



ARTICLES

NEW OPTIONS FOR DIFFERENTIATED INTEGRATION IN THE EUROPEAN UNION

Edited by Juan Santos Vara and Ramses A. Wessel

WITH OR WITHOUT EU: DIFFERENTIATED INTEGRATION AND THE POLITICS OF POST-BREXIT EU-UK SECURITY COLLABORATION

BENJAMIN MARTILL* AND MONIKA SUS**

TABLE OF CONTENTS: I. Introduction. – II. Post-Brexit security and defence cooperation as differentiated disintegration – III. Theresa May and the proposed “security partnership”. – IV. The trade and cooperation agreement and beyond. – V. The war in Ukraine: A game changer? – VI. Conclusion.

ABSTRACT: Research on differentiated integration has flourished in recent years, highlighting the political and efficiency gains to be had from selective participation and third country engagement in EU policy areas. Proposals for an EU-UK security and defence agreement represented a paradigmatic example of differentiated *disintegration*, for which both strategic and political prospects initially appeared positive, yet which ultimately foundered on the back of the EU’s reluctance to create new third country models and subsequent political upheaval in the UK. This *Article* asks why these proposals failed and what this can tell us about the politics of differentiated (dis)integration, focusing on the referendum to the recent Ukraine crisis, and drawing on several elite interviews conducted with policymakers in London and Brussels. It shows that while the strategic benefits of differentiation increased following the Brexit vote, the growing concern in Brussels for the precedent set by Brexit, the collapse of issue-specific dynamics into a singular concern for UK “cherry picking”, and the rightward shift in UK politics occasioned by the Brexit negotiations all undermined the prospects for a differentiated outcome in security and defence. The Ukraine crisis, while precipitating significant changes in many European states, had thus far failed to alter the new status quo locked in after Brexit.

* Lecturer in Politics and International Relations, University of Edinburgh, benjamin.martill@ed.ac.uk.

** Visiting Professor, Hertie School, sus@hertie-school.org. We would like to thank Ramses Wessel, Juan Santos Vara and the participants at the workshop on differentiated integration in EU security and defence policy at the University of Salamanca Law School in October 2021 for their helpful comments on an earlier version of this *Article*.



KEYWORDS: Brexit – differentiated integration – Ukraine War – European security – EU-UK relations – United Kingdom.

I. INTRODUCTION

The Brexit vote in the United Kingdom (UK) on 23 June 2016 was more about sovereignty than it was about appropriate formats for European security and defence collaboration, but this policy area was nonetheless implicated in the UK's decision to withdraw from the European Union (EU). Observers suggested initially that Brexit might bring about a more differentiated relationship, with the UK participating in various policy areas as a non-member, including in security and defence – an area where both sides were keen for a deal to be agreed. And yet these proposals gradually became victim of the twists and turns of the Brexit negotiations, with Theresa May's vision of a bespoke security partnership receiving lukewarm support in Brussels owing to its "cakeism", and with Boris Johnson's subsequent decision to take security and defence off the table entirely prior to the negotiations on the Trade and Cooperation Agreement (TCA). The result was a "no deal" scenario in security and defence which persists to this day, with both sides falling back on informal relationships and non-EU institutionalized ties between the UK and the EU member states. Even Russia's invasion of Ukraine on 24 February 2022 has seemingly done nothing to alter this status quo, in spite of its having acted as a critical juncture in the European security landscape and having brought about profound changes of the security policies of several European states.

The purpose of this *Article* is to ask why proposals for a differentiated outcome failed in the case of Brexit, and what this can tell us about the politics of differentiated (dis)integration. We know from the literature that political expediency and underlying efficiencies can motivate differentiation, and that the Brexit vote itself raised expectations of new forms of differentiation.¹ With both sides keen to reach an agreement and with a clear strategic rationale to keep the UK involved in EU security and defence initiatives, it is somewhat surprising that both sides failed to engage in talks on the issue. Understanding why this was can help us understand how the politics of differentiation work in a context of withdrawal. Drawing on a range of policy documents as well as interviews conducted in London and Brussels during 2021-22, we show how the prospect of mutually beneficial security cooperation became embroiled in the broader politics of the Brexit negotiations, as the EU became more sensitive to the creation of damaging precedents and as the idea of a security agreement came to be seen as part of Theresa May's broader (and highly problematic) notion of cherry-picking aspects of EU membership. In this way, the distinct dynamics in security and defence that might have motivated an agreement based on mutually beneficial differentiation were subordinated to the politics of withdrawal.

¹ F Schimmelfennig, 'Brexit: Differentiated Disintegration in the European Union', (2018) *Journal of European Public Policy* 1154.

II. POST-BREXIT SECURITY AND DEFENCE COOPERATION AS DIFFERENTIATED DISINTEGRATION

While the concept of differentiation in European integration has its origins in the Tindemans Report of the mid-1970s,² it was not until the 1990s and the emergence of the politically salient opt-outs that research on this aspect of integration blossomed. Since the Maastricht Treaty, much has been written of the various forms of differentiation in the European Union³ with a precipitous increase in the scholarship also following the 2016 Brexit vote in the United Kingdom.⁴ Recent years have also witnessed a new focus within EU foreign, security and defence policy on differentiation, largely in response to the post-Brexit developments in this field, many of which – like Permanent Structured Cooperation (PESCO) – contain highly differentiated elements.⁵ Research on differentiation has focused on two broad areas. One is mapping out the diverse forms through which difference is embedded in European integration, a task which has produced numerous valuable typologies of differentiation, with distinctions between vertical/horizontal,⁶ external/internal,⁷ positive/negative,⁸ and integrative/disintegrative⁹ forms now part of the common parlance. Beyond these typologies, scholars have sought to understand the sources of differentiation, highlighting a variety of rationales for introducing difference. These include political rationales, like the ability to overcome

² B Leruth, S Gänzle and J Trondal, 'Introduction' in B Leruth, S Gänzle and J Trondal (eds) *The Routledge Handbook of Differentiation in the European Union* (Routledge 2022) 4.

