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► **To cite this version:**

Charlotte Beaucillon. Strategic Autonomy: A New Identity for the EU as a Global Actor. *European Papers*, 2023, 8 (2), pp.417-428. hal-04432513

**HAL Id: hal-04432513**

**<https://hal.univ-lille.fr/hal-04432513v1>**

Submitted on 1 Feb 2024

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## INSIGHT

### EU STRATEGIC AUTONOMY AND TECHNOLOGICAL SOVEREIGNTY

edited by Charlotte Beaucillon and Sara Poli

## STRATEGIC AUTONOMY: A NEW IDENTITY FOR THE EU AS A GLOBAL ACTOR

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**ABSTRACT:** Over the last decade, strategic autonomy has become a key tool for structuring the EU's external action. This *Insight* examines the evolution of the concept in EU discourse and practice, explores its consequences on the emergence of the notion of "European sovereignty", and analyses how strategic autonomy is used to streamline both hard-power and soft-power contemporary EU external relations. The central role of strategic autonomy – in turn an ambition, an objective, a process or even a method – sheds new light on core issues surrounding EU external action law, such as power, sovereignty and the articulation of the EU-Member State relationship.

**KEYWORDS:** External action – Sovereignty – Power – Competences – Common Foreign and Security Policy – Common Commercial Policy.

### I. INTRODUCTION

Since its first use in the context of EU defence policy ten years ago, strategic autonomy has progressively assumed a pivotal role in the practice of, and contemporary discourse relating to, EU external action. In turn an ambition, an objective and a new political method, strategic autonomy raises a set of core legal issues that are instrumental in understanding what kind of global actor the EU aims at turning itself into — and the hurdles that may come in its way — in the context of the evolution of contemporary international relations.

There is no shortage of examples to illustrate the strong tendency to return to unilateralism in the conduct of international relations (Russia's invasion of Ukraine,<sup>1</sup> the usage of unilateral international sanctions by all permanent members of the UN Security Council) to the detriment of multilateral institutions (United Nations, World Trade Organization) whose formation marked the second half of the 20<sup>th</sup> century. Against this

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<sup>1</sup> See also C Beaucillon and S Montaldo (eds), 'Special Focus on "The Russian War Against Ukraine and the Law of the European Union". The EU in the Face of War' (2023) European Papers [www.europeanpapers.eu](http://www.europeanpapers.eu).



background, the introduction of strategic autonomy into EU external action discourse serves a double political objective: to ensure not only that the EU is able to *shape* the course of international relations through its external action, but also that it is able to *act alone* and uphold its own external policy choices if needed (section II).

Strategic autonomy hence advantageously puts an emphasis on the international actor-ness of the EU and the stakes it has to play, rather than on the legal conditions under which these objectives are to be pursued. It is worth, however, examining the constitutional stakes of strategic autonomy under EU law. The central issue here is that of power – its source, repartition, and exercise – both within the EU and in its relations with other subjects of international law. The rise of strategic autonomy in EU practice hence favours a renewed reflexion on “EU sovereignty”, mainly through material and functional approaches (section III).

While offering a clear direction for the European project, strategic autonomy is not a miracle recipe for overcoming the persistent integration gaps between the various policies of the European Union. Yet it seems to have already shaped the day-to-day conduct of the EU's external action. Arguably, two converse trends are currently operating: while hard-power issues are approached from a more integrative perspective with the aim of triggering more solidarity between the Member States (MS), soft-power issues are framed in harder-power terms, reinforcing the powers already vested in the EU (section IV). From a legal perspective, it is not certain whether autonomous strategy will be the vector of further integration within the EU, or instead, highlight the imbalances of the EU integration process as it stands – hence the constitutional issues arising from observation of this new practice (section V).

