Is Gazprom Pushing East?

Exploring Gazprom´s Behavioural Patterns in the Asian Market

Hedvika Koďousková and Martin Jirušek

This article examines whether the Russian Eastern Energy Policy (EEP) corresponds to the widely shared perception that Russia uses energy resources as part of its domestic and foreign policy goals and to assess the role of Gazprom in Russia's overall governmental strategy. For this purpose, we have developed an ideal energy policy model grounded in the theoretical premises of realism—a so-called strategic approach to energy security. We will specify major features of strategic behaviour and their manifestations in reality (indicators), which are then searched in the Russian EEP in general and in Sino-Russian gas supply negotiations in particular. Research has shown that the Russian EEP largely corresponds with the theoretical model. One distinctive feature of this policy includes strengthening the role of state in the energy sector through Russia's state-owned energy companies, to the detriment of foreign players. The Russian government has also significantly interfered in Gazprom's external energy policy, especially after Putin's 2012 reelection. However, Moscow's policy framework is not the only factor which affects the future direction of Gazprom, as the company cannot be considered to be solely an instrument of the Russian government. Despite governmental pressure during negotiations with China, Gazprom has repeatedly demonstrated its determination to gain adequate profits from projects running eastward. The company also took into account both its position vis-à-vis domestic and overseas rivals as well as negative consequences in case of loss of future markets, if negotiations with China would be unsuccessful.

Hedvika Koďousková and Martin Jirušek (2016), 'Is Gazprom Pushing East? Exploring Gazprom´s Behavioural Patterns in the Asian Market,' *Central European Journal of International and Security Studies* 10, no. 1: 110-133.

Keywords: Russia, Eastern Energy Policy, Strategic Approach to Energy Security, Gazprom, Power of Siberia

Introduction

In the 1990s and the beginning of the 2000s, Russia made practically no major efforts to diversify its oil and gas exports beyond Europe. Except for some preliminary agreements between Russian private players and potential Asian consumers, there were no gas purchase and sale contracts finalized during this time period, nor any major infrastructure constructed that would connect Russia's vast, but untapped, Eastern Siberian and Far Eastern gas resources with the Asian market. Only since the consolidation of Vladimir Putin's control over the development of the state's energy sector, has the Eastern dimension in Russian energy policy gained governmental attention.[1] This is apparent from official state proclamations made in 2003, which confirmed the gradual reorientation of the Russian federation to the East.[2]

The questions this article aims to answer are the following: Does the Russian Eastern Energy Policy (EEP) correspond to the widely shared perception that Russia uses its energy resources as part of its domestic and foreign policy goals? What is the role of Gazprom in the overall Russian EEP and to what strategy does it subscribe?

The goal here is to reveal Gazprom's behavioural patterns towards the Asian market and to find out to what extent Gazprom can be perceived as the government's tool. For this purpose, we have developed an ideal model grounded in the theoretical premises of realism—a so-called 'strategic approach.' The aim is not, however, to employ a case study to support or reject the premises of the model; rather, it is to apply the model to the work with a case study. To what extent does the case study correspond to the ideal type? This will allow for a comprehensive evaluation of the Russian EEP and, in a broader context, contribute to better understanding of a major actor´s energy policies at the beginning of a new century, when, according to many, efforts to nationalise resources took place again.[3]

Major features of strategic behaviour and their manifestations in reality (indicators) found in Russian EEP are summarised in the table below. The strategic approach to energy security assumes that the social world consists of actors with fixed identities, whose interactions are driven by material structures (such as the distribution of natural

resources) that function as constraints or mediating forces. It considers energy security to be a crucial part of national security, and which economic growth and, consequently, political and military state power, substantially depend on. The state is the most important actor, which strives to secure its national interests using all aspects of its power and competes for relative gains with other actors in a zero-sum game. En-

Table 1. Features and Indicators of the Strategic Approach to Energy Security

Feature	*Indicator*
Energy resources perceived as strategically important and deserving special treatment	Resource nationalising efforts: asserting greater national control over production, transit routes and distribution - restrictions placed on influence of homeland and foreign private actors
Strong role of the state - state regulates economic activities in favour of its own interests	Russian state representatives actively supporting state-owned energy enterprises and their activities in a respective country
Relative gains – one's gain is another's loss (not favouring cooperation)	Efforts to gain majority in a market
	Efforts to eliminate competitive suppliers
Relying on bilateral relations/agreements	Preference of long-term bilateral agreements and/or take-or-pay type contracts
	Diminishing importance and influence of multilateral regimes
Emphasis on strategic issues (over economic logic)	Taking economically dubious steps in order to maintain a position in a market

ergy resources are therefore not considered traditional market commodities, but rather raw materials with strategic value, legitimate instruments of foreign policy with direct repercussions for the distribution of power in the international system. Energy resources are used as tools of the state (directly or through State Owned Enterprises – SOEs) to achieve specific domestic and foreign policy aims. A strategic understanding focused on a producer country would therefore expect a resource nationalist regime, where the government opts for state (as opposed to market-based) energy policies. The government exercises control over resource industries through selective policy interventions.

The economic costs of the strategy are not material as long as the strategy strengthens the state's energy security goals.[4]

The Context: Sino-Russian Gas Supply Negotiations

Before assessing the occurrence or absence of the strategic approach indicators defined above, a short overview will be given of the most important deals in the region—both realised deals and potential ones. To set the scene, and to illustrate the character of the Russian EEP and the role of Gazprom, we have chosen the case of Sino-Russian gas supplies negotiations, which is understood to be the foundation of Gazprom's major presence in the Asian gas market.[5]

As far as Russian gas supplies to China are concerned, the very first plans can be traced back to the 1990's. It was in that time when the idea of Kovykta deposit development, one of the largest undeveloped gas fields in the Irkutsk region in Eastern Siberia, was introduced. Through its 62 per cent stake in RUSSIA Petroleum, TNK-BP was the ultimate owner of the Kovykta field, and had long-term plans to export gas to China and possibly to South Korea.

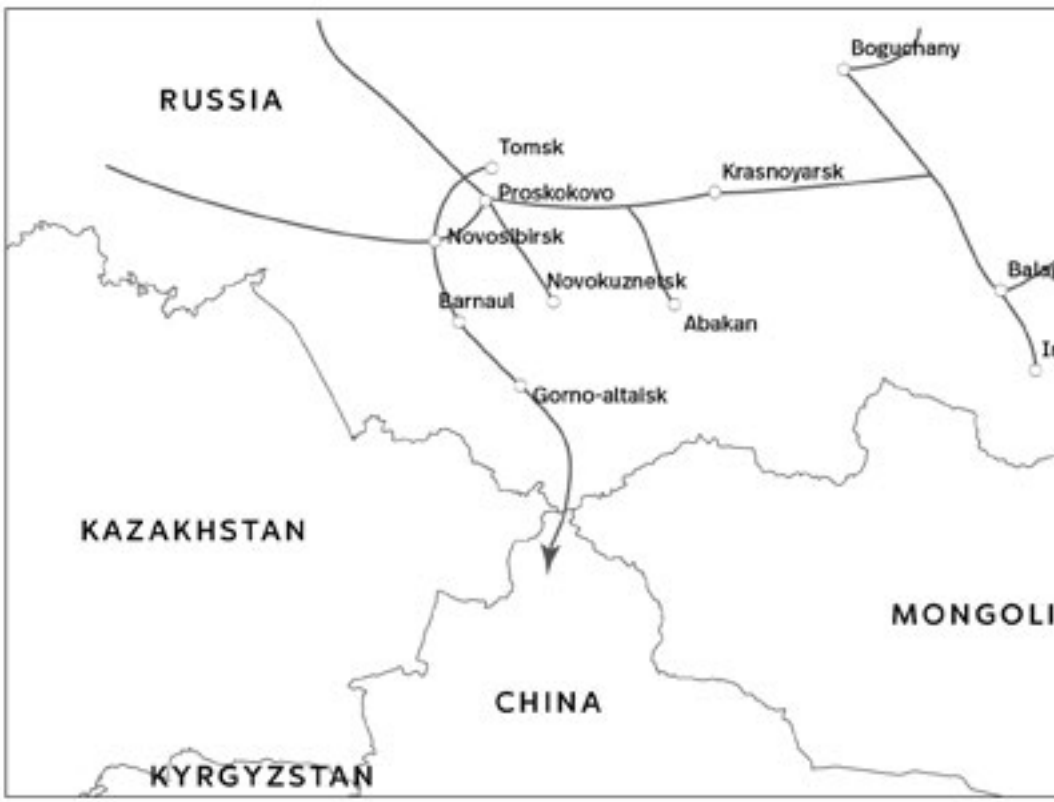
However, the aim of the Russian state to gain control over the production and export of Russian Eastern Siberian and the Far East gas resources heavily influenced these plans. In line with Vladimir Putin's strategy to take control of the Russian energy sector (see below), Gazprom gained a majority in the most important gas assets in the region intended for export to the Asian market, including Kovykta in 2011. Moreover, the government authorised the implementation of the Eastern Gas Program (EGP) in 2007, thus exerting control over exports to China and other Asia-Pacific countries.

Because of different preferences and disputes over Kovykta's ownership between TNK-BP and Gazprom at the beginning of the 2000s – which were not resolved until 2011 – the option of a gas pipeline running from Eastern Siberia to China (eastern route) was shelved. Instead, Gazprom's potential alternative plan was the construction of the Altai pipeline from Western Siberia (the gas fields Urengoi and Nadym) to China's Xinjiang region (western route) (see map.) The question of gas imports has remained an ever-present subject of negotiation between China and Russia.

In May 2014 in Shanghai, after a decade of negotiations, Gazprom and CNPC finally signed a purchase and sales contract on gas supply via the eastern route pipeline. The plan envisaged the construction of

the Power of Siberia (PofS) pipeline, a unified gas transmission system from the Yakutia gas production centre (the Chayanda gas field), which should convey gas via Khabarovsk to Vladivostok, on the Pacific coast. A pipeline spur to China from the border point of Blagoveshchensk is part of the project. The Vladivostok LNG terminal is to be constructed at the end of the gas pipeline in the Khasan District of the Primorye Territory (see map). The terminal should comprise three production trains with an annual capacity of 5 mt/y each. With a length of 4000 km the PofS is expected to have an annual capacity of 61 bcm: 38 bcm is planned for China, 9 bcm for the domestic market and 14 bcm as an LNG to other Asian customers.[6]

Map 1. Eastern and Western Gas Pipeline Routes from Russia to China

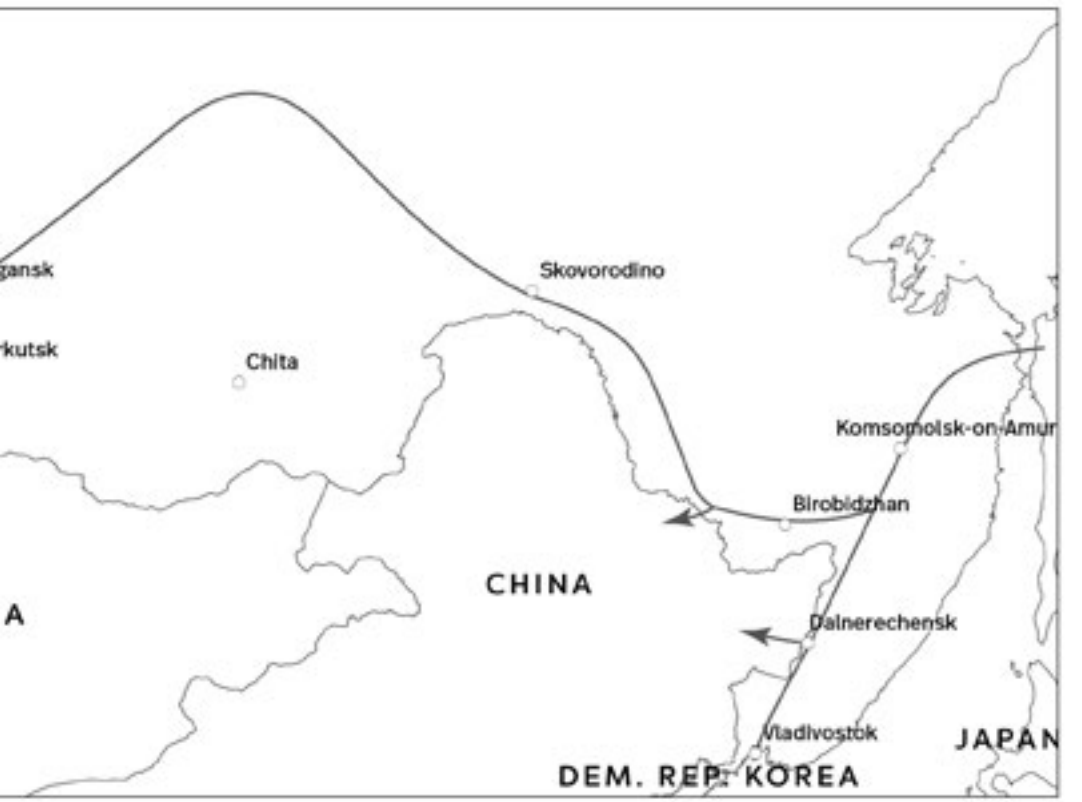


Indicators Assessment

Based on the Russian EEP in general, and the case of Sino-Russian gas supply negotiations in particular, the presence or absence of the indicators stated in Table 1 is assessed. The outcomes of the research can be found below.