³ R Adler-Nissen, *Opting Out of the European Union: Diplomacy, Sovereignty and European Integration*. (Cambridge University Press 2014); JE de Neve, 'The European Union? How Differentiated Integration is Reshaping the EU' (2007) *Journal of European Integration* 503; F Schimmelfennig, D Leuffen and B Rittberger, 'The European Union as a System of Differentiated Integration: Interdependence, Politicisation and Differentiation' (2015) *Journal of European Public Policy* 764; ACG Stubb, 'A Categorization of Differentiated Integration' (1996) *JComMarSt* 283.

⁴ P Cardwell, 'The End of Exceptionalism and a Strengthening of Coherence? Law and Legal Integration in the EU Post-Brexit' (2019) *JComMarSt* 1407; B Leruth, S Gänzle and J Trondal, 'Differentiated Integration and Disintegration in the EU after Brexit: Risks versus Opportunities' (2019) *JComMarSt* 1383; B Martill, 'Unity over Diversity? The Politics of Differentiated Integration after Brexit' (2021) *Journal of European Integration* 973; B De Witte, 'An Undivided Union? Differentiated Integration in Post-Brexit Times' (2018) *CMLRev* 227.

⁵ S Blockmans, 'Differentiation in CFSP' (2013) *Studia Diplomatica* 53; C Hoeffler, 'Differentiated Integration in CSDP Through Defence Market Integration' (2019) *European Review of International Studies* 43; J Howorth, 'Differentiation in Security and Defence Policy' (2019) *Comparative European Politics* 261; B Martill and M Sus, 'Growing apart Together? Brexit and the Dynamics of Differentiated Disintegration in Security and Defence' in B Leruth, S Gänzle and J Trondal (eds) *The Routledge Handbook of Differentiation in the European Union* cit. 696; Ø Svendsen, 'Brexit and the Future of EU Defence: A Practice Approach to Differentiated Defence Integration' (2019) *Journal of European Integration* 993.

⁶ F Schimmelfennig, D Leuffen and B Rittberger, 'The European Union as a System of Differentiated Integration: Interdependence, Politicisation and Differentiation' cit. 765.

⁷ S Lavenex, 'The External Face of Differentiated Integration: Third Country Participation in EU Sectoral Bodies' (2015) *Journal of European Public Policy* 836, 839.

⁸ J Howorth, 'Differentiation in Security and Defence Policy' cit. 261.

⁹ F Schimmelfennig, 'Brexit: Differentiated Disintegration in the European Union' cit. 1156.

blocking coalitions¹⁰ and the creation of pressure for laggards to “catch-up”,¹¹ as well as more efficiency-based rationales, including the avoidance of “straitjacketing” common rules,¹² the establishment of functional divisions-of-labour,¹³ and the ability to transform the EU’s external environment by co-opting external actors into Union policies.¹⁴

The Brexit vote on 23 June 2016, in which 52 per cent of UK citizens voted to leave the EU, represented a rather unique case in the politics of European (dis)integration. Never before, except in the highly distinct cases of Algeria and Greenland, had a member state sought to leave the EU, and especially not one with the strategic and economic clout of the UK. And yet questions of differentiation remained at the forefront of debates over Brexit.¹⁵ The UK had held the most opt-outs, and Cameron had sought further special treatment in the 2015-16 renegotiation, raising questions about whether exceptionalism was here the problem behind Brexit, or whether it was a potential solution to the difficulties it raised.¹⁶ Commensurate with the shock of the referendum vote, proposals for renewing the European project proliferated following the referendum, many of which – including some of the options presented by Commission President Juncker himself – raised the prospect of a more differentiated Union.¹⁷ Moreover, while the May government rejected existing forms of differentiation, elements of differentiation gradually crept into the UK’s asks in the Brexit negotiations, including sectoral access to the Single Market and British participation in EU policies and programmes.¹⁸ Indeed, such was the extent to which Brexit re-ignited discussion on differentiation that scholars began to speak of withdrawal a potential case of *differentiated disintegration*.¹⁹

Nowhere were the differentiated aspects of the future UK-EU relationship more evident than in the field of security and defence, where the May government proposed a deep and comprehensive partnership with Brussels to mitigate concern of a security gap

¹⁰ R Adler-Nissen, ‘Behind the Scenes of Differentiated Integration: Circumventing National Opt-Outs in Justice and Home Affairs’ (2009) *Journal of European Public Policy* 62.

¹¹ T Chopin and C Lequesne, ‘Differentiation as a Double-Edged Sword: Member States’ Practices and Brexit’ (2016) *International Affairs* 531, 534.

¹² CJ Bickerton, ‘The Limits of Differentiation: Capitalist Diversity and Labour Mobility as Drivers of Brexit’ (2019) *Comparative European Politics* 231.

¹³ S Blockmans and DM Crosson, ‘PESCO: A Force for Positive Integration in EU Defence’ (2021) *European Foreign Affairs Review* 87.

¹⁴ S Gstöhl, ‘Scandinavia and Switzerland: Small, Successful and Stubborn Towards the EU’ (2002) *Journal of European Public Policy* 529.