## II. STRATEGIC AUTONOMY IN EU EXTERNAL ACTION DISCOURSE

“Strategic autonomy” is a concept that owes its origins to military lexicon wherein it refers to a long-term vision of the structural conditions allowing the establishment of military autonomy in relation to other actors. For instance, in the French *Livre blanc sur la défense* of 1994,<sup>2</sup> strategic autonomy serves as a cursor to find the appropriate balance between an inward-looking defence strategy aiming solely at defence of the national territory, and an outward-looking one focusing all efforts on external military action in support of international peace and security. From this perspective, the goal of strategic autonomy is to find a balance in order to achieve both defensive and projectional objectives.

Consequently, strategic autonomy entered the practice of the European Union in the context of the European Security and Defence Policy (ESDP), which forms part of the Common Foreign and Security Policy (CFSP). More specifically, the European Council Conclusions of 20 December 2013 mention the concept in the course of discussions on the building of a European defence industry when stating that “Europe needs a more

<sup>2</sup> French Ministry of Defence, *Livre blanc sur la défense* (1994) medias.vie-publique.fr.

integrated, sustainable, innovative and competitive defence technological and industrial base (EDTIB) to develop and sustain its defence capabilities. This can also enhance its *strategic autonomy* and its ability to act with partners".<sup>3</sup>

In this initial vision, strategic autonomy is thus conceived as the result of the building of a technological and industrial defence base. The objective to achieve EU strategic autonomy is presented in the background of the more concrete aim to foster a technological and industrial defence base, a technique that reminds of Jean Monnet's and Robert Schuman's "small steps" method consisting in emphasising the elements of technical cooperation over their underlying strategic stakes, so as to overcome the political resistance hindering European integration.<sup>4</sup>

Three years later, strategic autonomy figured prominently in the Global Strategy for the EU's Foreign and Security Policy of June 2016.<sup>5</sup> There, it assumes three main functions. First, the Global Strategy makes strategic autonomy an ambition<sup>6</sup> for the European Union in the implementation of its Common Foreign and Security Policy, a statement showing that the terminology had become sufficiently consensual amongst the Member States for the goal to be stated in such a straightforward and transversal manner. The transversal nature of the CFSP itself, which is far from limited to defence and military aspects, also prefigures the broadening of the use of strategic autonomy outside these sectors. Secondly, strategic autonomy is considered a prerequisite for achieving the objective of promoting peace and security,<sup>7</sup> which is stated in arts 3(5) and 21(2)(c) of the Treaty on European Union. Thirdly, the Global Strategy highlights the fact that strategic autonomy is itself conditioned, as is a credible Common Defence and Security Policy, by the emergence of a sustainable, innovative and competitive European defence industry.<sup>8</sup> Interestingly, these two last points bring together the two dimensions – inward- and outward-looking – of strategic autonomy highlighted above. As a final step in this conceptual evolution, the Council Conclusions of 14 November 2016 provide a now settled definition of strategic autonomy in the defence sector, as a process to enhance the EU's "global strategic role and its ability to act autonomously when and where necessary and with partners when possible".<sup>9</sup>

As expected, strategic autonomy has also acquired over the years a much broader meaning and usage in EU discourse, well beyond defence issues. A good illustration can

<sup>3</sup> European Council Conclusions EUCO 217/13 of 20 December 2013, para. 16, emphasis added.

<sup>4</sup> See in particular the Schuman Declaration of 9 May 1950 and the gradual and sectoral integration at the heart of the establishment of the European Coal and Steel Community created by the Treaty of Paris, signed in 1951.

<sup>5</sup> Strategy Document from the European External Action Service (EEAS), *Global Strategy for the EU's Foreign and Security Policy* (June 2016), hereinafter "EEAS Strategy Document (2016)".

<sup>6</sup> *Ibid.* 4.

<sup>7</sup> *Ibid.* 9 and 19.

<sup>8</sup> *Ibid.* 46.

