general, Lord Robertson, said the [Article 5] declaration did not necessarily mean NATO would get involved in military action.”).

255. *See* Ash, *supra* note 235 (“[A] larger but slightly looser NATO makes more sense than ever.”).

256. *See* ISMAY, *supra* note 16, at 13–15.

257. *See* Daley, *NATO, Though Supportive*, *supra* note 4.

258. North Atlantic Treaty, *supra* note 1, art. 5, 63 Stat. at 2244, 34 U.N.T.S. at 246 (“[I]f . . . an armed attack occurs, each [member] . . . will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, *such action as it deems necessary . . .*” (emphasis added)).

259. *Id.*; Kamp, *supra* note 100, at 124 (offering a hypothetical situation in which the United States would not involve itself, despite Article 5).

260. CLEMENT H. DODD, *THE CYPRUS IMBROGLIO* 8–33 (1998) (discussing the

situation: NATO can collectively do nothing,²⁶¹ or each NATO member can pick a side in the conflict.²⁶² Either way, implementation of the North Atlantic Treaty does not provide a beneficial outcome.²⁶³ Once a blessing during the Cold War, Article 5's flexibility is now a burden.²⁶⁴

3. *The Futility of NATO Expansion*

Article 10 of the North Atlantic Treaty allows NATO nations, "by unanimous agreement, [to] invite any other European State in a position to further the principles of [the North Atlantic] Treaty and to contribute to the security of the North Atlantic area to accede to [the North Atlantic] Treaty."²⁶⁵ The Czech Republic, Hungary, and Poland joined NATO in April 1999.²⁶⁶ More recently, seven more former Communist states were admitted into NATO.²⁶⁷ As its members invite the former Communist states to join the Alliance, NATO again risks tension and disagreement with Russia.²⁶⁸ Before September 11th, Russian President Vladimir Putin opposed NATO membership for the Baltic states.²⁶⁹ After September 11th,

origins of the conflict between Greece and Turkey over Cyprus). The conflict over Cyprus remains a tense situation. *Id.* at 123 ("[O]ne danger has drastically increased—the threat of immediate conflict.").

261. Because the NAC operates by consensus, NATO LOGISTICS HANDBOOK, *supra* note 88, at 10, it is quite possible that the NAC would not obtain consensus on how to resolve an intra-NATO conflict.

262. Under Article 5, a NATO member could take one side in a conflict and take individual action, while refusing to participate in collective action. *See* North Atlantic Treaty, *supra* note 1, art. 5, 63 Stat. at 2244, 34 U.N.T.S. at 246.

263. *See, e.g.,* Kamp, *supra* note 100, at 125–27.

264. *See id.* at 124–25.

265. North Atlantic Treaty, *supra* note 1, art. 10, 63 Stat. at 2245, 34 U.N.T.S. at 248.

266. *See supra* notes 94–103 and accompanying text (discussing NATO expansion).

267. Evans & Watson, *supra* note 103.

268. *See* Kissinger, *What to Do*, *supra* note 175 ("[F]or Russia, the advance of NATO to within 40 miles of St. Petersburg, into countries considered by it until the last decade as part of the Soviet Union, is bound to be disquieting no matter what reassurances are given.").

269. Newhouse, *supra* note 9.

however, the situation changed.²⁷⁰ Putin and NATO Secretary-General Lord Robertson met privately and discussed, among other things, NATO expansion.²⁷¹ Putin indicated Russia's decreased opposition to the Baltic states joining NATO.²⁷² He also hinted that Russia might join NATO eventually.²⁷³