Strong Resource Nationalism Evident in the Russian EEP

There is strong empirical evidence of resource nationalism in the case of the Russian EEP. After Vladimir Putin's presidential inauguration, an effort was made to ensure strong state control over the distribution of



energy resources in the Russian territory and subsequently over the production, processing and transportation of oil and gas from Eastern Russia to Asian customers.[7] As Sevastyanov puts it: During his second term, Putin introduced his New Energy Policy (NEP) based on the following principles: a) diversification of customers; b) sustaining sovereign control over strategic decisions on oil and gas exploration and transit routes; c) signing long-term contracts with foreigners to develop Russian natural resources; and d) regulating foreign access to these resources.[8] As far as foreign investments are concerned, new legislation was approved and signed by Putin before his second term ended. According to law, any foreign purchase of a controlling stake in a state-owned or private company in strategic sectors, or a purchase of more than 10% in larger oil and gas deposits, are subject to approval by a governmental commission.[9] This signifies a limited role of foreign investors as minor partners in Russian state-owned companies.

As we can see in the case of the Russian EEP, in accordance with the new strategy the Russian state both restored its control over important oil and gas fields in the Eastern parts of Russia and significantly limited the operations of private domestic players and foreign international oil companies (IOCs). From 2004-2008, the Russian state managed to restore its majority ownership in Gazprom and gained control over about half of the oil industry. Control was established over important oil and gas fields in Eastern parts of Russia.[10] In most cases, the state did not directly acquire their ownership, but rather acted through its state-owned companies—Rosneft, Transneft and Gazprom.

Gazprom has gradually increased its dominant position in the development of Eastern Siberia and Far East energy resources and in the construction of major export projects at the expense of domestic and foreign private investors and with direct repercussions to the preliminary energy agreements between itself and prospective Asian customers. For example, in 2006 strong pressure was applied to one of the largest foreign investors in Russia—the Sakhalin Energy Investment Corporation (SEIC). Foreign investors were accused of environmental degradation and forced to pay fines and fees to cover the environmental costs of the production and export project to Sakhalin Island. Shell and the other foreign companies involved decided to renegotiate the ownership terms of the Sakhalin II LNG project and to sign a new protocol to the project agreement with Gazprom.[11] According to the April 2007 purchase and sale agreement, Gazprom acquired 50% plus

one share, while foreign investors decreased the number of their total project shares. By this acquisition, Gazprom entered the LNG business focused on the Asian market. The accusation of environmental degradation was recalled by publication of the Sakhalin II project environmental report in October 2007, stating that it 'meets Russian and international regulatory requirements related to environmental and process safety.'[12]

Similar development occurred in the case of Kovykta's gas field ownership in 2006. Russian regulatory agencies threatened to revoke the license for Kovykta (due to alleged adverse environmental impact and non-compliance with the terms of the license given to RUSIA Petroleum).[13] BP was forced, under pressure, to bring Gazprom into the project. Control over Kovykta became the subject of dispute between TNK-BP and Gazprom. In 2007, TNK-BP agreed to sell the gas field to Gazprom for 1 billion USD. However, due to the economic crisis and financial difficulties faced by Gazprom, the deal was never finalized. In 2010 the bankruptcy of RUSIA Petroleum, a TNK-BP subsidiary, was announced. In 2011, the company was auctioned off to Gazprom, which bid more than 700 million USD.[14] Special treatment occurred in case of the Chayanda gas field. In 2007, this field was added to Russia's list of "strategic" assets, so, in 2008, Gazprom was awarded the rights to develop it without an auction.[15]

To summarise, Gazprom has gained a majority in the most important assets in the region intended for gas export to Asian market: small fields in the Krasnoiarsk region; the Chayandiskoye field in Yakutia; the Kovyktinskoye field in the Irkutsk region; the Sakhalin II and Sakhalin III projects (with promising production from the Kirinsky bloc); and fields on the west coast of the Kamchatka peninsula (see map). Moreover, in September 2007, the company was authorized by the government to implement the state-run 'Development Program for an integrated gas production, transportation and supply system in Eastern Siberia and the Far East' (Eastern Gas Program – EGP), and thus also to oversee the export of gas to China and other Asia-Pacific countries.[16] By gaining assets and securing a monopoly on export, Gazprom has built a strong position to fulfil governmental energy policy goals in Eastern Siberia and the Far East, often to the detriment of domestic and foreign private investors.

As far as the activities of Asian companies in Russia are concerned, China has been rather unsuccessful in terms of obtaining equity share

in the gas sector, despite diplomatic activities of China's political leadership and the growing cooperation between Chinese and Russian NOCs in last decade.[17] This was in contradiction to what China achieved, for example, in Turkmenistan.[18] Obviously, if China could obtain equity gas in Russia, it would be very much welcomed by China's NOCs.[19] Due to Gazprom's policies however, Chinese national energy champions failed to obtain any assets in the Gazprom-owned fields. One possible explanation of why China has been rather unsuccessful in acquiring stakes in the Russian gas sector derives from the aforementioned principles of Putin's NEP. Moscow will give foreign investors limited access to its major deposits only in exchange for allowing Russian companies access to foreign pipelines and retail networks.[20] However, the idea of opening its own gas sector to Russian investment was not viewed favourably in China, even if Gazprom would have shown interest in investing in the Chinese gas network, natural gas treatment plants, and power generation.[21] Although cooperation negotiations were held also with other Asian countries, mainly Japan, the only example of a reciprocal agreement is that of Vietnam. The joint companies Gazpromviet and Vietgazprom were established to pursue exploration and production activities in Russia and Vietnam, respectively.[22] The fact that this is the only case that has resulted in a joint partnership indicates that Russia is probably open to cooperate in partnerships, though only with countries over which it has political and economic superiority.

Russian Representatives Actively Involved in EEP Implementation

Russian state representatives have been heavily involved in Gazprom's Eastern energy strategy, development and implementation. It is apparent when we compare Gazprom's behaviour in the 2000's, when it mostly followed its own agenda – which differed in many respects from the Eastern strategy asserted by Putin – and the situation after 2012, when strong pressure was put on the company to proceed with the EGP and to conclude the gas deal with China.

Around 2004, when the Russian Eastern dimension strategy was being articulated, Gazprom's reasons for not focusing on prospective Eastern customers were basically twofold. Firstly, it did not possess the assets in Eastern Siberia crucial for supplying potential customers in Eastern markets (see above). Secondly, it was against Gazprom's preferences. At that time, Gazprom was more interested in building

export pipelines and joining projects that were already underway than in commissioning new fields. Thus, when Gazprom was designing the EGP and studying different options for developing the region, it chose the cheapest alternatives with minimum export risks.[23] Gazprom's low-cost strategy can be illustrated by several examples. It planned to preserve the Kovykta gas field from 2015 until 2020 and the Chayanda gas field until 2030. If a gas pipeline from Kovykta would be built, Gazprom intended it to be constructed westward, as its priorities were to ensure continuation of supplies to its major customers in Europe.[24] Gazprom considered an alternative plan to supply China: the construction of the Altai pipeline (western route) from Western Siberian gas fields to China's Xinjiang region. This pipeline would mean an extension of the existing pipeline infrastructure in Western Siberia southwards to the short Sino-Russian border between Kazakhstan and Mongolia (see map). The Altai project would allow Gazprom to re-allocate more gas to China in case the demand in Europe decreased, thus effectively connecting the two markets. This project would give Gazprom swing supplier status.[25] Only in 2011, when the Kovykta's gas field ownership was effectively resolved, was it conceded that gas might be imported into China not from Western, but from Eastern Siberia—from the Kovykta or Chayanda gas fields.[26] Gazprom was also unwilling to close gas deals which would not bring an adequate profit. It insisted on linking the price of potential gas supplies to China with the profits generated in Europe (see below). As China was not willing to accept the price, negotiations were stuck.

Is Gazprom Pushing East?

However, since May 2012, when Vladimir Putin was re-elected Russian president, strong governmental pressure has been on Gazprom to make progress in Sino-Russian gas supplies negotiations. During his final address to the Russian Duma in April 2012, and many times later, Putin mentioned US shale gas production, which might substantially change supply and demand patterns on a global scale. As Putin put it: 'Our country's energy companies absolutely have to be ready right now to meet this challenge.' He said that Russia must be prepared for 'any external shocks' and 'a new wave of technological change' that was 'changing the configuration of global markets.'[27]

Putin was convinced that Sino-Russian cooperation in the gas sector could help Russia establish its position in Asian markets and successfully face changing geopolitical conditions. Ahead of Putin's state visit to China, Putin said: 'Our [Sino-Russian] joint projects have a big

impact in shaping the global energy market's entire configuration.'[28] In an official press statement following Sino-Russian talks, Putin claimed that Russia was 'ready to intensify the program of cooperation between the Russian Far East, Eastern Siberia and Northeast China.' According to Putin: 'Agreements in the energy sphere are being implemented with significant progress.'[29] A similar statement was made in Putin's speech at the St. Petersburg International Economic Forum, in June 2012: 'We will substantially expand the energy sector's resource base over the coming years, with offshore development of new oil and gas fields, including the ones in Eastern Siberia, Yamal, and Sakhalin. We are developing infrastructure and building a series of new energy transport routes, including routes that will supply the Asia-Pacific region countries.'[30] Apparently, there was no lack of political will to proceed with the EGP at the beginning of Putin's third presidential term.

Following official proclamations, further negotiations between senior Gazprom and CNPC representatives were held in May 2012, and again in July and September of that year, to discuss terms and conditions of Russian gas supplies to China.[31] However, despite the optimistic proclamations of Russian political leaders, the biggest obstacle for practical implementation of Sino-Russian gas cooperation—disagreements over price—persisted.