<sup>9</sup> Council Conclusions of 14 November 2016 on implementing the EU Global Security and Defence Strategy, para. 2.

be found in the European Council Conclusions of October 2020, following a special meeting in the context of the COVID-19 pandemic: "Achieving strategic autonomy while preserving an open economy is a key objective of the Union".<sup>10</sup>

Indeed, *open* strategic autonomy has become a central concept in the European Union's external action, and is one of the political lines of the "geopolitical Commission" led by President Ursula von der Leyen from 2019 onwards.<sup>11</sup> More specifically, the concept has been applied to a number of no longer military but rather market-oriented EU policies, including the prominent Common Commercial Policy.<sup>12</sup> Similarly, it has progressively become common institutional language for the European Parliament,<sup>13</sup> the European Economic and Social Committee,<sup>14</sup> as well as Member States.<sup>15</sup> The central idea behind open strategic autonomy is to balance the exercise of the EU's political powers *while* respecting the conditions of an open market economy. As in its military origins, open strategic autonomy revolves around both inward- and outward-looking logics: building the conditions for the EU to be a resilient global actor (inward-looking) capable of upholding strong choices in the fields of its external action (outward-looking). In this broader non-military version though, strategic autonomy has become both a central political objective against which the external action of the EU is assessed, and a powerful political process through which the framework of EU external action is progressively being reformed.

Hence, the concept of strategic autonomy as reflected in EU external action discourse embodies two major elements. First, the quest of the EU to act strategically on the international scene, with the aim of making a difference in the course of international relations, that is, by contributing to their *shaping*. Second, the need to secure its ability to stand by its external policy choices without depending on its international partnerships, in other words, ensuring its means to act as a *self-standing* global actor.

<sup>10</sup> European Council Conclusions EUCO 217/13 cit. para. 3.

<sup>11</sup> Speech of President-elect von der Leyen in the plenary of the European Parliament of 27 November 2019 on the occasion of the presentation of her college of commissioners and their programme.

<sup>12</sup> Communication COM(2021) 66 final from the Commission of 18 February 2021, 'Trade Policy Review – An open, sustainable and assertive trade policy'.

<sup>13</sup> EU Strategic Autonomy Monitor Briefing from the European Parliament of July 2022, 'EU Strategic autonomy 2013-2023: From concept to capacity'.

<sup>14</sup> Opinion NAT/822-EESC-2021 from the European Economic and Social Committee of 25 March 2021, 'Strategic autonomy and food security and sustainability'.

<sup>15</sup> Conference of the French Minister Delegate for Foreign Trade and Economic Attractiveness of 7 March 2022 on trade policy and European strategic autonomy.

### III. STRATEGIC AUTONOMY AND THE COLLECTIVE EXERCISE OF SOVEREIGNTY AT THE EU LEVEL

Both the ambition and the objectives of EU strategic autonomy echo some of the most classic definitions of sovereignty, the very concept on which the current post-Westphalian world order has been built. As the sole arbitrator Max Huber brilliantly pointed out almost a hundred years ago: "Sovereignty in relations between States signifies *independence*. Independence in regard to a portion of the globe is the right to exercise therein, to the *exclusion* of any other State, the functions of a State".<sup>16</sup>

Two major elements of sovereignty in international law have been derived from the above: state sovereignty as the freedom or *autonomy* of a state to act and decide as it deems, and, based on the sovereign equality of states, the *exclusive* exercise of this autonomy on a state's territory. Another, less exploited, concept of Max Huber's arbitral award is worth considering in the present discussion: the *functions* of a state. It is now well accepted that the European Union is, under international law, an international organisation based on two founding treaties, with a unique purpose, that of integration through law. In this context, the EU is vested with various competencies by its Member States, and exercises its powers either together with them or alone. To this end, refined procedures are designed to maintain the vertical repartition of powers within this integrative treaty-based structure and, ultimately, preserve the conditions according to which the EU Member States have decided to exercise (a large part of) their sovereign powers in common.<sup>17</sup>

These considerations in turn raise questions about the added value of strategic autonomy in the conduct of EU external action. Arguably, strategic autonomy is not about the source or the holder of sovereignty, but rather focuses on the effective exercise of and means to *guarantee* sovereignty. As a result, the political debate on the nature of the EU can be skipped in favour of a focus on the aim that should underlie the EU's exercise of its power in its dealings with the rest of the world: preventing the very core of sovereignty – independence, autonomy – from being altered by the complexity of the integration machinery and/or easily instrumentalised by other international actors.