¹⁵ T Chopin and C Lequesne, ‘Differentiation as a Double-Edged Sword: Member States’ Practices and Brexit’ cit.

¹⁶ B Martill, ‘Unity over Diversity? The Politics of Differentiated Integration after Brexit’ cit. 976.

¹⁷ Communication COM(2017) 2025 final from the Commission of 1 March 2017, *White Paper on the Future of Europe* ec.europa.eu.

¹⁸ M Barnier, *My Secret Brexit Diary: A Glorious Illusion* (Polity 2021) 119.

¹⁹ B Leruth, S Gänzle and J Trondal, ‘Differentiated Integration and Disintegration in the EU after Brexit: Risks versus Opportunities’ cit.; F Schimmelfennig, ‘Brexit: Differentiated Disintegration in the European Union’ cit.

arising from UK withdrawal. Politically speaking, the Brexit vote was more about immigration and sovereignty than it was about security and defence policy,²⁰ although some referendum materials did speak of the threat of the (mythical) EU Army.²¹ But if citizens were uninterested in the politics of EU security policy, the politics of EU security policy were still interested in them, not least since the EU's frameworks for foreign, security and defence cooperation were part-and-parcel of Union membership and had developed much since the initiation of the Common Foreign and Security Policy (CFSP) and the Common Security and Defence Policy (CSDP) in the 1990s. British withdrawal from the EU meant the end of UK access to this system of foreign policymaking, but also the loss to the EU of the contributions of a powerful and wealthy member state with an unparalleled diplomatic network and significant institutional memberships.²² Seeking to mitigate any potential security gap arising from Brexit, the May government proposed in 2018 institutionalised security and defence collaboration between the UK and the EU. The proposals represented a form of external differentiation, in that they envisaged UK participation in EU structures and operations from outside the Union and sought to build upon (and expand) existing forms of third country participation in the CFSP/CSDP, thereby establishing a new model of security collaboration.

Notwithstanding the absence of specific legal formats for third party cooperation in the CFSP/CSDP beyond the classic Framework Participation Agreement (FPA), the prospects for differentiation in this domain were not all that bad. Brexit was forcing the UK out the door, with continued European security collaboration outside NATO requiring either non-EU solutions (such as French proposals for a European Intervention Initiative) or creative thinking that would allow the UK to remain connected to the CFSP/CSDP in some way. Politically, the format for European security collaboration was not a salient question in the UK, affording policymakers significant wiggle-room, while many EU member states – especially those in Central and Eastern Europe – feared UK disengagement and were keen to keep London onside. Strategically, continued collaboration made sense. Both sides regarded an agreement as being mutually beneficial, given the declining influence each side feared from the divorce. The UK, as a significant security and defence actor, had much to offer EU initiatives, with the ability to plug distinct strategic gaps (e.g. the provision of heavy airlift capabilities) and lend credibility to the Union's defence posture.²³ Geopolitical developments, including increased fears of US isolationism under the Trump Presidency, now justified fears of

²⁰ J Curtice, 'Why Leave Won the UK's Referendum' (2017) JComMarSt 19.

²¹ Bruges Group, 'EU Militarisation: A Dangerous Future' (2016) LSE Digital Library digital.library.lse.ac.uk.

²² B Martill and M Sus, 'Post-Brexit EU/UK Security Cooperation: NATO, CSDP+, or "French Connection"?' (2018) *British Journal of Politics and International Relations* 846,848.

²³ LD Turpin, 'UK-EU Military Cooperation and Brexit from a Neoclassical Realist Perspective: No Big Deal?' in C Baciu and J Doyle (eds) *Peace, Security and Defence Cooperation in Post-Brexit Europe: Risks and Opportunities?* (Springer 2019) 3, 13.

Russian aggression, and the gradual emergence of a more competitive global order, augured for greater collaboration between European states at the same time as Brexit was occurring. Security and defence cooperation, as a highly distinct domain of intergovernmental collaboration, was not subject to the same distributional dynamics as other policy areas, and its origins lay principally in the Anglo-French rapprochement that brought about the St Malo agreement,²⁴ rather than internal dynamics within the EU institutions, which played a coordinating role.²⁵

Looking at post-referendum security and defence dynamics – the asks of each side, the strategic interests – we can see clear evidence of both political expediency and functional necessity alongside proposals for externally differentiated arrangements. In other words, we see precisely those conditions that have in the past brought about agreement on the need for differentiated outcomes. And yet, as we now know, such an outcome was not realised, as the EU first moved to preclude the more differentiated aspects of the British proposals, and as May's successor, Boris Johnson, made the decision to remove negotiations on security and defence from the talks on the Trade and Cooperation Agreement. Why these proposals for differentiation failed, and what this tells us about the politics of differentiated *disintegration*, is the subject of the remainder of this article. Looking at the principal developments between the referendum and the time of writing (June 2022), we ask how debates over security and defence collaboration evolved and how they were affected (or unaffected) by major political developments. To answer the question, we draw on interviews conducted in London and Brussels during 2021-22 and on relevant policy documents from the EU and from HM Government.