Recent events, however, have demonstrated that Russian animosity toward NATO expansion is alive and well. Russia announced its intention not to attend NATO's summit meeting in Prague, but was ultimately listed by NATO as a participant in the summit.²⁷⁴ This decision demonstrates the ongoing animosity Russia harbors toward NATO expansion despite the inauguration of the NATO-Russia Council.²⁷⁵ NATO's "diplomatic sword dance"²⁷⁶ with Russia has two possible—and equally futile—outcomes. Russian membership in NATO would defeat NATO's purpose completely.²⁷⁷ Integrating Russia's military into NATO's defense structure would likely be quite difficult.²⁷⁸ Russian membership in NATO would entangle NATO in ethnic and territorial conflicts "already raging in the Caucasus, central Asia, and other places on the perimeter of the former Soviet Union."²⁷⁹ It is doubtful that China would react favorably to Russian membership in NATO.²⁸⁰

270. Ash, *supra* note 235.

271. *Id.*; see also Broder, *supra* note 181.

272. Ash, *supra* note 235.

273. Newhouse, *supra* note 9.

274. Steven Lee Myers, *Russia: Shunning NATO Summit*, N.Y. TIMES, June 13, 2002, at A8 [hereinafter Myers, *Russia: Shunning NATO Summit*]; see NATO, *Prague Summit 21–22 November 2002*, at <http://www.nato.int/docu/comm/2002/0211-prague/background/participants.html> (last modified Nov. 20, 2002).

275. See Myers, *Russia: Shunning NATO Summit*, *supra* note 274.

276. Newhouse, *supra* note 9.

277. See CARPENTER, *BEYOND NATO*, *supra* note 13, at 67; cf. TOM CLANCY, *THE BEAR AND THE DRAGON* 676–78 (2000) (offering a fictional scenario of Russia's admission into NATO).

278. See CARPENTER, *BEYOND NATO*, *supra* note 13, at 67 ("Bringing Russia into the alliance would create a cumbersome political-military association spanning three continents.").

279. *Id.* at 68.

280. See Kissinger, *What to Do*, *supra* note 175 (stating that Russian membership in NATO would make NATO "either a general collective security system or an alliance of North Atlantic nations against China—a step with grave long-term

Inviting the Baltic states in Russia's place, however, also expands NATO's geographical reach greatly.²⁸¹ This is unwise because admission of the Baltic states will test NATO's security commitments fully.²⁸² Should NATO's membership number twenty-five or more, it will be even more difficult for NATO to act by consensus.²⁸³ Further NATO expansion is unnecessary and counterproductive.²⁸⁴ It would cause NATO to overextend its resources²⁸⁵ and stick "to the carcasses of dead policies."²⁸⁶ Instead of expanding, NATO should decrease its membership and, eventually, disband.²⁸⁷

IV. PLACING EUROPEAN SECURITY IN THE HANDS OF EUROPEAN NATIONS

A. *A Gradual, Effective Solution*

To enable European nations to build a credible security structure, NATO should disband over a ten-year period.²⁸⁸ After the North Atlantic Treaty has been in force for at least twenty years, which it has, any member may withdraw from NATO after delivering its "notice of denunciation" to the U.S. government.²⁸⁹ One year must pass before a "notice of denunciation" becomes effective.²⁹⁰ NATO's members should review the North Atlantic Treaty and establish a timetable for NATO's dissolution.²⁹¹ All

implications").

281. CARPENTER, BEYOND NATO, *supra* note 13, at 67.

282. *Id.* at 64.

283. Albright, *supra* note 234.

284. Brown, *supra* note 100, at 204.

285. HALL GARDNER, DANGEROUS CROSSROADS: EUROPE, RUSSIA, AND THE FUTURE OF NATO 5 (1997); *see also* NATO's Expansion, *supra* note 240 ("The large expansion raises several tricky questions, [such as] . . . whether NATO is getting weaker as well as bigger.").

286. Chace, *supra* note 114 (quoting British Prime Minister Lord Salisbury).

287. *See infra* Part IV.A (proposing that NATO disband over a ten-year period).

288. *See* KRAUSS, *supra* note 66, at 237 (proposing a five-year phased withdrawal of U.S. troops from Europe).