This functionalist reading might explain why the very use of the term "sovereignty" in relation to the EU is no longer taboo in the political discourse of EU Member States, as illustrated by the Franco-German declaration issued in January 2023 on the occasion of the 60<sup>th</sup> anniversary of the Élysée Treaty: "To this end, we aim to strengthen our ties in all fields that form the basis for a genuine *European sovereignty*, starting with: a strong European foreign and security policy, a strengthening of European defence, strong industrial,

<sup>16</sup> Permanent Court of Arbitration judgment of 4 April 1928 *Island of Palmas (United States v The Netherlands)*, emphasis added.

<sup>17</sup> For an analysis of the French discourse in this matter, see A Crespy, 'L'Ambition européenne de Macron: quand souveraineté rime avec sécurité' (5 April 2022) Institut des études européennes de l'ULB – Blog [www.iee-ulb.eu](http://www.iee-ulb.eu).

technological and digital policy, economic strength, energy security, transition to a green economy and consolidation of the European democratic model".<sup>18</sup>

Similarly, strategic autonomy is presented in EU institutional discourse as a strict necessity, apparently stemming from a realist analysis of international relations which focuses on power repartition in a conflictual international society. This is well illustrated by the 2020 speech of the EU's High Representative for Foreign Affairs and Security Policy, Josep Borrell, unambiguously entitled *Why European strategic autonomy matters*:

"The conclusion is simple. If we do not act together now, we will become irrelevant, as many have forcefully argued. Strategic autonomy is, in this perspective, a process of *political survival*. In such a context, our traditional alliances remain essential. However, they will not be sufficient. As power differentials narrow, the world will become more transactional, and all powers, including Europe, will tend to be so. This is an inescapable truth [...] The second factor is linked to the transformation of economic interdependence in which we Europeans have invested a lot, notably through the defence of multilateralism. Today, we are in a situation where economic interdependence is becoming politically very conflictual. And what was traditionally called *soft power is becoming an instrument of hard power*".<sup>19</sup>

It stems from the above that EU strategic autonomy, besides being an ambition and an objective, is also a political dynamic within the European Union and amongst its MS, which brings them together around a common understanding of the necessity to guarantee collectively what is now called "European sovereignty".

#### IV. STREAMLINING EU EXTERNAL ACTION THROUGH STRATEGIC AUTONOMY

Aiming at the political survival and the independence of the EU, strategic autonomy has concrete consequences for the day-to-day conduct of its external action. As an ambition, an objective, and a political process, it triggers both the exploration of avenues for the European Union to further develop its hard power (section IV.1), and the adoption of resilience instruments aimed at hardening the EU's soft powers (section IV.2).

##### IV.1. FURTHERING THE INTEGRATION OF EUMS HARD POWERS: REDUCING DEPENDENCE AND BUILDING CAPACITY

The use of strategic autonomy to pursue the ambition of strengthening the European Union's hard power is illustrated by the recent adoption of various instruments in the field of the CFSP and CSDP, which will be dealt with separately.<sup>20</sup> To obtain a broader

<sup>18</sup> French Presidential Office, 'French-German declaration' (22 January 2023) [www.elysee.fr](http://www.elysee.fr).

<sup>19</sup> J Borrell, 'Why European Strategic Autonomy Matters' (3 December 2020) European Union External action: The Diplomatic Service of the European Union [www.eeas.europa.eu](http://www.eeas.europa.eu), emphasis added.

<sup>20</sup> In this present *Special Focus*, see L Mola, 'Fostering "European Technological Sovereignty" Through the CSDP: Conceptual and Legal Challenges. First Reflections Around the 2022 Strategic Compass' European

picture of the effects of strategic autonomy on the conduct of CFSP, the current war in Ukraine reveals an interesting prism, as it points both to the way the EU must position itself vis-a-vis its allies (outward-looking logic), and the way it must also secure its capability to uphold its foreign policy options on its own (inward-looking logic).