We show that even though strategic incentives pointed clearly towards continued collaboration on the basis of a differentiated outcome, the evolution of the post-referendum political environment worked to preclude this outcome in three respects: First, the risk of contagion inherent in Brexit inculcated a marked sensitivity in Brussels to the question of *precedents* rather than beneficial distributional outcomes.²⁶ Second, the UK's desire to "cherry-pick" elements of EU membership – of which the security proposals were a part – linked security and defence questions to more problematic issues associated with softer variants of Brexit, both in the minds of UK voters and EU officials. Third, the failure of the negotiations over the Withdrawal Agreement brought about a shift to the right politically (the rise of the Johnson administration) in the UK that served to alter the UK's perception of its strategic interests. The UK case demonstrates that even though differentiation may have an underlying strategic rationale, changing political

²⁴ SC Hofmann and F Mérand, 'In Search of Lost Time: Memory-framing, Bilateral Identity-making, and European Security' (2020) *JComMarSt* 155, 163.

²⁵ H Dijkstra, 'Agenda-setting in the Common Security and Defence Policy: An Institutional Perspective' (2012) *Coop&Conflict* 454, 456.

²⁶ I Jurado, S León and S Walter, 'Brexit Dilemmas: Shaping Postwithdrawal Relations with a Leaving State' (2022) *International Organization* 273, 280.

circumstances, including fears of contagion and the linking together of discrete issue-areas, can undermine even efficient differentiated solutions.

III. THERESA MAY AND THE PROPOSED “SECURITY PARTNERSHIP”

The task of delivering on the mandate for Brexit established by the 23 June 2016 referendum fell to Theresa May, former UK Home Secretary and David Cameron’s successor as prime minister and leader of the Conservative Party. Though May had voted Remain in the referendum, she was credibly Eurosceptic in many respects and was widely respected within the party, making her a strong unity candidate for the leadership.²⁷ In the immediate months following the vote May made it clear that her government would deliver Brexit, and that this would not involve continued membership by the back door. In subsequent speeches in October 2016 and January 2017, May spelled out an agenda for Brexit that appeared to presage a harder break than many had envisaged, but which still aimed to reconcile leaving with unrestricted trade and continued cooperation.²⁸ The prime minister had committed early on to triggering Article 50 by early 2017 and, following the government’s defeat in the UK Supreme Court and the resulting passage of a bill in the UK Parliament, the UK notified the President of the European Council, Donald Tusk, of its intent to leave the EU on 29 March 2017.

The process for withdrawal was determined by art. 50 TEU and involved a two-year window for the completion of negotiations on a Withdrawal Agreement as well as a Political Declaration detailing arrangements for the future relationship. Security and defence issues were to be covered by the negotiations on the future relationship and would thus be part initially of the non-binding Political Declaration, and not the Withdrawal Agreement. Such phasing was encouraged in Brussels as it prevented the UK from using its economic and strategic clout to obtain concessions on budgetary contributions and citizens’ rights, issues that were deemed of paramount importance in Brussels and thus covered under the terms of withdrawal.²⁹ Nevertheless, once talks on the future relationship had been underway for several months, and following a tumultuous year in foreign policy in the UK,³⁰ the UK government unveiled proposals for a “deep and comprehensive” agreement between the UK and the EU covering foreign and security policy,³¹ some of the content of which had been prefigured in the earlier White Paper on Brexit.³²

²⁷ N Allen, “Brexit means Brexit”: Theresa May and Post-referendum British Politics’ (2018) *British Politics* 105, 107.

²⁸ A Seldon and R Newell, *May at 10: The Verdict* (Biteback 2020) 97.

²⁹ LA Schuette, ‘Forging Unity: European Commission Leadership in the Brexit Negotiations’ (2021) *JComMarketSt* 1142, 1152.

³⁰ A Seldon and R Newell, *May at 10* cit. 383.

³¹ HM Government, ‘Framework for the UK-EU Security Partnership’ (9 May 2018) GOV.UK www.gov.uk.

³² HM Government, ‘The United Kingdom’s Exit from and New Partnership with the European Union White Paper’ (2 February 2017) GOV.UK www.gov.uk.

The proposed *Framework for the UK-EU Security Partnership* set out in May 2018 envisaged structured cooperation between the UK and the EU at all levels, including political, diplomatic and administrative, and across the different domains of foreign policy, security, defence, and internal security, including information sharing and intelligence. As well as frequent contacts through which a joint approach could be coordinated, the UK also sought to be consulted on decisions or operations which it was to take part in, and thus to be involved in discussions over mandates and the formulation of policy before signing up to them. The document suggested that the UK would participate in select CSDP missions as well as projects emanating from the recent EU initiatives, including the European Defence Fund (EDF) and PESCO.³³ The proposals were noteworthy both in envisioning continued structured cooperation post-Brexit and also in signalling a renewed commitment towards the CSDP and imagining participation in new EU initiatives redolent of further integration in the defence field, to which the UK had historically been opposed. An accelerated timeframe was also pushed by the prime minister during 2018, on the basis that the worsening security environment necessitated swift action to mitigate any security gap brought about by Brexit.³⁴

Why did the May government seek not only continuity, but also signal a renewed interest in EU security and defence policy? Part of the reason is strategic. Brexit coincided with a period of heightened geopolitical tensions, coming as it did two years after Russia's annexation of the Crimean Peninsula and the onset of the separatist conflict in the Donbass, and one year after Russian intervention in the Syrian Civil War. It also occurred months before the election of Donald Trump as US President, whose vitriolic criticisms of levels of European defence spending and avoidance of a clear commitment to NATO cast a pall over the transatlantic security relationship.³⁵ Both the worsening external environment and the undermining of the status quo reinforced opinions across the continent (including in London) that the Europeans may need to take greater responsibility for their own security.