In October 2012, a new Presidential Commission for Strategic Development of the Fuel and Energy Sector and Environmental Security (the Commission)—established a few months earlier with Putin as chair and Gazprom CEO Alexey Miller as one of the Commission's member—met for the first time.[32] At the meeting, Putin again admitted that changing conditions in international gas markets are not favourable for Russia: 'European countries are working to create a common gas market … There is tough competition among gas exporters … In the US, new technology is used to increase the cost-effectiveness of shale gas production […] an important global trend is the growth of trade in LNG.' Taking this into consideration, Russia has to be 'very prudent in its actions and at the same time very flexible.'[33]

The perceived need for flexibility and a quick response most likely led to the political push Gazprom received from the country's leaders. At a Presidential commission meeting in October 2012, Gazprom was asked to 'conduct the necessary analysis and report on the main principles of its gas export policy.' The Energy Ministry was asked to make adjustments to the gas industry development plan until 2030 and the EGP, and a report on the results to the Commission.[34]

A working meeting with Gazprom CEO Miller followed the same month, where Putin again urged Gazprom to proceed with EGP implementation.[35] Putin described the Chayanda and Kovykta as fields of international importance in terms of their reserves, and reminded Gazprom about the previous agreement that stated: 'Once the work there begins, we [Russia] will carry out our plans to develop new transport possibilities.' Putin stressed that Asia-Pacific focused export centres should be set up and LNG exports established. In his response, Miller assured the president that the Chayanda, Kovykta and Krasnoyarsk centres would be developed as well as a pipeline from Yakutia to Vladivostok via Khabarovsk. Soon afterwards, Gazprom officially announced a final investment decision about the establishment of a large gas production centre in Yakutia and a pipeline running to Vladivostok (named "Power of Siberia" based on a public contest in December).[36]

Surprisingly, the decision made no mention of a spur to China (see map). Negotiations regarding the LNG terminal in Vladivostok and cooperation on the Sakhalin II LNG project were held between Gazprom and its Japanese counterpart instead.[37] This lead to discussions about the commercial logic of the project without the participation of China.[38] Also, in 2013, Putin intervened in the development of the Eastern Siberia and Far East projects. Interestingly enough, the first official visit made by newly elected Chinese president Xi Jinping was to Moscow in March 2013. In the press statement following the Russian-Chinese talks, 'breakthrough agreements' on additional oil supplies, pipeline construction and the import of the Russian LNG were announced.[39]

Another memorandum of understanding (MofU) between Gazprom and CNPC followed, regarding cooperation in pipeline gas deliveries to China via the eastern route.[40] However, the price of exported gas remained a problem.[41] A final deal was held up by Gazprom's determination to match the returns it made on European deliveries. Gazprom remained reluctant to accept any price formation mechanism that would lead to lesser profits, suggesting that it still hoped for parity with its European oil-linked prices.[42] In June 2013, Gazprom even suggested it would rather make no agreement with China and abandon the Power of Siberia project than to do an unfavourable deal—again preferring its economic interests.[43]

In the presence of both presidents, a deal defining the volumes, start of deliveries, payments, take-or-pay amendment and other issues was signed in September 2013, leaving the question of price as the last thing to agree on.[44] A plan to sign the final supply deal by year-end was an-

nounced. However, despite the fact that in October 2013 the parties seemed to reach final agreement on the price formation mechanism, the deadline of final agreement was postponed until Putin's visit to China scheduled for May 2014;[45] the contract was finally signed after more than ten years of mutual talks. Once again, the personality of the Russian president played a strong role in pushing the negotiations ahead. As Putin said in reply to journalists questions following a visit to China: 'Through mutual compromises we managed to settle on contract terms which satisfy both sides.'[46]

Which particular compromises were made when the Sino-Russian gas deal was signed in May is a matter of speculation. What is apparent is Putin's determination to both finalise a gas supply deal with China and put pressure on Gazprom to proceed with its practical implementation. Putin's speech at a meeting of the Commission, which took place in early June 2014, confirmed this assumption. According to the president, Russia had to build the necessary infrastructure, which will bring its gas exports to the Asia-Pacific region. The government and the Ministry of Finance should look into the possibility of 'topping up Gazprom's capitalisation to the cost of the new infrastructure construction.' Putin expressed his belief that the contracts are long-term and will definitely pay off in the future and that this kind of practice would enable Russia to cement its position in the biggest and fastest-growing world markets.[47] This reasserts a strong political will to implement the country's Eastern energy policy goals, even if commercial logic of particular projects is debatable, at least in the short or mid-term. The government is willing to support Gazprom with a long-term vision of many benefits the Eastern gas programme could bring. As such, an indicator presuming Russian state representatives involved in energy policy implementation, influencing and supporting state-owned energy companies definitely has to be confirmed in the case of the Sino-Russian gas supplies negotiations.

On the other hand, the relationship between Gazprom and the Russian government is not one-sided. The above mentioned concessions (together with other financial incentives the project will most probably get) also point to Gazprom's influence upon the government and the company's determination to negotiate some relief in exchange for the not-so-favourable deal concluded with China. As the next research outcomes reveal, in its strategies, Gazprom not only reflects governmental interests, but also flexibly adjusts its conduct based on the op-

portunities and obstacles present in both domestic and international markets.

Gazprom is Determined to Limit Competitive Suppliers and Keep a Majority in the Market

The objectives of Gazprom are to restrict manoeuvrability of competitive suppliers, keep its dominance inside Russia and gain strong presence on the Asian gas market. This is apparent from several changes Gazprom made to its export strategy in 2014 and early 2015.

Before the Sino-Russian gas deal was signed (May 2014), two other Russian companies had planned to develop major LNG projects focusing on sales to the Asian markets—Rosneft with the Sakhalin I. project and Novatek with the Yamal LNG. These projects gained political support at the end of 2013, when the Russian government discontinued Gazprom's monopoly over LNG exports, which it had held since 2006.[48] Whereas Gazprom's monopoly on pipeline gas export remained untouched, an enacted amendment package to the Gas Export Law enabled Rosneft and Novatek to launch their LNG projects. Ultimately, this meant that if Gazprom failed to penetrate the lucrative Asian market in the next few years, it would soon face competitive supplies from independent producers as well as the Russian state-owned oil company.[49]

Taking into account the growing governmental support for its rivals, Gazprom stepped up to show its determination to keep its dominant role in the East. Soon after the new law on LNG exports took effect, Gazprom revived the idea of the Sakhalin II LNG plant expansion. Gazprom had opposed this idea for a long time and rather preferred its own LNG terminal planned in Vladivostok.[50] In February 2014, however, Gazprom and one of its project partners, Shell, signed a memorandum-roadmap for the third train of Sakhalin II LNG project.[51] Later, Gazprom's Board of Directors even declared the LNG market to be one of the company's core businesses.[52] Thus we may assume that governmental pressure, together with alternatives developed by its domestic rivals, pushed Gazprom to give more attention to various export possibilities, including LNG.

However, in the autumn another shift in Gazprom's export strategy was announced. In September 2014, at a meeting between Putin and Gazprom's CEO Alexey Miller, the western route to China was dis-

cussed. Gazprom declared that this option was even easier to build and operate than the eastern route, as it uses the existing gas transmission system in Western Siberia and there is no need to build new gas chemical or gas processing facilities, which are largely missing in the East. Miller praised the potential of this pipeline, as it could easily and quickly raise the volume of gas exported to China.[53] In October 2014, Gazprom announced that it was ready to consider the possibility of pipeline gas exports to China as an alternative to the Vladivostok LNG project,[54] and at the end of the year the Gazprom Management Committee again promoted this route as an alternative option for gas supplies to China.[55] A framework agreement on gas supplies via the western route was signed with CNCP as part of the APEC summit in Beijing. Under the agreement, Gazprom will transmit natural gas to China for 30 years with gas deliveries gradually increasing to 30 bcm/y.[56]

As Gazprom is more experienced in building pipeline infrastructure than LNG export facilities, it is not surprising that it revisited negotiations with China about the western route, once the deal on export via the eastern pipeline was concluded in May 2014. However, there were also other factors, which most probably led to changes in its export strategy. Reconsideration of the LNG projects could be also ascribed to anti-Russian sanctions (the first round imposed in March 2014) that might complicate Gazprom's subsidiaries to gain key technologies and components as well as necessary funds from western banks and investors. With limited financial resources, pipelines to China have been given priority. Moreover, the US and the EU sanctions hit Gazprom's domestic competitors as well as their alternative LNG projects. Novatek was included in the US sanctions based on Gennady Timchenko's stake in the company. Rosneft, under Igor Sechin, was added to the US sanctions list in July and to the EU list in September 2014, which has ultimately limited its access to capital markets and according to some, could affect the company's development plans in Siberia.[57] The changing situation thus influenced Gazprom's relative position on the domestic market with likely consequences to its reconsideration of export strategies. Consequently, the LNG export option has not been entirely abandoned; it is nevertheless apparent that they have not been given priority. In February 2015, more than a year after a MofU with Shell was signed, Gazprom presented nothing but vague proclamations that it intended to construct new LNG plants and that it considered the possibility of a Sakhalin II plant expansion.[58] Uncertainty engulfs the

Vladivostok LNG project as well. In addition, the character of gas deals signed with China clearly demonstrates Gazprom's preference for bilateral long-term agreements and take-or-pay type contracts with its customers, confirming the presence of the assessed indicators.

Table 2. Changes in Gazprom´s Export Strategy in 2014 and Early 2015

Date	*Event*
December 2013	Gazprom´s monopoly over LNG exports discontinued Gazprom approves long-opposed idea of Sakhalin II LNG expansion
March 2014	LNG market declared one of the company´s core businesses First round of anti-Russian sanctions imposed/impact on Gazprom and its domestic competitors
Autumn 2014	Pipeline gas export to China announced as alternative to the Vladivostok LNG, Framework Agreement on gas supplies via the western route signed with CNPC
May 2015	Heads of Agreement for gas supply via the western route signed with CNPC, Uncertainty engulfs Gazprom´s LNG projects

Taking Economically Dubious Measures to Maintain a Market Position

The presence or absence of the last indicator is hard to evaluate, as details of the Sino-Russian gas deal have not been publicly disclosed. Nevertheless, we can conclude that Gazprom preferred long-term goals over short and mid-term benefits, based on general characteristics of the Power of Siberia project and from what has been made public.

For many reasons, the PofS pipeline is not a project which would bring Gazprom easy money. Firstly, the exploration and production in East Siberia and the Far East is not an easy task, largely because of the harsh climatic and geological conditions in these areas. Basic infrastructure is largely missing. The major gas fields in Irkutsk and Yakutia are rich in resources valuable to the chemical industry. Therefore, in

addition to the construction of the fields, it is necessary to establish chemical enterprises and maintain storage facilities, which further increase initial costs.[59] All of these contribute to the fact that the PofS is a very expensive project, even for a company such as Gazprom. Its price was estimated to be around 55 or 60 billion USD when the Sino-Russian gas deal was signed; however, changing conditions (anti-Russian sanctions, devaluation of the rouble, etc.) could cause the final price to become even higher.

Secondly, the gas price finally provided to China is most likely a compromise between what was preferred by Gazprom and what was achievable under the current circumstances (governmental pressure, domestic and foreign competition, etc.). Whereas Gazprom had been determined to match the price for China with the returns it made on European deliveries (see notes), which, according to many, made economic sense,[60] the final gas price level that was agreed on is most likely more favourable to China and brings less profit to Gazprom. The result is that most of the financial analyses available found the project barely profitable[61] whereas other, more optimistic, assessments from the end of 2014 expected a relatively low level of return compared to what is usually expected.[62]

Finally, Gazprom's financial situation is pressing. The sanctions against Russia, limited funds from Western banks and investors and a sharp decrease in oil prices—which were half the price in 2015 compared to May 2014—led to speculations on whether Gazprom will be able to proceed with the project[63] if it will be postponed (and the western or another route from the Far East will be built first), or if it will be abandoned, as in case of the South Stream pipeline. Despite such difficulties, the PofS project is a flagship in establishing a Russian (Gazprom) position on the Asian market. From the Russian perspective, it makes sense to take advantage of huge, yet untapped, East Siberian gas resources for both internal and external reasons. If Gazprom manages to develop these resources in a timely manner, and proceed with infrastructure build-up, it can find an opportunity to grow and will have a new source of income in Asia in addition to the important, but stagnating, European market. If Gazprom manages to deal with extraordinary costs in launching its Eastern exports, the EGP could bring long-term returns by adding new export markets to the company's portfolio. This would also consolidate Gazprom's position in the domestic market vis-à-vis its competitors. By the time of writing this

article, Gazprom had given many public assurances that it would fulfil its obligations regarding the PofS.[64] The likely implementation of the project is also supported by the fact that in June 2015, CNPC launched the construction of the Chinese section of the gas pipeline.[65]

Conclusion

The assessment provided above has revealed that the Russian Eastern Energy Policy largely corresponds with the strategic approach to energy security. One distinctive feature of this policy includes strengthening the role of the state in the energy sector through its state-owned energy companies. During Putin's second term in office (2004-2008), Gazprom gradually gained a majority in the most important gas assets in Eastern Siberia and the Far East intended for export to Asia. In 2007, the company was authorised by the government to implement the state-run Eastern Gas Program. Strong resource nationalism is apparent. The legislation is not favourable to foreign investments and Gazprom has not invited partners from abroad to joint development of its fields (there is only one exception in the case of Vietnam, where Gazprom has a clearly superior position, and is therefore not afraid to give up a minority stake in the asset). When foreign companies had some stakes, their participation was intentionally diminished down after 2004. The Russian government also significantly interfered in Gazprom's external energy policy, especially after Putin's re-election in 2012. It can be assumed that pressure from the government was one of the factors that contributed to the conclusion of a long-awaited gas deal with China in May 2014.