The relationship that the European Union and its Member States sustain with NATO in general and the United States in particular has been the subject of numerous studies.<sup>21</sup> In recent times, the guarantee of strategic autonomy has been used differently in European discourse depending on the orientation of US foreign policy. Under the Trump administration, between 2017 and 2021, strategic autonomy was thus thought of as a response to the need to reduce the European Union's dependence on US security guarantees, with the comment made that "it is illustrative that the high dependence of most EU countries on the USA for their (self) defence was briefly considered problematic during the Trump Presidency, whereas these concerns faded as soon as Joe Biden became US President".<sup>22</sup>

After the election of Joe Biden in November 2020, the emphasis was placed on strengthening the European Union's industrial base while preserving the EU-US relationship. It thus follows that the European Defence Fund and the Permanent Structured Cooperation were presented by High Representative Borrell as elements of "pragmatic strategic autonomy", allowing volunteer states to develop their capabilities while responding "to priorities identified within NATO".<sup>23</sup> Taking the notion further, the High Representative added that: "What applies to these projects also applies to major *intergovernmental industrial projects*, such as the Future Aircraft Project (SCAF), in which France, Germany and Spain participate. These projects are likely to strengthen Europe *without damaging the transatlantic relationship*. They must therefore be completed. This is why the current industrial misunderstandings between partners must be overcome".<sup>24</sup>

While EUMS enhanced cooperation is no longer to be seen as a threat to NATO, it still needs to be encouraged at the EU level, as illustrated by the study commissioned by the European Parliament's Sub-Committee on Security and Defence, identifying four main issues to be overcome in order to convince Member States to resort more often to

Papers (European Forum Insight of 27 July 2023).[www.europeanpapers.eu](http://www.europeanpapers.eu) 459; G Perotto, 'The Legal Framework of the EU Defence Industry and the Pursuit of Strategic Autonomy' European Papers (European Forum Insight of 27 July 2023) [www.europeanpapers.eu](http://www.europeanpapers.eu) 475.

<sup>21</sup> Among others: S Biscop, *European Strategy in the 21st Century: New Future for Old Power* (Routledge 2019); M Reichard, *The EU-NATO Relationship: A Legal and Political Perspective* (Ashgate 2006); J Howorth and JTS Keeler (eds), *Defending Europe: the EU, NATO and the Quest for European Autonomy* (Palgrave Macmillan 2003); F Schimmelfennig, *The EU, NATO and the Integration of Europe: Rules and Rhetoric* (Cambridge University Press 2003).

<sup>22</sup> EU Strategic Autonomy Monitor Briefing (2022) cit.

<sup>23</sup> J Borrell, 'Why European Strategic Autonomy Matters' cit.

<sup>24</sup> *Ibid.* emphasis added.



cooperation rather than to the activation of art. 346 of the TFEU<sup>25</sup> authorising unilateral measures in the field of armaments.<sup>26</sup>

This integration challenge will undoubtedly be a long-term process, whose strategic importance is highlighted by the geopolitical situation triggered by the invasion of Ukraine in February 2022. In this context, the transatlantic relationship and the US security guarantees have appeared as a cornerstone of the EU strategy, as shown by the ongoing process of adhesion of both Sweden and Finland to NATO, and the unequivocal reaffirmation of the EU-NATO Strategic Partnership in January 2023.<sup>27</sup>

Russia's invasion of Ukraine has forced the European Union to make other strategic choices, particularly in the defence and energy sectors. The heavy dependence on Russia for energy was, until the invasion, a politically divisive issue in Europe, as illustrated by the Nordstream 2 pipeline project linking Germany to Russia.<sup>28</sup> The day after the invasion, the Council's Conclusions were unequivocal: the two sectors requiring an immediate response were security and defence on the one hand, and energy on the other.<sup>29</sup> The Council's approval of the Strategic Compass at the end of March 2021, scheduled before the Russian aggression and whose first version had been presented by High Representative Borrell on 15 November 2021,<sup>30</sup> was placed in a new light and dynamic by the context of war on the borders of Europe.<sup>31</sup>