There was also a domestic political component to May's desire for an agreement on security, since it was an area which fell outside of the prime minister's interpretation of the mandate of the 2016 referendum, which she felt to have been principally about immigration and about sovereignty. Security and defence policy was an area where public salience was generally low, and which had taken a back-seat in the referendum campaign, making it a good candidate for the pursuit of continuity and further cooperation in spite of Brexit. Recall that May's overall strategy for implementing Brexit

³³ HM Government, 'Framework for the UK-EU Security Partnership' cit.

³⁴ BBC News, 'May: New Security Deal should be Effective by Next Year' (17 February 2018) BBC News www.bbc.co.uk.

³⁵ B Schreer, 'Trump, NATO and the Future of Europe's Defence' (2019) *The RUSI Journal* 10, 10.

sought to obtain the maximum autonomy from EU political institutions possibly whilst maintaining underlying high levels of underlying cooperation in specific policy areas.³⁶

The immediate context of the Brexit negotiations was also discernible in the UK's renewed enthusiasm. National governments across the EU had feared the strategic disengagement of the UK after the Brexit vote, especially those in Central and Eastern Europe which saw Britain as a partial guarantor against Russian aggression, and a security agreement offered a clear means of signalling this was not about to happen. Moreover, the offer of continued British participation held out the prospect of leverage, since this was an area where the UK had much to contribute.³⁷ While early ideas on the pro-Brexit right on bargaining the UK's security commitment were branded dangerous and were in any case hardly credible, a contribution to EU initiatives was different in that the UK could go without and would be offering more than the post-Brexit *status quo*.

In any eventuality, and in spite of the prime facie strategic interests on both sides in reaching agreement on mutually beneficial terms, May's proposed security agreement became victim to the broader politics of the Brexit negotiations, albeit that it would take until March 2020 (almost a year after May had left office) for this to become clear. From the EU's perspective, there was indeed considerable demand for a security agreement with the UK, given the credibility this would lend EU foreign and security policy. But Brussels was not keen on the nature of the proposed agreement, which it saw as an effort to undermine the EU's decision-making autonomy by allowing British representatives to be "in the room" when decisions were made, and to alter the underlying basis of third country participation.³⁸ In other words, they saw the UK approach as akin to "cherry picking", the criticism levelled at May's broader approach to Brexit characterized by selective engagement in aspects of the integration project the UK felt it would benefit from.³⁹ And they did not agree with May's proposal that a separate agreement could be negotiated prior to the formal talks on the future relationship, since (it was feared) this would allow the UK to leverage its strategic and economic clout over the contents of the Withdrawal Agreement.

If May's security agreement failed to obtain unconditional support from Brussels, it also proved more contentious at home than the prime minister had perhaps assumed. In the heightened atmosphere of the post-referendum UK, the idea that the UK would continue to participate in EU security and defence policies after Brexit was seized upon by pro-Brexit lobbies and by the right-wing media as an example of May's lack of commitment to Brexit. In many respects, given the lack of salience during the referendum

³⁶ F Figueira and B Martill, 'Bounded Rationality and the Brexit Negotiations: Why Britain Failed to Understand the EU' (2020) *Journal of European Public Policy* 1871, 1879.

³⁷ Author interview with former Cabinet Office official, 23 May 2022, on file with the author.

³⁸ Ø Svendsen, 'The Security and Defence Aspect of Brexit: Altering the Third Country Balance?' in M Riddervold, J Trondal and A Newsome (eds), *The Palgrave Handbook of EU Crises* (Palgrave Macmillan 2021) 525.

³⁹ B Martill and M Sus, 'When Politics Trumps Strategy: UK-EU Security Collaboration after Brexit' (2021) *International Political Science Review* 404, 407.

campaign, security and defence fell victim to the changing politics of Brexit, as political entrepreneurs (like Nigel Farage and Boris Johnson) sought to out-bid May on the right and as intra-party competition within the Conservatives created incentives for each side in the hard/soft Brexit debate to hold out for their favoured outcome.⁴⁰ Security and defence cooperation, just as it did for the EU, became associated with efforts - unpopular among Brexiters - to negotiate an outcome that would see the UK so closely tied to Brussels that it would be “Brexit in name only” (BRINO).⁴¹

IV. THE TRADE AND COOPERATION AGREEMENT AND BEYOND

The fate of the EU-UK security agreement, contained within the Political Declaration, was essentially tied to the fate of May's Withdrawal Agreement, which had been agreed with the European Council in November 2018, but which was facing considerable resistance domestically, such that many feared its passage in Parliament would be impossible. Indeed, on 15 January 2019 the UK Parliament rejected both the Withdrawal Agreement and Political Declaration by an unprecedented (in recent times) margin of 202-432, with two subsequent defeats following on 12 and 29 March after repeated attempts to renegotiate the Northern Ireland “backstop” with the EU. May's failure to pass her Brexit agreement exhausted her political capital and laid the ground for the rise of Johnson as Conservative leader and Prime Minister, a position he took up on 24 July 2019 following a successful leadership campaign.