289. North Atlantic Treaty, *supra* note 1, art. 13, 63 Stat. at 2246, 34 U.N.T.S. at 250.

290. *Id.*

291. *Id.* art.12, 63 Stat. at 2246, 34 U.N.T.S. at 250.

NATO members should then withdraw simultaneously from the Atlantic Alliance after nine years. One year later, with no members, NATO will disband.²⁹²

1. *The Western European Union*

The end of NATO will produce a Euro-centric security system.²⁹³ In turn, the Western European Union (WEU) should replace NATO as the primary security organization in Europe. Established by the Maastricht Treaty,²⁹⁴ the WEU is the security arm of the European Union (E.U.).²⁹⁵ Though it has limited utility for conflict resolution,²⁹⁶ the WEU draws upon tremendous military and financial resources from European nations.²⁹⁷ European nations now give the WEU greater support.²⁹⁸ In December 1999, E.U. leaders “vowed to develop by 2003 the ability to deploy up to 60,000 soldiers within 60 days and sustain that force for up to a year.”²⁹⁹ Additionally, an E.U. security mission has been proposed for Macedonia.³⁰⁰ European nations are recognizing that the E.U. must expand and NATO must contract.³⁰¹

The WEU’s parent institution, the E.U., has a Court of Justice, a Parliament, and a Council—institutions that contribute to conflict resolution.³⁰² As it expands, the E.U. should admit more members from central and eastern Europe.³⁰³ To achieve this goal,

292. *Id.* art.13, 63 Stat. at 2246, 34 U.N.T.S. at 250.

293. DUKE, NEW EUROPEAN SECURITY DISORDER, *supra* note 194, at 196–97.

294. Treaty of Amsterdam Amending the Treaty on European Union, The Treaties Establishing the European Communities and Certain Related Acts, Oct. 2, 1997, O.J. (C340) 145, art. 17 (1997).

295. DUKE, THE ELUSIVE QUEST, *supra* note 98, at 240.

296. *See Wake up, Europe!*, ECONOMIST, Sept. 15, 2001, at 45.

297. *See* CARPENTER, BEYOND NATO, *supra* note 13, at 135–36.

298. *See* Hoagland, *supra* note 197.

299. William Drozdiak, *U.S. Tepid on European Security Defense Plan; American Stance Vexes EU Leaders*, WASH. POST, Mar. 7, 2000, at A1 [hereinafter Drozdiak, *U.S. Tepid*].

300. *Wake up, Europe!*, *supra* note 296, at 45.

301. Brown, *supra* note 100, at 204.

302. *Id.* at 215.

303. *Id.*

the E.U. must ease its membership criteria.³⁰⁴ The E.U.'s chief foreign policy adviser, Javier Solana, served as NATO's Secretary-General; thus, the E.U. has a special link to NATO.³⁰⁵ Many E.U. members are also NATO members.³⁰⁶ Consequently, the E.U. is quite familiar with NATO training methods and logistics.³⁰⁷ The WEU is the best chance to preserve European security.³⁰⁸ It can develop into more than a "European pillar" of security.

The WEU can draw upon NATO airfields and bases after the Atlantic Alliance shuts its doors.³⁰⁹ It can also adopt a simple charter based on a mutual security guarantee similar *in spirit* to Article 5.³¹⁰ From the time when NATO's members deliver their notices of denunciation to the time when the dissolution becomes final, NATO officials should consult with WEU officials on many issues.³¹¹ NATO should assist in this gradual transition.³¹²

The end of NATO will decrease U.S. formal involvement in European security.³¹³ As NATO disbands and the WEU achieves precedence in preserving European security, the United States will reduce its troop levels in Europe.³¹⁴ This reduction in troops cannot occur too quickly.³¹⁵ It is foolish, however, to believe that the United States will isolate itself from Europe by decreasing its formal involvement in European security.³¹⁶ Instead, the United

304. *Id.* at 215–16.