Less than a fortnight after the invasion of 24 February 2022, and following the above-mentioned Council Conclusions of 25 February 2022, the joint REPowerEU action was also announced, designed to eliminate energy dependence on Russia by 2030. The approach adopted seeks not only to diversify gas suppliers, but also to reduce dependence on fossil

<sup>25</sup> "Any Member State may take such measures as it considers necessary for the protection of the essential interests of its security which relate to the production of or trade in arms, munitions and war material; such measures shall not adversely affect the conditions of competition in the common market regarding products not intended for specifically military use".

<sup>26</sup> Namely, the balancing of costs and benefits, the effect on the balance between European defence industries, the process of selecting priorities, and possible obstacles to the export of armaments to certain countries. See B Wilkinson, 'The EU's Defence Technological and Industrial Base' (January 2020) [www.europarl.europa.eu](http://www.europarl.europa.eu).

<sup>27</sup> Joint Declaration on EU-NATO Cooperation of 10 January 2023, in European Council Press Release 7/23 of 10 January 2023 [www.consilium.europa.eu](http://www.consilium.europa.eu).

<sup>28</sup> For an analysis, among others, in the context of the imposition of restrictive measures by the EU, see, by the present author: C Beaucillon, 'Les sanctions internationales au soutien de l'intégrité territoriale de l'Ukraine: leur effectivité' (2022) *Revue française de droit administratif* 603, and C Beaucillon, 'The European Union's Position and Practice with Regard to Unilateral and Extraterritorial Sanctions' in C Beaucillon (ed), *Research Handbook on Unilateral and Extraterritorial Sanctions* (Edward Elgar 2021) 122.

<sup>29</sup> European Council Conclusions of 24-25 March 2022 meeting on transatlantic cooperation.

<sup>30</sup> D Fiott and G Lindström (eds), *Strategic Compass, New Bearings for EU Security and Defense?* (EUISS Chaillot Paper 2021) 6.

<sup>31</sup> Council of the European Union, 'A Strategic Compass for Security and Defence – For a European Union that Protects its Citizens, Values and Interests and Contributes to International Peace and Security', Doc. 7371/22, 21 March 2022.

fuels.<sup>32</sup> Although the plan adopted in May 2022 does not expressly mention the objective of strategic autonomy for the European Union, it nevertheless univocally concludes that “the time to reduce Europe's strategic energy dependence is now”.<sup>33</sup>

#### IV.2. HARDENING EU'S SOFT POWERS: STAYING FREE FROM FOREIGN CONSTRAINTS AND DEFENDING ITS INTERESTS

Strategic autonomy also has implications for the conduct of the EU's external action well beyond the areas traditionally associated with its hard power. In particular, the concept of strategic autonomy has been used as a key to renew the European Union's approach to its international economic relations. Here, therefore, we will examine more specifically the geopolitical and geoeconomic aspects of EU external action, in the light of the objective of building a strategic autonomy that remains open to the global market economy and does not amount to a hidden form of European protectionism. Some topical illustrations of this ambition of the European Union in the conduct of its external economic relations can be found in the adoption of the Anti-Coercion Instrument (ACI), and more generally in the project to revise the EU Common Commercial Policy's (CCP) trade and investment instruments to contribute to its strategic autonomy.

As a recent study has shown, the globalisation of trade and the interdependence that results from it can be instrumentalised for the purposes of coercion.<sup>34</sup> To guard against foreign attempts to instrumentalise its framework for international economic cooperation, the European Commission has undertaken a vast project to review and consolidate the European Union's instruments relating to international trade and investment. In its Trade Policy Review of February 2021, the Commission identified four main levels of action to guarantee the European Union's strategic autonomy in this area:<sup>35</sup> eliminating economic distortions, guarding against economic constraint and extraterritoriality, linking respect for its values and the sustainability of its actions, and finally ensuring the resilience of its critical infrastructures and supply chains.<sup>36</sup>

<sup>32</sup> Communication COM(2022) 108 final from the European Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions of 8 March 2022, REPowerEU: Joint European Action for More Affordable, Secure and Sustainable Energy. See also the European Council Conclusions of 24-25 March 2022 cit.