However, Moscow's policy framework is not the only factor which will affect the future actions of the company. Furthermore, Gazprom cannot be considered merely an instrument that the Russian government uses to reach its political goals. During negotiations on gas supplies to China, Gazprom insisted on economic rationale to be maintained in the deal. It repeatedly demonstrated its determination to gain an adequate profit from the project (reasonable gas prices). The compromise solution, which was most likely eventually reached, and that is probably more favourable for China than for Gazprom, cannot be considered merely the result of political pressure on Gazprom from the Russian government. The company also took into account its position vis-à-vis its rivals in the domestic and international markets, con-

sidering potential negative consequences in case of loss of future markets, if negotiations with China would be unsuccessful, and vice versa, the possibility of future growth and profits that exports to the East could bring. Several changes in Gazprom's export strategy, which were observed in 2014 and in early 2015, indicate that the company flexibly adjusts its steps based on opportunities and obstacles in the domestic arena and regional gas markets, and carefully monitors its relative position searching for optimal solution. This brings us to the conclusion that despite the usual assessment of the Russian EEP as being driven solely by governmental domestic and foreign policy goals, Gazprom´s own interest must also be taken into account.

HEDVIKA KOĎOUSKOVÁ is an assistant professor at the Department of International Relations and European Studies, Faculty of Social Studies, Masaryk University and a researcher both at the International Institute of Political Science (IIPS) and at the Centre for Energy Studies (CENERS). She can be contacted at *kodouskova@mail.muni.cz*

MARTIN JIRUŠEK is a specialist at the International Institute of Political Science, lecturer of the Energy Security Studies program at the Department of international Relations and European Studies, Faculty of Social Studies, Masaryk University and member of an independent research platform Center for Energy Studies. He can be contacted at *jirusek.martin@mail.muni.cz*

The text was prepared within the specific research project of Masaryk University "Europe in changing international environment II" (MUNI/A/1113/2015).

Notes

1 James Henderson (2011), The Pricing Debate over Russian Gas Exports to China, Oxford: Oxford Institute for Energy Studies; Fiona Hill and Bobo Lo (2013), ´Putin's Pivot,´ <http://www.foreignaffairs.com/articles/139617/fiona-hill-and-bobo-lo/putins-pivot> (accessed 10 September 2015); Miroslav Mareš and Martin Laryš (2012), ´Oil and natural gas in Russia's eastern energy strategy: Dream or reality?´ Energy Policy 50, pp. 436-448; Nina Poussenkova (2009), ´Russia´s future customers: Asia and beyond,´ in

Jeronim Perovic, and Robert W. Orttung (ed.) Russian Energy Power and Foreing Relations, New York: Routledge, pp. 132-154; Sergey Sevastyanov (2008), ´The More Assertive and Pragmatic New Energy Policy in Putin´s Russia,´ East Asia 25, pp. 35-55.

2 Ministry of Energy of the Russian Federation [ME] (2003), The Summary of the Energy Strategy of Russia for the Period up to 2020, Moscow; ME (2010), Energy Strategy of Russia for the Period up to 2030, Moscow; ME (2014), Energetičeskaja Strategija Rossii na period do 2035 goda, Moscow; MFA (2013), ´Concept of the Foreign Policy of the Russian Federation,´ <http://www.mid.ru/brp_4.nsf/0/76389FEC168189ED44257B2E0039B16D> (accessed 10 September 2015).

3 See e.g. Aad Correljé and Coby van der Linde (2006). 'Energy Supply Security and Geopolitics: A European Perspective,' Energy Policy 34 (5), pp. 532-543; Michael T. Klare (2009). 'There Will Be Blood: Political Violence, Regional Warfare, and the Risk of Great-Power Conflict over Contested Energy Sources,' in Gal Luft, and Anne Korin (ed.) Energy Security Challenges for the 21st Century: A Reference Handbook, Santa Barbara, California: ABC-CLIO, pp. 44-64; Leverett, Flynt 2009. 'Resource Mercantilism and the Militarization of Resource Management: Rising Asia and the Future of American Primacy in the Persian Gulf,' In Daniel Moran, and James A. Russell (ed.) Energy Security and Global Politics: the Militarization of Resource Management, New York: Routledge, pp. 211-242; Gal Luft and Anne Korin (2009), Energy security challenges for the 21st century: a reference handbook, California: Praeger.

4 See e.g. Lynne Chester (2009), ´Conceptualising energy security and making explicit its polysemic nature,´ Energy Policy 38, pp. 887–895; Correljé and van der Linde (2006); Felix Ciută (2010), ´Conceptual Notes on Energy Security: Total or Banal Security?´ Security Dialogue 41(2), pp. 123-144; Roland Dannreuther (2003), ´Asian security and China's energy needs,´ International Relations of the Asia-Pacific 3, pp. 197-219; Michael T. Klare (2005), Blood and Oil: The Dangers and Consequences of America's Growing Dependency on Imported Petroleum, New York: Holt Paperbacks; Luft and Korin (2009); Daniel Moran and James A. Russell (2009), Energy Security and Global Politics: The Militarization of Resource Management, New York: Routledge; Paul Stevens (2008), ´National oil companies and international oil companies in the Middle East: Under the shadow of government and the resource nationalism cycle,´ Journal of World Energy Law & Business 1(1), pp. 5-30; Øystein Tunsjø (2010), ´Hedging against oil dependency: New perspectives on China´s energy security policy,´ International Relations 24 (1), pp. 25-45; Jeffrey D. Wilson (2014), ´Resource Powers? Minerals, Energy and the Rise of the BRICS,´ paper presented to SPERI Annual Conference, University of Sheffield, 1 July 2014.

5 Gazprom also entered the LNG business in 2007 by acquiring 50 per cent plus one share in the Sakhalin II LNG project; however, the company is historically more focused on supplying gas through pipelines.

6 Gazprom (2015), ´Eastern Gas Program,´ <http://www.gazprom.com/about/production/projects/east-program/> (accessed 10 September 2015).

7 In fact, the development of East Siberia and the Far East should serve many governmental goals, which cover not only economic objectives (e. g. substitution for declining production in traditional areas, need to bolster Russian national budget…), but also geopolitical considerations. Among them the development of geographically distant, culturally specific, economically less developed and politically more unstable regions is pursued internally, together with external goal of growing Russian leverage vis-à-vis well diversified interconnected export markets, see e.g. Poussenkova (2009), p. 136; Mareš and Laryš (2012), p. 438; André Mommen (2007), ´China's Hunger for Oil: The Russian Connection,´ Journal of Developing Societies 23, pp. 435–466.

8 Sevastyanov (2008), p. 36; similarly Vitaly Kozyrev (2008), ´China´s Continental Energy Strategy: Russia and Central Asia,´ in Gabriel B. Collins (et al.) China´s Energy Strategy: The Impact on Bejing's Maritime Policies, Annapolis: Naval Institute Press.

9 Heiko Pleines (2009), Developing Russia´s oil and gas industry: what role for the state? in Jeronim Perovic, and Robert W. Orttung (ed.) Russian Energy Power and Foreing Relations, New York: Routledge, pp. 71-86.

10 Petra Kuchyňková (2014), ´Politický význam ruského energetického sektoru (Political importance of Russian energy sector),´ in Hedvika Koďousková and Petra Kuchyňková and Anna Leshchenko (ed) Energetická bezpečnost asijských zemí a ruské federace (Energy security of Asian countries and the Russian Federation), Brno: MUNIPress, pp. 187-220; Poussenkova (2009), p. 138; Pleines (2009), p. 78.

11 Sevastyanov (2008), p. 43.

12 Gazprom (2015), ´Sakhalin II.´ <http://www.gazprom.com/about/production/projects/lng/sakhalin2/> (accessed 10 September 2015).

13 Sevastyanov (2008), p. 43.

14 UPI (2011), ´Gazprom buys TNK-BP assets,´ <http://www.upi.com/Business_News/Energy-Resources/2011/03/02/Gazprom-buys-TNK-BP-asset/UPI-20071299075990/> (accessed 10 September 2015).

15 Reuters (2008), ´Russia Gazprom secures Chayanda gas field,´ Reuters, 14 April, available at: <http://www.reuters.com/article/2008/04/14/gazprom-chayanda-idUSLI43436412008041 4>

16 Stephen Blank (2006), Russo-Chinese Energy Relations: Politics in Command, London: GMB Publishing Ltd, p. 30-31; Gazpromviet (2015), ´About the company,´ <http://www.gazpromviet.com/en/> (accessed 10 September 2015); Kozyrev (2008), p. 215.

17 An exception is a 20 per cent stake in the Yamal LNG project, which the Chinese CNPC managed to acquire from one of Gazprom's domestic rivals—the Novatek company.

18 See e.g. Susann Handke (2006), Securing and Fuelling China´s Ascent to Power, Hague: Clingendael International Energy Programme; Kozyrev (2008), pp. 202-251.

19 Equity gas allows Chinese companies to decrease losses caused by the difference between imported and domestic gas prices, see e.g. Nobuyuki Higashi (2009), Natural Gas in China: Market evolution and strategy, Paris:

International Energy Agency, Working Paper Series.

20 Sevastyanov (2008), p. 36.

21 Keun-Woo Paik (2012), Sino-Russian Oil and Gas Cooperation: The Reality and Implications. Oxford: Oxford University Press, pp. 352, 354. For more info about changes in the Chinese position in the Sino-Russian gas supply negotiations, see e.g. Hedvika Koďousková, and Petr Ocelík. (2015). China´s Oil and Gas Policy towards Russia. Geopolitics of Energy 37 (8), pp. 2-16.

22 Gazprom (2015), ´Gazprom in Vietnam,´ http://www.gazprom.com/about/production/projects/deposits/vietnam/ (accessed 10 September 2015)

23 Poussenkova (2009), p. 145-146.

24 Philip Andrews-Speed and Roland Dannreuther (2011), China, Oil and Global Politics, New York: Routledge, p. 121; Mommen (2007) p. 446.

25 See e.g. Paik (2012), pp. 360-361.

26 Interfax (2011), ´Gazprom may start discussing sending gas to China via eastern route,´ Interfax, 07 October, available at: < http://www.interfax.com/newsinf.asp?id=280675>

27 EurActiv (2012), ´Putin fears shale gas competition,´ EurActiv, 18 April, available at: <http://www.euractiv.com/energy/russia-fears-shale-gas-competition-news-512108>

28 President of Russia (2012), ´Press statements following Russian-Chinese talks,´ http://en.kremlin.ru/events/president/transcripts/15552 (5 June, 2012).

29 President of Russia (2012), ´Russia and China: New Horizons for Cooperation,´ http://en.kremlin.ru/events/president/news/15547 (5 June, 2012).

30 President of Russia (2012), ´St Petersburg International Economic Forum,´ http://en.kremlin.ru/events/president/news/15709 (21 June, 2012).

31 Gazprom (2012), ´Gazprom and CNPC discuss oil and gas supplies to China,´ http://www.gazprom.com/press/news/2012/april/article134319/ (17 April, 2012); Gazprom (2012), ´Gazprom and CNPC discuss prospects for Russian gas supplies to China,´ http://www.gazprom.com/press/news/2012/july/article139904/ (17 July, 2012); Gazprom (2012), ´Alexey Miller discusses Russian gas supplies to China with Chinese partners,´ http://www.gazprom.com/press/news/2012/september/article144786/ (27 September, 2012).