305. Drozdiak, *U.S. Tepid*, *supra* note 299.

306. Malcolm, *supra* note 174, at 49–50.

307. *Wake up, Europe!*, *supra* note 296, at 45.

308. See CARPENTER, BEYOND NATO, *supra* note 13, at 124–25.

309. *Wake up, Europe!*, *supra* note 296, at 45–46.

310. Joseph Leppard, *The Next Step Toward a More Secure Europe*, in THE FUTURE OF NATO 22 (Ted Galen Carpenter ed., 1995).

311. *Wake up, Europe!*, *supra* note 296, at 45.

312. CARPENTER, BEYOND NATO, *supra* note 13, at 135. So too should the United States. DUKE, NEW EUROPEAN SECURITY DISORDER, *supra* note 194, at 196–97.

313. See, e.g., Hunter, *supra* note 115, at 202–03.

314. *Id.*

315. See, e.g., *id.* at 203 (“[America] must not raise its expectations for European action too high, too fast . . .”).

316. Hoagland, *supra* note 197 (“There is still plenty of life in, and need for, this partnership.”); see also *infra* notes 349–60 and accompanying text (discussing the strong relations the United States has with many European nations).

States will continue to be a good friend to European nations.³¹⁷

NATO policymakers and U.S. officials have responded unenthusiastically to the concept of a Euro-centric security organization.³¹⁸ Former U.S. President George H.W. Bush declared bluntly that any Euro-centric security organization should be subordinate to NATO.³¹⁹ The Clinton Administration took a more progressive view, stating that NATO and a European-only security organization could be partners.³²⁰ No illusions existed, however, as to which organization would be the senior partner.³²¹ Like his father, U.S. President George W. Bush has insisted that any development of European security and defense initiatives occur through NATO.³²²

NATO's members must stop treating the Atlantic Alliance as a sacred cow, and instead lead it toward a much-deserved retirement as history's most successful military alliance.³²³ It is paradoxical that NATO officials seek a "greater European willingness to shoulder burdens of common defense,"³²⁴ yet criticize proposals designed to achieve that goal.³²⁵ NATO's security schizophrenia must end.³²⁶ The Atlantic Alliance must become "a transitional manager between the current *ad hoc* security arrangements and an institution that will eventually put responsibility for Europe's defence in European hands."³²⁷

317. KRAUSS, *supra* note 66, at 235.

318. CARPENTER, *BEYOND NATO*, *supra* note 13, at 131.

319. *See id.* NATO officials reacted similarly. *Id.* at 134.

320. *Id.* at 133–34.

321. *Id.* at 134.

322. *See* Hoagland, *supra* note 197.

323. Mastny, *supra* note 73, at 176.

324. Hunter, *supra* note 115, at 202.

325. Drozdiak, *U.S. Tepid*, *supra* note 299.

326. *Id.*

327. DUKE, *NEW EUROPEAN SECURITY DISORDER*, *supra* note 194, at 212. European security integration following the end of NATO would parallel the increased economic integration that has recently taken place in Europe. *See, e.g.*, T.R. Reid & Peter Finn, *Europe Welcomes New Year, New Money; Music, Fireworks and a Little Wistfulness Mark Changeover to Unified Currency*, WASH. POST, Jan. 1, 2002, at A8 (discussing the introduction of the "Euro" as a common currency in (most) EU nations).