Johnson had by this point become allied to the pro-Brexit wing of the Conservative Party, although he had wavered before supporting Leave in 2016, and was seen by many as a political opportunist. Nonetheless, Johnson's premiership is associated with harder designs on Brexit and a rejection of May's efforts to negotiate a closer relationship with Brussels. In government, under May, he voiced criticism of his predecessor's Brexit deal both within Cabinet until July 2018, and then (more vociferously) from outside following his resignation as Foreign Secretary. As Prime Minister, Johnson appointed several leading Brexiters to key posts, including Dominic Cummings, the Director of Vote Leave, and set out designs for a more distant future relationship that would maximise the UK's autonomy post-Brexit. Following an unsuccessful attempt to pass an amended Withdrawal Agreement in October 2019 with a workable timeframe, Johnson called a General Election for 12 December on which he campaigned (and won) on the slogan: “Get Brexit Done”.⁴² With an 80-seat majority

⁴⁰ T Heinkelmann-Wild and others, ‘Divided they Fail: The Politics of Wedge Issues and Brexit’ (2019) *Journal of European Public Policy* 723, 726; B Martill, ‘Prisoners of Their Own Device: Brexit as a Failed Negotiating Strategy’ (September 2021) *The British Journal of Politics and International Relations* 582, 592; T Quinn, N Allen and J Bartle, ‘Why Was There a Hard Brexit? The British Legislative Party System, Divided Majorities and the Incentives for Factionalism’ (5 March 2022) *Political Studies journals.sagepub.com*.

⁴¹ C Grey, *Brexit Unfolded: How No One Got What They Wanted (And Why They Were Never Going to)* (Biteback 2021) 9.

⁴² Conservative Party, ‘Get Brexit Done and Unleash Britain's Potential’ (December 2019) *Conservatives www.conservatives.com*.

for the Conservatives, the 2019 general election paved the way for the passage of the Withdrawal Agreement and Political Declaration in January 2020, with the UK entering a “transition period” until December of that year during which time an agreement on the future relationship – which would become the TCA – was to be negotiated.⁴³

Although the Political Declaration contained a section on security and defence cooperation,⁴⁴ in February 2020 the UK government announced that this area would not be included in the future negotiations, and that the government did not consider itself bound by the commitments in the Political Declaration.⁴⁵ There are several reasons why Johnson removed the security and defence provisions from the negotiations on the future relationship. One was to do with timing. The government had won the 2019 election on the basis of delivering Brexit as quickly as possible, and Johnson was keen not to extend the timeframe of the negotiations beyond the end of 2020. Making this tight deadline would be made easier without the need to negotiate on security as well as trade and governance issues. Another reason was political. Johnson’s ascendancy had placed Brexiters, including Foreign Secretary Dominic Raab, in powerful positions, and many of these individuals preferred a cleaner break from the EU and had been unenthusiastic with May’s desire to maintain strong ties to the Union. Given the government’s desire for a more autonomous Brexit deal, foreign and security policy appeared an easy victory, since the UK could fall back on national, bilateral and NATO cooperation with relative ease,⁴⁶ unlike in other policy domains where reversion to WTO rules would prove economically disastrous.

The EU response to the decision, which was communicated to Michel Barnier on 17 February 2020, was generally mixed, and ranged from cynicism towards the British rationale to disappointment that an agreement in this area would not be forthcoming. Barnier himself felt that the UK decision was a tactical move designed to establish a pattern in which London would dictate to Brussels how the negotiations were to proceed, yet the Chief Negotiator continued to insist a security agreement would remain on the table.⁴⁷ It was also suggested that London took the idea of a security agreement off the table as it was an “offensive EU interest” (i.e. something Brussels wanted) and would thus be rendered unavailable as an option in the talks.⁴⁸ Others felt that the UK decision had been motivated by the existence of bilateral agreements with the larger member states, but that it was still

⁴³ S Usherwood, ‘Our European Friends and Partners? Negotiating the Trade and Cooperation Agreement’ (2021) *JComMarSt* 115, 116.

⁴⁴ Johnson’s revised Political Declaration of October 2019 committed to establishing “the parameters of an ambitious, broad, deep and flexible partnership across trade and economic cooperation with a comprehensive and balanced Free Trade Agreement at its core, law enforcement and criminal justice, foreign policy, security and defence and wider areas of cooperation”. HM Government, ‘Political Declaration Setting out the Framework for the Future Relationship between the European Union and the United Kingdom’ (19 October 2019) GOV.UK www.gov.uk 2.

⁴⁵ M Barnier, *My Secret Brexit Diary: A Glorious Illusion* cit. 316.

⁴⁶ Author interview with Commission official, 6 July 2021, on file with the author.

⁴⁷ M Barnier, *My Secret Brexit Diary: A Glorious Illusion* cit. 324.

⁴⁸ Author interview with Commission official, 16 July 2021, on file with the author.

a shame, since these relationships would not cover all eventualities.⁴⁹ The British decision was viewed with regret in Brussels and viewed as a missed opportunity to highlight the importance of shared values, with the reason attributed to reasons of principle and politics on both sides.⁵⁰ Interestingly, while London's unilateral decision focused attention on the politics on the UK side, Brussels remained keen not to afford the UK the kind of observer status it was seeking in security forums,⁵¹ meaning the starting point for negotiations would have been a long way from the UK's insistence it not become a "rule taker".

From early 2020, then, the outcome of the negotiations in security and defence policy is "no deal", and an agreement on international security cooperation is never negotiated (although the TCA, which is agreed in time for the New Year, contains provisions on internal security matters and information sharing).⁵² And, as 2021 develops, it becomes clear that the UK's foreign policy orientation has been influenced in other ways by the Johnson government. In March 2021 the government published its long-awaited Integrated Review on Security and Defence, which spelled out a reduction in UK tank numbers and an increase in its nuclear arsenal, alongside an effort to re-articulate the UK's interests through the prism of "Global Britain".⁵³ The Review, perhaps tellingly, mentions the European Union only once, noting that the UK "will enjoy constructive and productive relationships with our neighbours in the European Union, based on mutual respect for sovereignty and the UK's freedom to do things differently, economically and politically, where that suits our interests".⁵⁴ In July 2021, the government initiated significant cuts to the Overseas Development Aid (ODA) budget from the target of 0.7 per cent of GDP to 0.5 per cent, culling a number of development initiatives in the process.⁵⁵ The shift was ostensible a response to the fiscal challenge of Covid, but it dovetailed with longstanding Conservative priorities and had been foreshadowed in June 2020 with the merger of the Foreign and Commonwealth Office with the Department for International Development.⁵⁶

On 15 September 2021 the AUKUS pact between the US, UK and Australia was announced. The agreement, which would see American nuclear submarines sold to Australia (and undercut a previous deal signed by the French government) was seen as a

⁴⁹ Author interview with Commission official, 6 July 2021 cit.