32 President of Russia (2012), ´Establishment of the Presidential Commission for Strategic Development of the Fuel and Energy Sector and Environmental Security,´ http://en.kremlin.ru/events/president/news/15656 (15 June 2012).

33 President of Russia (2012), ´Meeting of the Commission for Strategic Development of the Fuel and Energy Sector and Environmental Security,´ http://en.kremlin.ru/events/president/news/16702 (23 October, 2012)

34 President of Russia (23 October, 2012).

35 President of Russia (2012), ´Vladimir Putin had a working meeting with Gazprom CEO Alexei Miller,´ http://en.kremlin.ru/events/president/news/16731 (29 October, 2012).

36 Gazprom (2012), ´Final investment decision on Chayandinskoye field and Yakutia- Khabarovsk – Vladivostok gas pipeline adopted,´ http://www.gaz-

prom.com/press/news/2012/october/article147386/ (30 October 2012).

37 Gazprom (2012), ´Gazprom and Japan to keep strengthening cooperation,´ http://www.gazprom.com/press/news/2012/november/article149618/ (26 November 2012).

38 See e.g. James Henderson and Jonathan Stern (2014), The Potential Impact on Asia Gas Markets of Russia´s Eastern Gas Strategy, Oxford: Oxford Institute for Energy Studies.

39 President of Russia (2013), ´Press statements following Russian-Chinese talks,´ http://en.kremlin.ru/events/president/transcripts/17728 (22 March 2013).

40 Gazprom (2013), ´Gazprom and China sign Memorandum of Understanding for gas deliveries via eastern route,´ http://www.gazprom.com/press/news/2013/march/article158716/ (22 March 2013).

41 Melissa Akin (2013), ´Russia, China find compromise on gas deal after 15 year standoff,´ Reuters, 25 March, available at: http://www.reuters.com/article/2013/03/25/russia-china-gas-idUSL5NoCH1IH20130325

42 Akin (2013).

43 James Henderson (2014), ´Asia: a Potential New Outlet for Russian Pipeline Gas,´ in James Henderson and Simon Pirani (ed.) The Russian Gas Matrix, Oxford: Oxford University Press, pp. 216-245.

44 Alexei Anishchuk (2013), ´Gazprom, CNPC agree terms of big gas deal, except price,´ Reuters, 5 September, available at: http://www.reuters.com/article/2013/09/05/us-gazprom-cnpc-export-idUSBRE9840TH20130905

45 Gazprom (2014), ´Gazprom and CNPC getting ready to sign contract for Russian gas supply,´ http://www.gazprom.com/press/news/2014/january/article182957/ (22 January 2014).

46 President of Russia (2014), ´Replies to journalists' questions following a visit to China,´ http://en.kremlin.ru/events/president/news/21064 (21 May 2014).

47 President of Russia (2014). ´Meeting of the Commission for Strategic Development of the Fuel and Energy Sector and Environmental Security,´ http://en.kremlin.ru/events/president/news/45831 (4 June 2014).

48 Reuters (2013), ´Russia's Putin approves LNG exports for Gazprom's rivals,´ Reuters, 2 December, available at: http://www.reuters.com/article/2013/12/02/russia-lng-idUSL5NoJH0W420131202

49 Henderson and Stern (2014)

50 Reuters (2013), ´Gazprom, Shell agree on Sakhalin-2 LNG plant expansion,´ Reuters, 23 December, available at: http://uk.reuters.com/article/2013/12/23/gazprom-shell-sakhalin-idUKL6NoK22KT20131223

51 Gazprom (2014), ´Gazprom and Shell sign roadmap for third train of Sakhalin II project,´ http://www.gazprom.com/press/news/2014/february/article184850/ (23 February 2014).

52 Gazprom (2014), ´LNG market development – one of core businesses,´ http://www.gazprom.com/press/news/2014/march/article187031/ (26 March 2014).

53 President of Russia (2014), ´Meeting with Gazprom CEO Alexei Miller,´ http://en.kremlin.ru/events/president/news/46633 (17 September 2014).

54 Gazprom (2014), ´Intergovernmental Agreement for Russian gas supply to

China to be ready soon,' http://www.gazprom.com/press/news/2014/october/article203332/ (10 October 2014).

55 Gazprom (2014), 'Gazprom boosting gas industry in eastern Russia,' http://www.gazprom.com/press/news/2014/december/article210197/ (11 December 2014).

56 Gazprom (2014), 'Russia and China sign Framework Agreement on gas supplies via western route,' http://www.gazprom.com/press/news/2014/november/article205898/ (9 November 2014).

57 BBC (2014), 'Ukraine crisis: Russia and sanctions,' BBC, 19 December, available at: http://www.bbc.com/news/world-europe-26672800

58 Gazprom (2015), 'Gazprom expanding new export routes,' http://www.gazprom.com/press/news/2015/february/article218460/?from=mail (24 February 2015).

59 Poussenkova (2009), p. 143.

60 Simonov in Mareš and Laryš (2012), p. 443-444.

61 Szymon Kardaś (2014), 'The eastern 'partnership' of gas. Gazprom and CNPC strike a deal on gas supplies to China,' OSW, 16 June 16, available at: http://www.osw.waw.pl/en/publikacje/osw-commentary/2014-06-16/eastern-partnership-gas-gazprom-and-cnpc-strike-a-deal-gas

62 Most of the analyses start their calculations at the price of a gas supply deal worth 400 billion USD. According to Kardaś: A comparison of the announced contract value and the total contracted supply gives an average price equal to 387 USD per 1000 m3. This would be similar to the prices set in Gazprom's contracts with European customers (the average price in 2013 was 380 USD per 1000 m3). Gas prices at this level could mean that Gazprom would have to carry out supplies to China below the break-even point (The Yakutia fields can remain profitable if the gas price on Russian-Chinese border is not lower than 400 USD). Even if fiscal preferences from the government are imposed and the break-even point is lowered, the project would barely be profitable. Other assessments are more optimistic. As Henderson explains, the project is not a disaster for Gazprom, even if the level of the return is relatively low (and the price of gas much more favourable for China). The return for Gazprom, based on a total capital expenditure of 60 billion USD, is calculated by this author as being in the range of 7-8 per cent real. This is relatively low compared to a likely minimum expected return of 10 per cent real, but is arguably acceptable for a project that can be the foundation for Russia's EGP; see Henderson (2014), p. 3-4; Kardaś (2014).

63 Denis Pinchuk (et al) (2015), 'Russia could postpone gas pipe to China touted by Putin,' Reuters, 18 March, available at: http://www.reuters.com/article/2015/03/18/us-russia-gas-china-idUSKBN0ME19120150318

64 Gazprom (2015), 'Gazprom's projects in Russian East running within schedule,' http://www.gazprom.com/press/news/2015/june/article229496/ (16 June 2015).

65 CNPC (2015), 'Construction of Chinese part of the Eastern Route of Russia-China Gas Pipeline commenced,' http://www.cnpc.com.cn/en/nr2015/201506/e95714f5bcf94ebeacfa2060a996adf0.shtml (30 June 2015).

The Implementation of Sanctions Imposed by the European Union

A Comparison of the Czech and Slovak Republics' Compliance

Radka Druláková and Pavel Přikryl

This study focuses on the Czech Republic and the Slovak Republic, two countries which do not carry out autonomous sanctions, but are, nevertheless, obliged to implement sanctions adopted by international organisations because of their membership commitments. The study explores the fulfilment of their commitments to sanctions policy arising from the membership in the EU. Theories of compliance are deployed and two phases needed for proper implementation of EU norms are analysed—at the stage of transposition of legislation introducing formal compliance and at the stage of practical implementation discussing behavioural compliance. This work seeks to determine the two countries' levels of conformity or the differences between them in this respect during their implementation of sanctions imposed by the EU by comparing their legislative (formal compliance) and institutional/administrative tools (behavioural compliance). The differences between the analysed countries are considerable both in temporal variations of transposition and in quality of practical implementation.

Keywords: Sanctions Policy, Formal Compliance, Behavioural Compliance European Union, Czech Republic, Slovak Republic

Radka Druláková and Pavel Přikryl (2016), 'The Implementation of Sanctions Imposed by the European Union: A Comparison of the Czech and Slovak Republics' Compliance,' *Central European Journal of International and Security Studies* 10, no. 1: 134-160.

Introduction

Both the Czech Republic and the Slovak Republic have certain general characteristics of small states in terms of their environmental behaviour, which is the basic presumption and starting point for their comparison here. From empirical observations, it is evident that small countries usually emphasise the principles of international law and other moral criteria when dealing with other countries; rely on multilateral obligations and enter into cooperation in multilateral international organisations; employ diplomatic and economic tools instead of military actions; etc.[1] These selected characteristics are fully reflected in the sanctions policies of small countries—on an international scale, small countries do not use international sanctions as an autonomous tool of their foreign policy, but as an obligation arising from their membership in international organisations.[2]

Small states, given their characteristics, usually have a limited role in decision-making as regards the imposition of sanctions within international organisations. Even though it deserves research within the field of political science, we generally accept this statement and have focused only on the implementation mechanism of sanctions. Exploring small states´ implementation of sanctions is a worthy activity because these sanctions can significantly contribute to the smooth implementation of international multilateral sanctions, thus, in the long run, to international security.

Not only do both the Czech and Slovak Republics rank as small states, but some of their other characteristics are also similar—both are located in Central Europe and for decades have shared the same history. They also made similar pre-accession preparations for their membership in the EU, which they joined in 2004, and both transferred most of their competencies concerning adoption of sanctions to the transnational decision-making level. Thus, we began our research with the presumption that the differences between the countries concerning their compliance with European sanctions policy would be minimal. Surprisingly, we found that the two countries' levels of compliance differ significantly.

This text serves as a pilot study for a broader future project which will focus on the comparison within the V4 group where all members belong to the EU. Since there are noticeable differences in the implementation processes between the Czech and Slovak Republics, we have focused our attention on the other members of the V4 as well (Po-

land, Hungary) and we have gathered that there are many differences across all V4 countries. Thus, this study also establishes the research framework and analytical tools for more complex research in the field of compliance with EU sanctions policy.

In order to gain a deeper insight, we focus on the two countries' pre- and post-accession periods to precisely identify differences. It appears that conditionality of EU accession significantly influenced formal compliance in the pre-accession period, while its importance for behavioural compliance was almost null, even in the pre-accession period. The transposition of legislation (formal compliance) requires political will at the level of political elites and conformity across political parties; the enforcement and application of legislation (behavioural compliance) demands establishing proper bureaucracies, including actors and processes covering coordination, monitoring and enforcing mechanisms and having sufficient administrative capacity. Focusing on these factors helps to explain differences in the implementation of sanctions.

This work deals with a wide range of targeted sanctions tools with an emphasis on economic sanctions, which belong to the most frequently used (and studied) sanctions.[3] The first part of the work introduces the theoretical framework for our analysis, thus contributing to the broader debates concerning compliance with international norms[4] and following the recent scholarly literature dealing with post-communist EU states generating a considerable gap between relatively good formal transposition of EU norms and deficient practical implementation.[5] Focusing on so-called new democracies only (or new member states within the EU), we have challenged the current discourse by the finding that there are differences not only between old and new democracies (or old and new member states), but also among the new democracies, at least when analysing sanctions implementation. Building on previous research, we have distinguished formal compliance from behavioural compliance:

1. Formal compliance detects the extent to which national legislation meets various requirements of compliance with international (European) obligations; we consider international sanctions norms to be legally implemented at the moment the respective national legislation enters into force;
2. Behavioural compliance includes both enforcement and applica-

tion enabling the real implementation of international sanctions measures at the national level; we employ recommendations introduced by international forums (the Bonn-Berlin, Interlaken and Stockholm processes) for the effective implementation of multilateral sanctions, as we focus primarily on the quality of legislative prerequisites for real implementation.

Our qualitative case studies rely on previous scholarly research, relevant legislation, parliamentary discussions and expert interviews with administrators (the Financial Analytical Unit of the Ministry of Finance of the Czech Republic, the Ministry of Foreign Affairs of the Czech Republic, the Ministry of Finance of the Slovak Republic and the Ministry of Foreign and European Affairs of the Slovak Republic).