2. *The U.N. Security Council*

The U.N. Security Council can also help to preserve European security. Although it has been criticized for its failures,³²⁸ the United Nations has succeeded as well,³²⁹ and has conducted successful peacekeeping missions.³³⁰ Coalitions vary from crisis to crisis in the post-Cold War world.³³¹ The Security Council is quite useful because it can authorize coalitions to solve various crises.³³² Thus, it is a means to an end.³³³ By authorizing the United States to lead a multinational force to expel the Iraqi army from Kuwait, the Security Council succeeded in the post-Cold War world.³³⁴

328. Fouad Ajami, *The Mark of Bosnia: Boutros-Ghali's Reign of Indifference*, FOREIGN AFF., May-June 1996, at 162 ("The truth of the United Nations' role in Bosnia cannot be wished away."); George Archibald, *U.N. Peacekeeping in Africa; Failing Ex-Envoy Blames Liberian's 'Greed'*, WASH. TIMES, Oct. 12, 2000, at A4 ("The United Nations' failure to combat diamond racketeers and corrupt African political leaders has helped doom U.N. peacekeeping missions in Sierra Leone and the Congo . . ."); Barbara Crossette, *U.N. Details Its Failure to Stop '95 Bosnia Massacre*, N.Y. TIMES, Nov. 16, 1999, at A3 ("The fall of Srebrenica became a damaging symbol of the United Nations' failure at peacekeeping in a new era of civil wars, and it demonstrated the inadequacy of a system that allowed political considerations to color military decisions when troops were under the command of the United Nations."); Giandomenico Picco, *The U.N. and the Use of Force: Leave the Secretary-General Out of It*, FOREIGN AFF., Sept.-Oct. 1994, at 14 ("Neither the post-Cold War climate nor civil wars can rightfully be blamed for the failures that have beset the United Nations since 1991.").

329. Pamela L. Reed, *The Politics of Reconciliation: The United Nations Operation in Mozambique*, in UN PEACEKEEPING, AMERICAN POLITICS, AND THE UNCIVIL WARS OF THE 1990S 303 (William J. Durch ed., 1996) ("The United Nations presence in Mozambique helped build confidence in the peace process and helped the parties to work together despite mistrust."). Recently, U.N. Secretary-General Kofi Annan received the Nobel Peace Prize, in part, for his efforts to reform the United Nations. Colum Lynch, *Nobel Peace Prize Goes to Annan, U.N.; Work on Human Rights, Poverty, AIDS and Terrorism Cited*, WASH. POST, Oct. 13, 2001, at A1.

330. See, e.g., James A. Schear, *Riding the Tiger: The United Nations and Cambodia's Struggle for Peace*, in UN PEACEKEEPING, AMERICAN POLITICS, AND THE UNCIVIL WARS OF THE 1990S, *supra* note 329, at 175 ("[F]uture historians may well look back at UNTAC [U.N. Transitional Authority in Cambodia] as [the U.N.] high point in multidimensional peacekeeping.").

331. Chace, *supra* note 114.

332. See U.N. CHARTER art. 52, para. 3 ("The Security Council shall encourage the development of pacific settlement of local disputes through . . . regional arrangements . . .").

333. See *id.*

334. Richard N. Gardner, *Collective Security and the "New World Order": What Role for the United Nations?*, in AFTER THE STORM: LESSONS FROM THE GULF WAR 31

Because it has a broader security mandate, the Security Council is better suited than NATO to give political support and authorize coalitions.³³⁵ For example, shortly after September 11th, the U.N. Security Council passed a resolution mandating that all member nations do everything in their power to suppress terrorist groups within their respective countries.³³⁶ Both NATO and the Security Council have given political support to the U.S. war against international terrorism.³³⁷ Security Council resolutions, however, are binding international law on all U.N. members.³³⁸ All NATO members are U.N. members.³³⁹ Thus, the Security Council has arguably given broader political support than NATO following September 11th.³⁴⁰

Though NATO has nineteen permanent members,³⁴¹ the Security Council has five permanent members.³⁴² Though consensus is required for NATO to act,³⁴³ a two-thirds majority is required to pass a Security Council resolution, with no permanent

(Joseph S. Nye, Jr. & Roger K. Smith eds., 1992) (“[S]ince Iraq’s invasion of Kuwait . . . [the U.N.] has been the centerpiece of U.S. strategy for mobilizing an international coalition to defeat Iraq’s aggression and to deal with the consequences of the conflict.”).