⁵⁰ Author interview with Commission official, 1 July 2021, on file with the author.

⁵¹ Author interview with former Conservative Party official, 1 July 2021, on file with the author.

⁵² European Commission, Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part [2021].

⁵³ HM Government, 'Global Britain in a Competitive Age: the Integrated Review of Security, Defence, Development and Foreign Policy' (16 March 2021) GOV.UK www.gov.uk.

⁵⁴ HM Government, 'Global Britain in a Competitive Age: The Integrated Review of Security, Defence, Development and Foreign Policy' cit. 6.

⁵⁵ BBC News, 'Foreign Aid: Who Will be Hit by the UK Government Cuts?' (8 November 2021) BBC News www.bbc.co.uk.

⁵⁶ BBC News, 'International Development and Foreign Office to Merge' (16 June 2020) BBC News www.bbc.co.uk.

means of further containing China whilst contributing to US defence-industrial interests and discursively bolstering the UK's Global Britain credentials, albeit at the expense of Franco-British relations which were strained by the announcement.⁵⁷ While not absent, UK strategic interests were less evidently served by the AUKUS pact than those of its other members, demonstrating just how seriously London took the task of performing its newfound "global" status, even when this contributed to a denigration of the bilateral relationships that had facilitated its disengagement from EU foreign and security policy. Independence was also performed through UK trade policy, with new trade agreements post-Brexit – notably with Japan in October 2020⁵⁸ – touted as vindicating the UK's decision to go it alone, even as critics pointed out the terms of Britain's new trade agreements were worse than those the EU had managed to obtain. Thus did the government turn "the widely perceived policy 'problem' of having to replicate EU trade agreements with third parties into a success story".⁵⁹

For British foreign policy, then, the Brexit process has brought about considerable change, even though this has occurred indirectly through the change of the Brexiter worldview during the May years and its subsequent ascendance under Johnson. Interestingly, and perhaps counter to the expectations of some, the finalization of the negotiations did not bring an end to the tense atmosphere between both sides, with continued mistrust between both sides, ongoing (to the time of writing) spats over the implementation of the Northern Ireland protocol and elements of the TCA (especially concerning fisheries), and continuing efforts on both sides of the English Channel to convey a sense of moral victory coming at the expense of the other side.⁶⁰

V. THE WAR IN UKRAINE: A GAME CHANGER?

The Russian invasion of Ukraine, beginning on 24 February 2022 after almost a year of preparatory mobilization, has shocked Europe out of its post-Cold War complacency and brought military conflict once again back to the continent, resulting in a protracted ongoing conflict in the region. Both the EU and its member states and the now independent UK have been active in efforts to support Ukraine and resist Moscow's encroachment on the country's sovereignty, alongside the United States and NATO, whilst at the same time seeking to avoid direct conflict with Russia. EU member states have taken in millions of Ukrainian refugees, sent civilian and military equipment to Kiev,

⁵⁷ BBC News, 'AUKUS Pact: France and US Seek to Mend Rift' (23 September 2021) BBC News www.bbc.co.uk.

⁵⁸ HM Government, 'UK-Japan Comprehensive Economic Partnership Agreement' (23 October 2020) GOV.UK www.gov.uk.

⁵⁹ T Heron and G Siles-Brügge, 'UK-US Trade Relations and 'Global Britain' (2021) *The Political Quarterly* 732, 736.

⁶⁰ P Beaumont, 'Brexit Futures: Between a Model and a Martyr: An Addendum to "Brexit and EU Legitimation"' (17 May 2020) *New Perspectives* 238, 239.

supported collective financing through the European Peace Facility of 2 billion euro (as of May 2022),⁶¹ and imposed wide-ranging sanctions on individuals and firms close to the Russian state. Efforts at the EU level to work towards a common strategic culture resulted in the publication of the Strategic Compass in March 2022, much of which has focused on meeting challenge on the Eastern flank.⁶² The UK, for its part, has stepped up its pre-existing cooperation with Baltic, Nordic and Central East European states⁶³, provided sizable military contributions to the Ukrainian effort, offered bilateral security guarantees to Finland and Sweden,⁶⁴ and enacted its own package of sanctions.