Compliance with International and European Norms

The article builds on compliance with international norms, which in general means that states that are members of international organisations behave in accordance with their obligations. Compliance with international norms commonly requires the implementation of new laws and capacities at the domestic level—in other words, the adoption of relevant national legislation, the building of institutional capacities, specification of enforcement rules, etc.[6] Even though the EU is one of the influential norm-setting actors, it does not specify an exclusive method for the implementation of sanctions. Therefore, this work closely focuses on the specifics of compliance with European norms from the perspective of member states.

A coherent compliance theory still has not been firmly established.[7] Nevertheless, we demonstrate that for proper implementation of sanctions norms it is not enough to examine only relevant international norms in national legislation. Although EU regulations directly affect EU member states, which must implement them, analysing formal compliance is important because legislation provides member states with a set of tools and processes which are necessary for proper implementation. Analysing the shape of adopted legislation contributes to a deeper understanding of subsequent implementation. And although formal compliance is necessary, it is not the only precondition for a proper and timely implementation, as it may turn to dead letters in the stage of practical implementation according to classification pro-

vided by Falkner and Treib.[8] Reaching complete implementation of EU norms means achieving success in enforcement and application (see Table 1).

EU	*Member states*		
Decision-making process ↓ Text of Directive	Implementation of EU norms		
	Transposition (formal compliance)	Enforcement (behavioural compliance)	Application (behavioural compliance)
	Administration Government Parliament Interest groups	Administration Courts	Norms addressees (administrations, enterprises, etc.)
	- political will - conformity across political actors	- establishing bureaucracies (actors and processes) for coordination, monitoring, enforcement	- awareness - performance of duties
	Monitoring and enforcement by Commission		

Table 1. Stages and actors of the implementation process of EU norms

Source: adjusted according to Gerda Falkner, Elizabeth Holzleithner and Oliver Treib (2008), Compliance in the Enlarged European Union. Living Rights or Dead Letters?, Farnham: Ashgate, p. 8 and Kal Raustiala and Anne-Marie Slaughter (2002), 'International Law, International Relations and Compliance,' in Walter Carlnaes, Thomas Risse and Beth A. Simmons (eds.) The Handbook of International Relations, London: Sage Publications, and taking into account our previous research.

The EU´s membership conditionality has been perceived as a highly effective means of influencing candidate countries.[9] However, the impact of EU accession conditionality came to an end soon after expansion in 2004, leaving the question of 'why the formal adoption of EU rules has led, in some cases, to real institutional and policy change and in other cases to reversal or neglect.'[10] It is clear that behavioural compliance in the phase of practical implementation should be supported by other incentives, this time representing internal ones such as existence of enforcement agencies, court systems which are well-organised and equipped with resources to fulfil their tasks as well as sufficient administrative and bureaucratic capacity including institutional rules, civil service systems and financial resources.[11] Thus, institutionalisation of previously adopted EU rules plays a crucial role in reaching behavioural compliance. This is why we have sought to explain the lag in behavioural compliance during the post-accession period mainly in terms of the quality of these internal institutions and processes.[12]

For analysing behavioural compliance, we focused on the nature and quality of national sanctions legislation, especially general enabling acts which should facilitate the direct applicability of European legislation. We tested them using the measures recommended by a series of conferences aimed at more efficient application of sanctions—the Bonn-Berlin, Interlaken and Stockholm processes[13]—based mainly on competent administrative actions. The recommendations include a set of criteria which should be adopted by member states putting sanctions into practice in order to provide proper and timely implementation:

1. a general authority to implement sanctions without engaging a legislative process for each sanctions decision at the international level
2. mechanisms for coordination of activities of authorised state bodies
3. information dissemination to nationals who shall respect the sanctions provisions and advice by carrying out a proper implementation
4. mechanisms of monitoring compliance
5. penalties in administration and criminal law

Through legal review, we examine whether the recommendations are respected in the sanctions practice in both countries, and we reveal gaps between good legislative compliance and deficient practical application. Empirical consequences of deficient practical application support our findings in cases in which they were either publicly accessible or could be acquired from relevant authorities.

Formal Compliance with European Sanctions Norms

The search for appropriate Czech and Slovak legislation that would enable the proper implementation of international multilateral sanctions measures started immediately after the Velvet Revolution in 1989. In the early 1990's, the sanctions policies of both countries were mostly defined by their membership in the UN; however, from the second half of the 1990's, they publicly declared their interest in acceding to the EU. Hence, they recognized the obligations which arose from this potential membership and the related endorsement of the acquis communautaire in the pre-accession period. The two countries' national legislation that was valid at the time (before the break-up of Czecho-

slovakia), had similar qualities, since the national legislation was that of the common Czechoslovak state based on their shared past. Sanctions (not only) of an economic nature were implemented by the Ministry of Foreign Trade, which issued legislative decrees and resolutions, although they were used only rarely, as only two were introduced. However, after the break-up of the Czech and Slovak Federal Republic on 01 January 1993, differences in the two countries' formal and (especially) behavioural compliance became increasingly evident.

The Czech Sanctions Policy—Formal Compliance

In the first years of its independence, the Czech Republic attempted to implement sanctions which were binding for the country on the basis of its UN membership, through individual pieces of sanctions legislation (for example, Act 113/1990 Coll.,[14] which newly regulated the terms and conditions of international trade or Act 38/1994 Coll.,[15] on licensing the trade in military supplies), and on the basis of governmental regulations and ministerial decrees. During the implementation of sanctions in the 1990s, the reality was such that the Czech Republic adopted standards implementing sanctions obligations with a considerable time delay. The most striking example of its formal non-compliance with international obligations in this period concerned the implementation of sanctions imposed by the United Nations Security Council (UNSC) against Libya.[16] The sanctions had been implemented through Resolution 748 (1992),[17] but in the Czech Republic the adoption was delayed by five years. The implementation gap was primarily caused by Czech politicians who held back the sanctions, as they did not want to jeopardise the ongoing Czech-Libyan negotiations on debts from Czech Republic's socialist past. This example proves that conformity among political actors is a decisive factor in achieving formal compliance.

As is evident, the Czech Republic's sanctions policy, which was based on the adoption of individual acts, was quite inadequate. In 1999, the Ministry of Foreign Affairs of the Czech Republic initiated a general enabling act that would enable the government to introduce sanctions through government regulations. During parliamentary debates, Egon Lánský (then the Deputy Prime Minister) expressed concern that if the Czech Republic was not able to implement the sanctions in question, it could damage its credibility as a candidate for membership in the

EU.[18] With an emphasis on speeding up the legislative process and responding efficiently to EU law, the bill was passed by the Chamber of Deputies in April 2000.[19]

By acceding to the EU in 2004, the Czech Republic accepted the duty of complying with already-adopted or newly-adopted EU legislation that had a direct effect in all membership countries. There were several administrators of sanctions legislation. Therefore, during the negotiations preceding the accession to the EU, the Financial Analytical Unit (FAU) of the Ministry of Finance (FAU originated on the basis of Act 61/1996 Coll., on measures against legalisation of proceeds from criminal activities)[20] was appointed to be the central administrator of the majority of the existing regulations that the EU employed to impose international sanctions.[21] Such a step proved to be helpful for reaching formal compliance as this unit identified the insufficiencies of current legislation and proposed a new legislation bill that was passed as Act 69/2006 Coll., on implementation of international sanctions on 01 April 2006.[22]

In accordance with previous experiences and shortcomings, the law passed smoothly through the decision-making process in the Chamber of Deputies. The then Deputy Prime Minister Bohuslav Sobotka stressed during parliamentary debates that the implementation of international sanctions had been insufficiently covered in our legal system, and that the draft mainly fulfilled the duties arising from Czech Republic's membership in the EU and from the existence of the European Common Foreign and Security Policy.[23]

The general enabling act, Act 69/2006 Coll.,[24] covers nearly all obligations arising from EU membership; however, it does not address the issue of when terrorists have citizenship in one of the membership countries. Consequently, membership countries have had to reflect this issue in their own legal regulations. In 2008, the Czech Republic adopted respective regulation (210/2008 Coll.[25]; the current version is the Government Regulation 88/2009 Coll.,[26] dated 16 March 2009). This ensured formal compliance with the joint approach and, in fact, with the entire legislative system of sanctions policy.

The Slovak Sanctions Policy—Formal Compliance

After the break-up of the Czechoslovak Federation, Slovakia implemented international economic sanctions through bylaws (decrees

and resolutions) until 2002, when Act 42/1980 Coll. on economic relations with foreign countries[27] became the legislative basis. Instead of initiatives that would lead to the adoption of either general enabling standards or (at the least) individual reception standards, the Ministry of Economy strictly limited itself to publishing informative lists, including the regimes of sanctions.[28] The Ministry of Economy assumed the competence of the (now-defunct) Federal Ministry of Foreign Trade to implement sanctions, even though some types of sanctions were not within its authority (for example, the Ministry of Foreign Affairs implemented diplomatic sanctions).

In this period, Slovakia tried to promote its pro-EU orientation and strong interest in EU membership; however, Vladimír Mečiar's regime (1994–1998) failed to meet the criteria for rapid EU membership, and thus Slovakia was in a more vulnerable position compared to the Czech Republic.[29] The transposition of legislation requires political will at the level of political elites and conformity across political parties; however, both conditions had been weak in Slovakia at that time. After the decision of the Council (1997, Luxembourg) not to include Slovakia in the group of forerunners for EU membership, the pro-European mood in Slovakia became slightly weaker and politicians were divided concerning foreign policy orientation. This political disunity and political hesitation explains the lag in legislative arrangements at that time.

After the heavy criticism expressed by both the UN and the EU,[30] Slovakia started to carry out some reform steps in the general process of formal sanctions compliance, thus, confirming the influence of conditionality in the pre-accession period. Therefore, in 2001, Section 56 of Act 42/1980 Coll.[31] acquired a new paragraph, which should have created a de facto general enabling standard and authorised the government to implement international sanctions by issuing regulations. According to this amendment, the only regulation was Regulation 273/2002 Coll.[32] as amended, which was used to impose UNSC sanctions. However, attempts to rectify the insufficient legal basis for implementing international economic sanctions were inadequate. Therefore, the first general enabling standard was adopted by the National Council of the Slovak Republic with not a single dispute, as evident from the stenographical records of the parliamentary negotiations.[33] Amendment Act 460/2002 Coll. on the implementation of international sanctions[34]

ensuring international peace and safety replaced governmental regulations and enabled the government to implement not only sanctions introduced by UNSC resolutions, but also sanctions newly introduced by the EU Council.

The Implementation of Sanctions Imposed by the European Union

After acceding to the EU in 2004, the Slovak Republic had to update its existing legislation in order to reflect the re-division of competencies between the EU and the membership states with regard to sanctions. Amendment Act 460/2002 Coll.[35] was amended by Amendment Act 127/2005 Coll.,[36] which enabled the issuing of government regulations to implement sanctions in cases when the EU Council does not directly adopt efficient community legislation. The main reason for the amendment was to adapt to EU requirements; it was the one amendment which enabled binding EU standards to have a direct effect in the Slovak Republic. During parliamentary negotiations, the then Deputy Prime Minister Pavol Rusko stressed that the aim of the draft was to adjust the rights and duties of state executive bodies and entrepreneurial subjects in order to carry out decisions of the UNSC concerning international sanctions and to adjust the legal system of the Slovak Republic in accordance with the membership in the EU.[37]

At last, the legislative level corresponded to the obligations of the Slovak Republic arising from its membership in the EU, although only as rules-on-the-books rather than rules-in-use.[38] Since conditionality no longer affected compliance, there were other external incentives, such as criticism by the Moneyval committee accompanied by domestic knowledge stating that '... after Slovakia joined the European Union, [the former act] no longer corresponded to the adopted obligations from that result ... it was, therefore, necessary to draw up an entirely new draft, since its amendment would be rather demanding.'[39]

Thus, the new sanctions legislation came into effect in May 2011 as Amendment Act 126/2011 Coll. on implementation of international sanctions (the act was amended by Regulation 394/2011 Coll.[40] in October 2011). The act enables direct effects of relevant EU legal acts on the territory of the Slovak Republic. It states that international sanctions not only refer to decisions of the UNSC, but also to decisions made according to Chapter V of the EU Treaty. Thus, a formal dimension of compliance has been reached as the act proved Slovakia's ability to implement all sanctions employed by the EU.