335. Compare North Atlantic Treaty, *supra* note 1, art. 5, 63 Stat. at 2244, 34 U.N.T.S. at 246 (“The Parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all . . .”), with U.N. CHARTER art. 24, para. 1 (“In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security . . .”).

336. S.C. Res. 1368, U.N. SCOR, 56th Sess., 4370th mtg. at 1, U.N. Doc. S/RES/1368 (2001).

337. Compare *id.* (“The Security Council . . . [c]alls on all States to work together urgently to bring to justice the perpetrators, organizers and sponsors of these terrorist attacks . . .”), with Drozdiak, *Attack on U.S.*, *supra* note 3 (“[T]he NATO declaration . . . effectively bestows [NATO’s] blessing on retaliatory action the United States might take.”).

338. UNITED NATIONS DEPARTMENT OF PUBLIC INFORMATION, BASIC FACTS ABOUT THE UNITED NATIONS 10 (1995) [hereinafter BASIC FACTS].

339. *Id.* at 309–14. Three NATO members—France, the United Kingdom, and the United States—are permanent members of the Security Council. *Id.* at 9. These three nations, along with the People’s Republic of China and the Russian Federation, can veto any Security Council resolution. *Id.*

340. See *supra* notes 336–37 and accompanying text (discussing the Security Council’s actions after September 11th).

341. See NATO HANDBOOK, *supra* note 17, at 83.

342. BASIC FACTS, *supra* note 338, at 9.

343. NATO HANDBOOK, *supra* note 17, at 35.

members voting against the resolution.³⁴⁴ By authorizing “coalitions of the willing”³⁴⁵ to solve European security problems, the Security Council can help to preserve European security after NATO disbands.

B. Objections to Ending NATO

NATO’s supporters argue that ending NATO will destabilize Europe.³⁴⁶ Ending NATO, they claim, will destroy the transatlantic link between the United States and Europe, and isolate the United States from Europe.³⁴⁷ The ties of history, however, prevent this outcome.³⁴⁸ The United States has long enjoyed a “special relationship” with the United Kingdom.³⁴⁹ The United States also has strong relations with such nations as Italy,³⁵⁰ Turkey,³⁵¹ Germany,³⁵² the Netherlands,³⁵³ Denmark,³⁵⁴ and Norway.³⁵⁵ Some claim that NATO is the foremost expression of U.S. commitment to Europe.³⁵⁶ The United States, however, aided Europe in two world wars, and stood firmly by Europe’s

344. BASIC FACTS, *supra* note 338, at 9.

345. Brown, *supra* note 100, at 213.

346. DUNN, *supra* note 64, at 69–71; *see also* Hunter, *supra* note 115, at 190 (“[T]he hard work of building a lasting system of European security for the 21st century has just begun.”).

347. *See* DUKE, NEW EUROPEAN SECURITY DISORDER, *supra* note 194, at 276 (citing Manfred Worner, NATO’s Major Political Tasks: Europe Needs America, Address Before the Economic Club of Detroit (June 26, 1991), in 57 VITAL SPEECHES OF THE DAY 642, 643 (1991)).

348. *See supra* Part II.A.; KRAUSS, *supra* note 66, at 234–35 (noting that substantial U.S. military installations could be left in place in Europe).

349. HEUSER, *supra* note 11, at 22.

350. *See id.* at 29 (stating that Italy has sought its own “special relationship” with the United States).

351. *Id.* at 30 (describing Turkey as a “particularly willing and loyal NATO ally [of] the United States”).

352. *See* David Garnham, *Ending Europe’s Security Dependence*, in THE FUTURE OF NATO, *supra* note 310, at 132–33 (chronicling recent, positive developments in U.S.-German relations).

353. HEUSER, *supra* note 11, at 30 (portraying the Netherlands as a “loyal but uncontroversial partner[]” of the United States).