That the conflict has brought about considerable change in the strategic priorities of several of European countries. Germany, long the quintessential civilian power, and a country whose energy relationship with Russia has raised eyebrows in recent years, has – under SPD Chancellor Olaf Scholz – committed to a radical turnabout in its willingness to export heavy weaponry and has committed to increase its defence spending precipitously in response to the crisis.⁶⁵ Sweden and Finland, two of the EU's neutral (and thus non-NATO) member states, both of which are worryingly proximate to Russia, have applied to join the Atlantic alliance in a major political about-turn for both states.⁶⁶ Denmark, which secured an opt-out from the defence elements of the CFSP during the negotiation of the Maastricht Treaty, and which has thus been outside the CSDP since its inception (as well as more recent initiatives like PESCO), voted 67 per cent in favour of scrapping the opt-out in a national referendum on 1 June 2022 in response to the unfolding crisis.⁶⁷

The extent of change in European states in response to the crisis raises the question of whether a rapprochement in EU-UK security and defence collaboration might be on the cards in the aftermath of the crisis. After all, both sides have indicated future talks could indeed take place, and the strategic benefits of coordination between the UK and the EU would seem to be at their greatest given the intensity of the current geostrategic crisis. In other words, if not *now*, then *when*? While it is early days still in the conflict, the prospects for a formal agreement would seem slim. Diplomatic relations are, in the security field at least, at a positive ebb, with informal coordination taking place through existing diplomatic networks as well as a joint meeting of the EU's Foreign Affairs Council and third countries,

⁶¹ European Council, *EU Support to Ukraine: Council Agrees on Further Increase of Support Under the European Peace Facility* www.consilium.europa.eu.

⁶² M Sus, 'The EU's Strategic Compass as the Manual for the EU Learning the Language of Power, but What Kind of Power?' (22 April 2022) UK in a Changing Europe ukandeu.ac.uk.

⁶³ Ministry of Defence, 'Polish-British Military Cooperation Strengthens NATO's Eastern Flank' (17 March 2022) Gov.pl www.gov.pl.

⁶⁴ HM Government, 'Prime Minister Signs New Assurances to Bolster European Security' (11 May 2022) GOV.UK www.gov.uk.

⁶⁵ J Kampfner, 'To the Kremlin's Chagrin, Germany is Back in the Game' (6 March 2022) The Times www.thetimes.co.uk.

⁶⁶ J Henley, 'Sweden and Finland Agree to Submit Nato Applications, Say Reports' (25 April 2022) The Guardian www.theguardian.com.

⁶⁷ E Schaart, 'Denmark Votes to Scrap EU Defense Opt-out' (1 June 2022) Politico www.politico.eu.

including the UK, the US, and Canada. But there is no sign of any movement towards a more comprehensive agreement, and coordination remains informal and ad hoc.

The absence of any significant turnaround in EU-UK security collaboration is perhaps not all that surprising, given the aforementioned impediments to an agreement, the fact that the Johnson administration remains in power in the UK, and continued disagreement on the implementation of the Northern Ireland Protocol. It is also a product of some significant background factors in the security and defence field. For one thing, it is very difficult indeed to engage in structured negotiations during period of crisis management, since existing diplomatic bandwidth is taken up by the need to respond to the immediate crisis at hand, and since locking in agreements during crises may not be the best times to agree the structure of the relationship going forwards. Indeed, the UK's intention to sign a trilateral agreement with Poland and Ukraine was upended, paradoxically perhaps, by the onset of the Ukraine crisis.⁶⁸ Moreover, in the broader European defence environment, the EU is far from the only player, with a major role in almost all aspects of defence for national, bilateral and NATO platforms outside of the EU frameworks, even where they involve a majority of EU member states. The significance of these non-EU mechanisms allows both the UK and the EU to forego a formal agreement without a major security gap from emerging (although not, as mentioned above, without significant efficiency losses). The current crisis would seem to show that even under conditions of intense strategic peril, the difficult politics of differentiated disintegration remain.

VI. CONCLUSION

This *Article* has examined the relationship between the UK and the EU in the security and defence domain since the 2016 Brexit referendum. Despite much initial enthusiasm for an agreement, British proposals – based on a distinct form of external differentiation – were received coolly by Brussels before themselves being unwound in the UK following the ascendancy of Boris Johnson as Prime Minister. In many respects, the strategic rationale for such a differentiated outcome still exists, since the world has become more insecure since the UK referendum, since security and defence collaboration provided valuable efficiencies, and since the UK is such a significant actor in the defence field. What undermined the prospects of a differentiated outcome was concern in Brussels about setting a damaging precedent, the inability of actors to ring-fence security and defence concerns from broader worries about UK cherry-picking, and the seismic political changes in the UK brought about by the failure of May's Withdrawal Agreement. In other words, it was the changing political circumstances which unwound an otherwise strategically valuable agreement. Even the Russian invasion of Ukraine in February 2022 failed to motivate both sides to agree forms of security and defence collaboration,

⁶⁸ M Williams and G Baczynska, 'Britain, Poland and Ukraine in Cooperation Talks over Russian Threat' (1 February 2022) Reuters www.reuters.com.

although ad hoc cooperation has taken place, and the impact of the war is still playing out across the continent.

Given the continued interest in differentiation post-Brexit, the growing interest in applying the concept to the security and defence field, and the current focus on understanding the distinct dynamics of differentiated *disintegration*, the findings of this study should be of broader relevance also. Studies of differentiation have generally focused on the political incentives for allowing special treatment, even where it introduces greater complexity in the resulting policy regime. But whether political conditions are conducive to differentiation depend fundamentally on the direction of travel. Withdrawing from the Union risks creating damaging precedents and also undermines – rather than bolsters – EU credibility, making even mutually beneficial agreements politically problematic. Existing studies of differentiated disintegration note the challenges of withdrawal, but arguably underestimate the extent to which this can prevent the emergence of differentiated outcomes. Our findings also highlight the difficulty of relying upon issue-specific dynamics as an indicator of the prospects for differentiation. Much of the existing literature assumes questions of political expediency and underlying efficiencies operate on the basis of specific policy areas, but our findings show that in situations where the broader relationship is at stake, relevant issue-specific dynamics are collapsed, such that arenas like security and defence where distributive concerns are at the margins can quickly become part of a broader and more competitive game.