Behavioural Compliance with European Sanctions Norms

Behavioural compliance represents a set of measures enabling a real implementation of the adopted legislation. For successful implementation of sanctions it is essential to introduce a system of legal penalties for national entities that do not respect sanctions.[41] This means that a monitoring and coordinating authority (or authorities) must also be established in order to act as a control mechanism. National institutionalisation of adopted sanctions legislation is necessary for proper implementation of EU norms. Therefore, it is important to set up enforcement agencies and develop sufficient administrative and bureaucratic capacity for handling practical issues.

The Czech Sanctions Policy—Behavioural Compliance

The first Czech General Sanctions Act (Act 98/2000 Coll.)[42] was accompanied by a list of specific sanctions that was much appreciated, as it also included a list of exceptions in which the sanctions did not apply. The government was authorised to introduce specific measures through regulations. The act introduced penalties for non-compliance with the adopted measures; however, the act's main shortcoming was the fact that it did not appoint any administration authority that would supervise compliance, enforce penalties and resolve disputes (see Table 2).

However, Regulation 170/2003 Coll. on sanctions concerning the Republic of Iraq[43] revealed another insufficiency of the general enabling act in practice which included also economic sanctions. When they were lifted in 2003,[44] UN members were invited to return all illegally exported cultural heritage items to the country. Notably, Act 98/2000 Coll.[45] did not allow for this measure, so, despite the existence of the general act, it was necessary to adopt an additional individual act (4/2005 Coll. on measures concerning the Republic of Iraq as amended).[46] Hence, the sanctions legislation of the time did not enable the Czech government to respond to all contingencies of sanctions regimes.

The newly adopted legislation bill on implementation of international sanctions was passed as Act 69/2006 Coll.[47] on 01 April 2006, and it reflected the shortcomings of the earlier sanctions policy. In the amended version, Act No. 227/2009 Coll.,[48] which amends other acts in connection with the Basic Register Act, it became the basis for a

valid Czech sanctions policy, which is still in use. It newly amended measures concerning financial and other resources that are used for terrorist activities. It also dealt with the handling of secured assets and it specified enforcement measures for the practical enforcement of sanctions (see Table 2).

Measures	*Act 98/2000 Coll.*	*Act 69/2006 Coll. and Act 70/2006 Coll.*
General authority to implement sanctions	+ (but only for imposition of fines)	+
Mechanisms for coordination of activities of authorised state bodies	–	+
Information dissemination to nationals who shall respect the sanctions provisions and advice by proper implementation	–	–
Mechanisms of monitoring compliance	–	+
Penalties (fines) in administration law	+	+
Penalties in criminal law	–	+

Table 2. Conditions supporting behavioural compliance in the primary enabling Act 98/2000 Coll. and in Acts 69/2006 Coll. and 70/2006 Coll. (Czech Republic)

If the EU Council does not issue a directly applicable regulation, the act enables the Czech government to carry out relevant sanctions through government regulations. The act fairly precisely sets forth exceptions from the sanctions regime, such as humanitarian aid, social services, medical care, etc. It also includes provisions on offences and administrative tort that can be punishable by financial fines.[49] In order to comply fully with notification obligations, Procedural Decree

281/2006 Coll.[50] was adopted, and it details the method of compliance with the notification obligation as expressly stated by the FAU to which the notifications are submitted.

The Slovak Sanctions Policy—Behavioural Compliance

Until 2002, the Slovak Republic modelled its sanctions policy on the out-dated Act No. 42/1980 Coll.,[51] which acquired a new paragraph in 2001, which should have authorised the government to implement international sanctions by issuing regulations. However, only one regulation has been amended through this act, revealing its insufficiency for the behavioural dimension of compliance. This legal amendment completely failed to envisage the changes arising from impending entry into the EU. It did not even stipulate the contents of sanctions. Administrative and institutional procedures for efficient implementation of sanctions were addressed only very vaguely by the regulation or not at all.

Subsequently, Act 460/2002 Coll.[52] was adopted, which detailed specific sanctions and enabled the granting of exceptions (see Table 3). It also introduced financial sanctions for natural and legal persons in cases where they violate the duty to comply with the adopted sanctions. Furthermore, under this act, the government had the duty to introduce specific regimes of sanctions through regulations, and if international authorities decided to cancel decisions on international sanctions, the government of the Slovak Republic was to cancel the relevant regulations (Section 2, paragraph 2 of the act). However, this measure was the weak point of the act, as it led to justified concerns about having a very lengthy process for declaring sanctions, and not being able to respond sufficiently to the actual needs of international sanctions policies. Thus, even though the legal regulations were more precise than the preceding amendment, there were still obvious shortcomings which did not enable efficient implementation of sanctions including failure in institutionalising sanctions policy.

Even Amendment Act 127/2005 Coll.[53] enabling the Slovak government to issue government regulations to implement sanctions in cases where the EU Council did not directly adopt efficient community legislation almost duplicated the insufficiencies in practical implementation. Since 2002, the Slovak government has issued twelve implementing regulations in total. Their annexes were used as a tool

to update the list of persons or entities against which the sanctions were targeted. In reality, the government proved the insufficiency of the then current legislation as changes to the EU sanctions lists had to be reflected in the national legislation; otherwise they had no direct effect. Going down the route of implementing regulations proved to be a dead end, and the then current legislation was heavily criticised from abroad, specifically by the Moneyval Committee,[54] which repeatedly stated that from a formal point of view the Slovak Republic had adopted the necessary mechanisms, but their practical implementation was rather weak due mostly to a lack of coordination.[55]

The Implementation of Sanctions Imposed by the European Union

The new Act 126/2011 Coll.,[56] in contrast to previous legislation, precisely defines the notification obligations of natural and legal persons

Table 3. Conditions supporting behavioural compliance in Act 460/2002 Coll. and Act 126/2011 Coll. (Slovak Republic)

Measures	*Act 460/2002 Coll.*	*Act 126/2011 Coll.*
General authority to implement sanctions	+	+
Mechanisms for coordination of activities of authorised state bodies	–	–
Information dissemination to nationals who shall respect the sanctions provisions and advice by proper implementation	–	–
Mechanisms of monitoring compliance	–	–
Penalties (fines) in administration law	+	+
Penalties in criminal law	–	+

if they come across assets or facts where international sanctions are binding for the Slovak Republic apply. The act also strengthens the enforcement mechanism by determining the measures of criminal responsibility for the violation of international sanctions. It also determines financial fines for the perpetrators: up to 66,400 EUR for natural persons and up to 132,800 EUR for legal persons.

Unfortunately, the biggest problem of the current Slovak sanctions policy – that no central authority has been established to monitor compliance with sanctions regulations (see Table 3) – has not been resolved by any legislation. Also, the fourth Moneyval Report summarises that 'still there are no appropriate measures in place for monitoring the effective compliance.'[57] Act 126/2011 Coll. includes an exhaustive list of eight central state administration authorities[58] that are responsible for decision-making within their scope. The Ministry of Trade of the Slovak Republic is the reporting authority for EU sanctions concerning import and export and restrictions for setting up joint ventures or investments; the Ministry of Finance of the Slovak Republic is the reporting authority for EU sanctions concerning restricted transfers of finance and financial services and freezing of financial assets.[59] However, their coordination and mutual competencies are not determined by the act, which represents a serious problem during the practical implementation of sanctions.

The legal framework for supervising financial and capital markets, which forms a major part of the targeted economic sanctions, is provided in particular by the Act on Supervision of Financial Markets (Act 747/2004 Coll.),[60] which amended the competency of the National Bank of Slovakia. The Department for Supervising Financial Markets was established by the bank in 2006; however, the efficiency of its supervision of obligations arising from accepted financial and capital sanctions tools was weakened by poor coordination with other authorities acting in the field of ensuring international financial and capital sanctions. Specifically, the Intelligence Unit of the Financial Police of the Slovak Republic Police Force is not bound by any responsibilities towards the Department for Supervising Financial Markets, nor does it have any obligation to inform this department about any facts concerning (non-)compliance with adopted obligations in the field of international sanctions.

Moreover, by nature of their responsibility, these institutions can monitor only entities that are subject to economic or financial sanc-

tions (such as frozen assets) but other types of sanctions remain off-limits. For example, this was the case as regarding EU sanctions Directive against Iran (961/2010)[61] comprising, among others, sanctions on education in technical fields of study. The FAU in the Czech Republic started to coordinate and monitor compliance with respected sanctions in close cooperation with the Czech Ministry of Education, Youth and Sports, whilst the Department for Supervising Financial Markets could not have handled these sanctions as they overreached the bounds of its authority.

Formal and Behavioural Compliance with EU Sanctions Norms: A Comparative View

As we have pointed out, the speed and quality of the implemented international sanctions are not only connected with the existence of relevant legislation (formal compliance), but also with the existence and nature of the tools used to implement sanctions in practice (behavioural compliance). In both respects, Czech and Slovak sanctions legislation and practical implementation differ significantly. Conditionality mattered in both countries in the pre-accession period, mainly at the formal stage of compliance. Early on, both countries tried to achieve formal compliance through individual reception standards which proved to be insufficient in practice and were criticised by the EU. Thus, both countries adopted general enabling acts before accession. However, reaching the behavioural stage of compliance brought about more visible variations, both in time and quality.

In the early 1990s, the Czech Republic and the Slovak Republic had the same starting conditions, since they constituted one state at the time—Czechoslovakia. The legislative basis for the implementation of economic sanctions adopted as a result of a membership in the UN was provided by Act 42/1980 Coll. on economic relations with foreign countries.[62] While in the Czech Republic sanctions regimes have been implemented through individual laws since 1993, in Slovakia the same practice as that of socialist Czechoslovakia lasted until 2001.

The general enabling act adopted in Slovakia in 2002 represented the minimalist version of the law with almost no impact on the practice—reminiscent, therefore, of dead letters. The main reasons for Slovakia falling behind are the failure to reach conformity across political parties and missing political will at the level of political elites. During

the pre-accession period, Slovakia's slowdown could have been caused by a general slowdown in the process of Slovakia's integration with European structures. The regime of Prime Minister Vladimír Mečiar (1994–1998) failed to meet the criteria for a rapid EU membership, the pro-European mood slightly weakened and Slovakia revised its foreign policy orientation. Moreover, Slovakia started off in a much weaker geopolitical and economic position than its newly-created western neighbour.[63]

The sanctions policy of the Czech Republic came close to the requirements of international practice in 2006. This can be primarily attribut-

Table 4. Number of administrative procedures conducted as a result of breaching international sanctions in the Czech Republic (2009 – 2012)

	2009	*2010*	*2011*	*2012*
number of administrative procedures conducted because of the breaching international sanctions	unlisted	3	33	23
number of concluded administrative procedures	unlisted	2	24	22
total amount of penalties (millions of Czech crowns)	unlisted	1,5	0,157	0,133