354. *Id.* (averring that Denmark “always look[s] to America for leadership”).

355. *Id.* (stating that Norway also looks to the United States for leadership).

356. *See* Hunter, *supra* note 115, at 190–91.

side during the Cold War—this commitment surpasses diplomatic formalities.³⁵⁷ The United States will not isolate itself from Europe merely because NATO disbands.³⁵⁸ Additionally, European nations do not need a formal security link to the United States.³⁵⁹ Even with NATO gone, “[t]here is still plenty of life in, and need for, [the United States-Europe security] partnership.”³⁶⁰

Europe is a continent divided by culture, language, and ethnicity.³⁶¹ Its nations have suffered much instability and military conflict.³⁶² Emphasizing these facts, NATO’s supporters argue that ending NATO will lead to “a parade of horrors”³⁶³ in Europe, including a resurgence of power politics among European nations.³⁶⁴ History, however, proves that European nations can unite to defeat a common enemy.³⁶⁵ Ending NATO will allow European nations to strengthen their defense capabilities.³⁶⁶ Even NATO’s supporters recognize this necessity.³⁶⁷

Those who praise NATO—yet bury European security alternatives³⁶⁸—fear that European nations will take primary

357. HEUSER, *supra* note 11, at 108–10.

358. See, e.g., KRAUSS, *supra* note 66, at 233–34. It is hardly a leap in logic to conclude that the United States and NATO members will continue to work together after the end of NATO. See *Old Friends and New—Europe and America*, *supra* note 8, at 27 (“America’s relationship with Europe—expressed not just in NATO but through a multiplicity of trading, investment and intelligence ties, as well as common values—is undoubtedly substantial.”). For example, no NATO action is necessary for the United States and Europe to combat international terrorism. Instead, the United States and NATO members can—and should—“work together on intelligence operations and police work.” Ignatius, *supra* note 197.

359. See *Old Friends and New—Europe and America*, *supra* note 8, at 27.

360. Hoagland, *supra* note 197.

361. KRAUSS, *supra* note 66, at 133.

362. DUNN, *supra* note 64, at 70.

363. *Shapiro v. United States*, 335 U.S. 1, 55 (1948) (Frankfurter, J., dissenting) (internal quotation marks omitted).

364. DUKE, *NEW EUROPEAN SECURITY DISORDER*, *supra* note 194, at 276.

365. KRAUSS, *supra* note 66, at 133.

366. CARPENTER, *BEYOND NATO*, *supra* note 13, at 142; DUKE, *NEW EUROPEAN SECURITY DISORDER*, *supra* note 194, at 213.

367. See CARPENTER, *BEYOND NATO*, *supra* note 13, at 142 (noting that NATO “partisans” really fear that Europeans will not need Americans and will exclude them from state affairs).

368. ABSHIRE ET AL., *supra* note 5, at 6 (dismissing the WEU as a flawed security structure).

responsibility for the defense of Europe.³⁶⁹ The transition to a Euro-centric security system should not occur overnight.³⁷⁰ Thus, this criticism is partially correct.³⁷¹ Weaning European nations from NATO, however, must occur sooner rather than later.³⁷² “NATO’s rejuvenation does not go far enough and fails to provide a new or imaginative answer to European security problems.”³⁷³ New solutions are necessary to solve European security conflicts, and European nations need security interdependence.³⁷⁴ NATO cannot achieve either of these goals.³⁷⁵

V. CONCLUSION

During the Cold War, NATO was a means to an end: deterring the Soviet Union.³⁷⁶ Then, NATO’s members acted admirably.³⁷⁷ Now, NATO’s supporters consider the Atlantic Alliance to be an end in itself.³⁷⁸ Forced by history to search for its relevance, NATO has contradicted the spirit, and possibly the letter, of the North Atlantic Treaty.³⁷⁹ NATO’s members have engendered confusion and have—at best—obtained mixed

369. CARPENTER, *BEYOND NATO*, *supra* note 13, at 139, 142 (noting the risk of “renationalization” if Europe takes responsibility for its own security).