<sup>33</sup> Communication COM(2022) 230 final from the European Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions of 18 May 2022, REPowerEU Plan.

<sup>34</sup> D Drezner, H Farrell and A Newman (eds), *The Uses and Abuses of Weaponized Interdependence* (Brookings Institutions Press 2021).

<sup>35</sup> Communication COM(2021) 66 final cit. See also T Gehrke, ‘Threading the Trade Needle on Open Strategic Autonomy’ in N Helwig (ed), *Strategic Autonomy and the Transformation of the EU: New Agendas for Security, Diplomacy, Trade and Technology* (Finnish Institute of International Affairs 2021) www.fia.fi 89.

<sup>36</sup> See in particular, in this present *Special Focus*, S Robert, ‘Foreign Investment Control Procedures as a Tool for Enforcing EU Strategic Autonomy’ European Papers (European Forum Insight of 27 July 2023)

The proposal for an Anti-Coercion Instrument was conceived in this specific context, and is intended to protect the European Union against foreign attempts at economic coercion. This mechanism rests on the adoption of reaction measures within the framework of the Common Commercial Policy rather than the Common Foreign and Security Policy, the legal basis taken from 207 TFEU enabling a swift response with no requirement of unanimity at the Council. According to the Executive Vice-President of the Commission responsible for Trade, Valdis Dombrovskis:

“At a time of rising geopolitical tensions, trade is increasingly being *weaponised* and the EU and its Member States are becoming *targets* of economic intimidation. We need the proper tools to respond. With this proposal, we are sending a clear message that the EU will stand *firm in defending its interests*. The main aim of the anti-coercion tool is to act as a *deterrent*. But we now also have more tools at our disposal when *pushed to act*. This instrument will allow us to respond to the *geopolitical challenges* of the coming decades, keeping Europe strong and agile”.<sup>37</sup>

At the end of March 2023, the Anti-Coercion Instrument was just about to be adopted. The Commission's proposal of December 2021<sup>38</sup> was examined by the Council, which adopted a negotiating position in November 2022<sup>39</sup> as a basis for discussion of the text with the European Parliament. On 28 March 2023, the Council and Parliament reached a political agreement,<sup>40</sup> paving the way for a swift adoption of a binding Regulation, to enter into force in Spring 2023. According to art. 2 of the Commission's draft, an economic coercion measure is defined as any measure adopted by a country outside the Union, which “interferes with the *legitimate sovereign choices* of the Union or a Member State by seeking to prevent or obtain the cessation, modification or adoption of a particular act by the Union or a Member State, by applying or threatening to apply measures affecting trade or investment” (emphasis added). The main purpose of the Instrument is to authorise the adoption — albeit as a last resort, as specified in the draft text — of countermeasures in the sense of the international law of responsibility. Despite the persistence of various points of

www.europeanpapers.eu 513; E Fahey ‘Does the EU's Digital Sovereignty Promote Localisation in Its Model Digital Trade Clauses?’ European Papers (European Forum Insight of 27 July 2023). www.europeanpapers.eu 503.

<sup>37</sup> European Commission, ‘EU strengthens protection against economic coercion’, Press release IP/21/662 of 8 December 2022, emphasis added.

<sup>38</sup> Proposal COM(2021) 775 final from the European Commission of 8 December 2021, ‘Proposal for a Regulation of the European Parliament and of the Council on the protection of the Union and its Member States against economic coercion from third countries’.

<sup>39</sup> Council of the European Union, ‘Proposal for a Regulation of the European Parliament and of the Council on the protection of the Union and its Member States against economic coercion from third countries (first reading) – Mandate for negotiations with the European Parliament’, Doc. 14837/22 of 16 November 2022, data.consilium.europa.eu.