370. DUKE, *NEW EUROPEAN SECURITY DISORDER*, *supra* note 194, at 213.

371. *Id.* (“It would, however, be premature to rush immediately into a European security organization that excluded North American participation.”).

372. *Id.* (“While reliance upon a European security order is premature, long-term reliance upon the U.S. for leadership and major financial and military contributions would be just as unwise.”).

373. *Id.* at 311.

374. *Id.*

375. *Id.* at 311–12.

376. CARPENTER, *BEYOND NATO*, *supra* note 13, at 6, 29.

377. Krauthammer, *supra* note 240 (“For four decades the alliance fielded huge land armies that successfully deterred the Soviet Union at the height of [the Soviet Union’s] power.”).

378. See Hunter, *supra* note 115, at 194 (“[T]he allies developed this comprehensive framework to reconcile contending interests and ensure NATO’s relevance for the 21st century . . .” (emphasis added)); *id.* at 195 (“With each of these developments NATO showed that it remained relevant to Europe’s security.” (emphasis added)).

379. See *supra* notes 104–30 and accompanying text (discussing NATO’s involvement in Bosnia and Kosovo).

results.³⁸⁰ Instead of continuing its wayward search for a new purpose,³⁸¹ NATO should “declare victory and get out”³⁸² of Europe. The gradual end of NATO would contrast greatly with the end of failed organizations such as the League of Nations and the Southeast Asian Treaty Organization.³⁸³

By signing the Brussels Pact, European nations united after World War II.³⁸⁴ They then sought a formal, transatlantic link with the United States as the Soviet threat emerged.³⁸⁵ With the extinction of the Soviet threat, no permanent, transatlantic link³⁸⁶ is necessary, and both NATO’s structure and function have become irrelevant.³⁸⁷ NATO’s members should take heed of the security environment in Europe and disband the Atlantic Alliance.

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380. Barry & Thomas, *The Kosovo Cover-Up*, *supra* note 123, at 24. *But see* Hunter, *supra* note 115, at 190 (“The NATO alliance proved its value in the first decade after the Cold War.”).

381. Dempsey, *supra* note 137. *But see* Henry Kissinger, *Where Do We Go From Here?*, WASH. POST, Nov. 6, 2001, at A23 (“The NATO allies have ended the debate about whether, after the end of the Cold War, there is still a need for an Atlantic security structure.”) [hereinafter Kissinger, *Where Do We Go*].

382. 131 CONG. REC. S698 (1985) (statement of Sen. Stafford); *see also* Hudelson, *supra* note 14.

383. *Compare* Gribbin, *supra* note 79 (stating that NATO helped win the Cold War “without marching a single company into combat”), *with* GEORGE SCOTT, *THE RISE AND FALL OF THE LEAGUE OF NATIONS* 399 (1973) (“It was impossible to deny the ultimate failure of the League [of Nations]: the horrors through which the world had passed were too recent and the living evidence of them too grotesque.”), *and* F.S. NORTHEGE, *THE LEAGUE OF NATIONS: ITS LIFE AND TIMES, 1920-1946* 276 (1986) (“[T]he League of Nations . . . did not survive the efforts to mount collective action against the Italian invasion of Abyssinia.”), *and* HILAIRE MCCOUBREY & JUSTIN MORRIS, *REGIONAL PEACEKEEPING IN THE POST-COLD WAR ERA* 159–60 (2000) (discussing the reasons why SEATO failed).

384. ISMAY, *supra* note 16, at 8.

385. *Id.* at 8–9.

386. NATO HANDBOOK, *supra* note 17, at 24.

387. *See supra* notes 252–57 and accompanying text (analyzing NATO’s invocation of Article 5 after September 11th).

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