<sup>40</sup> Council of the European Union, ‘Trade: Political agreement on the anti-coercion instrument’, Press release 239/23 of 28 March 2023.

divergence between the Member States and the institutions of the Union,<sup>41</sup> there is no doubt that the adoption of such an instrument is a clear message to the outer world of the European Union's determination to guarantee its strategic autonomy.

## V. CONCLUSIONS

The concept of strategic autonomy is now well established in the institutional practice of the European Union and has been extended to a wide variety of areas of its external action, linking hard and soft power in a coherent perspective. Over the past decade, it has thus become a topical concept and objective in the EU's contemporary external action.

Interestingly, while legal analysis of the concept of strategic autonomy under public international law clearly centres on the exercise of sovereignty, classically conceived as independence, this taboo has recently been overcome, through a renewed functional approach of what is now called "European sovereignty". In parallel with this significant semantic evolution, strategic autonomy has been used as a functional and teleological lever towards result-oriented external action: reducing dependencies and building capabilities in the area of hard-power activities; resisting foreign coercion and defending its interests in the area of soft-power actions. As such, it serves a functionalist and teleological logic that is quite typical of EU public action, in order to shape EU external action so as to give more teeth to EU economic power and to further hard-power integration.

It flows from the above that, under the broad umbrella of strategic autonomy, the relevance of the political distinction between hard and soft power seems to fade. Instead, strategic autonomy helps to bring hard and soft power together in a coherent continuum, and allows emphasis of the need to act in a variety of policy areas, regardless of the distribution of relevant competences within the Union and its Member States.

As successful as this new conceptual vehicle may be, it is nevertheless clear from the above analysis that the achievement of strategic autonomy in the field of defence still depends largely on the political will of EU Member States, in the absence of a closer legal integration of their competences in this field. On the contrary, when autonomous strategy is used in deeply integrated areas such as the Common Commercial Policy, bolder terminology is used, as illustrated by the topical case of the Anti-Coercion Instrument which expressly aims at guaranteeing EU sovereign choices. From the perspective of EU external action law, the rise of strategic autonomy triggers at least two sets of core interrogations. On the one hand, from the point of view of the objective of material/horizontal coherence of the European Union's external action, to what extent will strategic autonomy help to rationalise the EU's security-oriented actions in the future? It indeed remains to be seen to what extent it will be a structuring and integrating long-term objective for the EU's external

<sup>41</sup> See for example M Duchâtel, 'Effective Deterrence? The Coming European Anti-Coercion Instrument' (2 December 2022) Institut Montaigne [www.institutmontaigne.org](http://www.institutmontaigne.org).

action. On the other hand, from the perspective of the principle of attribution of powers, will strategic autonomy impact the vertical repartition of powers within the EU as well as the duty of loyal cooperation between the Union and its Member States?<sup>42</sup> More practice analysis — and potential forthcoming related case law — is also needed here to determine whether the EU and MS will manage to overcome the contemporary hyper-fragmentation of competences between hard and soft powers in the EU's architecture, while respecting the constitutional principles that are binding upon all EU actions.<sup>43</sup>

There is however no doubt now that strategic autonomy has become part of the renewed international identity of the EU,<sup>44</sup> as a powerful vehicle for the long-term affirmation of the EU's status as an independent and self-standing global actor in contemporary international relations.

<sup>42</sup> See also, in this *Special Focus*, S Poli, 'Reinforcing Europe's Technological Sovereignty Through Trade Measures: The EU and Member States' Shared Sovereignty' *European Papers* (European Forum Insight of 27 July 2023) [www.europeanpapers.eu](http://www.europeanpapers.eu) 429.

<sup>43</sup> See also Editorial Comments 'Keeping Europeanism at Bay? Strategic Autonomy as a Constitutional Problem' (2022) *CMLRev* 313.

<sup>44</sup> M Cremona, 'The Union as a Global Actor: Roles, Models, Identity' (2004) *CMLRev* 553-573.