Source: elaborated according to FAÚ (2010) Zpráva o činnosti Finančního analytického útvaru za rok 2009 [on-line] Dostupné z: http://www.mfcr.cz/cs/verejny-sektor/regulace/boj-proti-prani-penez-a-financovani-tero/vysledky-cinnosti-financniho-analytickeh/2013/zprava-o-cinnosti-2009-9335; FAÚ (2011) Zpráva o činnosti Finančního analytického útvaru za rok 2010 [on-line] Dostupné z: http://www.mfcr.cz/cs/verejny-sektor/regulace/boj-proti-prani-penez-a-financovani-tero/vysledky-cinnosti-financniho-analytickeh/2010/zprava-o-cinnosti-2010-9336; FAÚ (2012) Zpráva o činnosti Finančního analytického útvaru za rok 2011 [on-line] Dostupné z: http://www.mfcr.cz/cs/verejny-sektor/regulace/boj-proti-prani-penez-a-financovani-tero/vysledky-cinnosti-financniho-analytickeh/2011/zprava-o-cinnosti-2011-9337; FAÚ (2013) Zpráva o činnosti Finančního analytického útvaru za rok 2012 [on-line] Dostupné z: http://www.mfcr.cz/cs/verejny-sektor/regulace/boj-proti-prani-penez-a-financovani-tero/vysledky-cinnosti-financniho-analytickeh/2012/zadej-nazev-nove-stranky-11484; FAÚ (2014) Zpráva o činnosti Finančního analytického útvaru za rok 2013 [on-line] Dostupné z: http://www.mfcr.cz/cs/verejny-sektor/regulace/boj-proti-prani-penez-a-financovani-tero/vysledky-cinnosti-financniho-analytickeh/2013/zprava-o-cinnosti-financniho-analytickeh-17323 (all accessed 10 June 2014)

ed to its membership in the EU, which ensured the legislative dimensions for the implementation of sanctions, but also to the progressive new Act on Sanctions 69/2006 Coll.[64] This act not only brought about the Czech Republic's formal compliance with EU standards, but also especially the mechanisms for its efficient use in practice. In particular, it determined the central authority (FAU) that would be responsible for the implementation and monitoring of international sanctions. The FAU even initiates meetings with representatives of state institutions involved in implementation of a certain type of sanction to provide information and ensure a common approach (for example, meeting with university rectors to discuss science and technology sanctions imposed on Iran). Even though legislation in the Czech Republic lacks the obligation to disseminate information to liable entities, the Czech FAU provides information on its website, including statistics concerning penalties for breaching the law (see Table 4), the amount of frozen assets (see Table 5) etc. Moneyval evaluated the sanctions policy of the Czech Republic as suitable and as covering internal EU procedures.[65]

Table 5. Sanctions measures against Iran as regards EU Decision 2010/413/CFSP and EU Directive against Iran (1263/2012) (statistic for the Czech Republic, 2010 – 2013)

	2010	*2011*	*2012*	*2013*
number of announcements concerning transfer of financial means over 10.000, € from / to Iran	3	156	174	117
number of permissions concerning transfer of financial means from / to Iran exceeding 40.000,- €	6	164	144	95
number of denied permissions concerning transfer of financial means from / to Iran exceeding 40.000,- €	0	0	1	3

Source: elaborated according to FAÚ (2010), FAÚ (2011), FAÚ (2012), FAÚ (2013) a FAÚ (2014)

The non-existence of a central coordinating mechanism in Slovakia has been a major obstacle for efficient implementation of sanctions; thus, in Slovakia the behavioural dimension of compliance remains insufficient, even after the EU accession. The Department for Supervising Financial Markets of the Slovak National Bank was authorised to implement financial sanctions in Slovakia—a practice that was abandoned by the Czech Republic in 2004. It did not enable an implementation of a whole range of sanctions, nor did it enable monitoring of suspicious activities in the monitored areas, nor did it have coordination competency or the duty to inform private individuals about the scope of sanctions.

For comparative purposes, we asked the Department of Banking of the Ministry of Finance to provide us with information concerning the real implementation of sanctions measures imposed on Iran—for example, the number of announcements made by obligatory subjects concerning the transfer of financial means or the number of permissions to obligatory subjects concerning the transfer of financial means. We also asked for general information concerning the number of granted dispensations from sanctions regimes; the number of fines imposed due to breaching reporting obligations; and the number of administrative procedures conducted because of breaching international sanctions since 2004. What we have learned is very fragmentary—during the second and third quarter of 2013, there were withheld and finally released financial means in the total amount of 18,239,374.56 EUR. Moreover, according to the information provided, Iran represents a '0.017 % share in the SK exports and 0.006 % share on the SK imports.'[66] Therefore, no comparable information is available as it has not been faithfully documented. Moneyval negatively evaluated Slovak legislation for the implementation of sanctions[67] and the last available report from 2011 expressed the evaluators' concerns about the efficiency of government regulations in practice.[68]

Although the Slovak Act 126/2011 Coll. on the implementation of international sanctions[69] stated which state administration authorities are responsible within their scopes, it did not introduce a coordinating mechanism between these authorities. According to our source, a system of coordination need not be necessarily codified, as the competencies among ministries have already been set out in relevant legislation. However, ministries hesitate to exercise them whenever the law does not impose the obligations explicitly. In principle, the only problem

is with the non-systemic coordination of the current legislation. The current legislation is considered to be sufficient, and the only flaw seems to be the lengthy, time-consuming *ad hoc* procedure that is used in reaching the common position of the respective authorities.[70] Surprisingly, our search for information among national representatives induced actions for organising after a two-year pause an inter-ministerial meeting with the aim to reach a gentleman´s agreement on the system of coordination.

Another reason for Slovakia´s lag behind the Czech Republic in regards to compliance with European sanctions norms, even after its accession to the EU, consists in its administrative capacity to take an active role in relevant processes concerning the practical implementation of European sanctions measures (at the RELEX/Sanctions sessions, for example). The lack of administrative capacity, insufficient human resources and a missing central authority are the main reasons for Slovakia's poor behavioural compliance.

Conclusion

This work looked at the formal and behavioural implementation of sanctions regimes, which two small countries are bound to implement on the basis of their membership in international organisations. It was expected that there would be only minor differences between the Czech and Slovak Republics – which have similar historical, geopolitical and behavioural experiences – during the implementation of international sanctions resulting from EU commitments.

In the period before EU accession, the Czech Republic's legislation had been far from satisfactory, as the individual sanctions acts could not have responded to international obligations in a proper and timely manner. The changes made after its accession to the EU were understandably based on pre-accession preparations for membership and were directed to the adoption of a general enabling act. Apart from the legislative changes made after the accession to the EU, it was vital to establish an authority that would monitor how the adopted sanctions were put into practice. The FAU of the Ministry of Finance of the Czech Republic took over this role, but not before 2004. This was also the year when the preparations for the adoption of a new general enabling act began, so that the new act would correspond directly to the EU's existing sanctions policy. The act that currently sets the Czech Republic's

sanctions policy (69/2006 Coll.) became effective in April 2006. It provides both formal and behavioural compliance with the EU legislation.

In recent years, the Slovak Republic has taken several measures to comply fully with its obligations arising from its membership in the EU, with regard to the implementation of sanctions mechanisms in practice. However, Amendment Act 460/2002 Coll. on the implementation of international sanctions ensuring international peace and security was sufficient only in terms of formal compliance, as it did not enable behavioural implementation (it included no penalties and no control authority). Therefore, Amendment Act 126/2011Coll. on implementation of international sanctions was adopted. Although it corresponds with formal compliance in full, behavioural compliance remains insufficient, mainly due to the absence of a central coordinating authority. Thus, the adopted legislation seems to become dead letters.

Hence, the assumed similarities between the Czech and Slovak Republics were not confirmed in either of the dimensions, although both seemingly reached formal compliance in the pre-accession period. However, full formal compliance was delayed in Slovakia as it adopted a general enabling act five years later than in the Czech Republic. In Slovakia, the fault of the pre-accession period lies, particularly, in the slowdown of 1993-1998, when it was affected by domestic political disputes and tried to (re)define its position within the Central European region instead of being its established member. The lowest common denominator enabled the adoption of a minimalist version of legislation hindering real application in sanctions practice. Behavioural compliance in Slovakia has lagged, even after accession to the EU, as it has no set coordination mechanisms. No central authority to supervise the implementation of sanctions has been established and the considerable lack of administrative capacity hinders any up-to-date inclusion in the following processes.

RADKA DRULÁKOVÁ is affiliated to the Faculty of International Relations, University of Economics, Prague and may be reached at *radka.drulakova@vse.cz*

PAVEL PŘIKRYL is affiliated to the Faculty of International Relations, University of Economics, Prague and may be reached at *pavel.prikryl@vse.cz*

Notes

1 Christine Ingebritsen et al. (eds.) (2006), *Small States in International Relations,* Seattle: University of Washington Press; Michael Corgan (2002), *Iceland and Its Alliances: Security for a Small State,* New York: Edwin Mellen Press; Jeanne A.K. Hey (ed.) (2003), *Small States in World Politics: Explaining Foreign Policy Behavior,* Boulder: Lynne Rienner Publishers; etc.

2 For more information on the implementation of UN sanctions on the national level see, for example, Vera Gowlland-Debbas (ed.) (2004), *National Implementation of United Nations Sanctions: A Comparative Study,* Boston: Martinus Nijhoff; for the implementation of EU sanctions on the national level see, for example, Clara Portela (2010), *European Union Sanctions and Foreign Policy. When and Why Do They Work?* New York: Routledge.

3 Economic sanctions cover a whole range of tools affecting not only trade, but also financial flows (for example, embargoes, boycotting, declining licenses, freezing of assets, stopping support, etc.). See e.g. David Cortrigh and George Lopez (1995), *Economic Sanctions: Panacea or Peacebuilding in a Post-Cold War World?*, Westview Press; Daniel W. Drezner (1999), *The Sanctions Paradox: Economic Statecraft and International Relations*, Cambridge: Cambridge University Press; Steve Chan and A. Cooper Drury (2000), *Sanctions as Economic Statecraft: Theory and Practice* (*International Political Economy*), Hampshire: Palgrave Macmillan; Gary C. Hufbauer, Jeffrey J. Schott and Kimberley A. Elliott (2009), *Economic Sanctions Reconsidered*, Washington: Peterson Institute for International Economics; Jan M. Rolenc, Zuzana Trávníčková and Štěpánka Zemanová (2012), 'Sankční opatření jako nástroj v mezinárodní politice,' in Radka Druláková and Štěpánka Zemanová (eds.) Mezinárodní kontext české sankční politiky, Plzeň: Aleš Čeněk, p. 21; etc.

4 Michael Bothe (2012), 'Compliance,' in Max Planck Encyclopedia of International Law, available at: http://www.mpepil.com.ezproxy.vse.cz/subscriber_article?script=yes&id=/epil/entries/law-9780199231690-e46&recno=4&subject=Law of treaties (accessed 30 August 2012); Kal Raustiala and Anne-Marie Slaughter (2002), 'International Law, International Relations and Compliance,' in Beth Simmons, Walter Carlnaes and Thomas Risse (eds.) The Handbook of International Relations, London: Sage Publications, p. 538; Beth A. Simmons (2009), *Mobilizing for Human Rights. International Law in Domestic Politics*, Cambridge: Cambridge University Press; etc.

5 Antoaneta L. Dimitrova (2010), 'The New Member States of the EU in the Aftermath of Enlargement: Do New European Rules Remain Empty Shells?,' *Journal of European Public Policy* 17(1), p. 137; Ulrich Sedelmeier (2009), 'Post-Accession Compliance with EU Gender Equality Legislation in Post-Communist New Member States,' *European Integration Online Papers* 13(2), p. 1; Rachel A. Epstein and Ulrich Sedelmeier (2008), 'Beyond Conditionality: International Institutions in Postcommunist Europe after Enlargement,' *Journal of European Public Policy* 15(6), p. 795; Gerda Falkner and Oliver Treib (2008) 'Three Worlds of Compliance or Four? The EU-15 Compared to New Member States,' *Journal of Common Market Studies* 46(2), p. 293; Gerda Falkner, Elizabeth Holzleithner and Oliver Treib (2008),

Compliance in the Enlarged European Union. Living Rights or Dead Letters?, Farnham: Ashgate.

6 Kal Raustiala and Anne-Marie Slaughter (2002), 'International Law, International Relations and Compliance,' in Walter Carlnaes, Thomas Risse and Beth A. Simmons (eds.) The Handbook of International Relations, London:Sage Publications, p. 538.

7 Julien Etienne (2011), 'Compliance Theory: A Goal Framing Approach,' *Law & Policy* 33(3), p. 305, available at: http://onlinelibrary.wiley.com/doi/10.1111/j.1467-9930.2011.00340.x/abstract (accessed 08 February 2014); Andrew T. Guzman (2002), 'A Compliance-Based Theory of International Law,' *California Law Review* 90(6), p. 1826, available at: http://works.bepress.com/andrew_guzman/8 (accessed 10 February 2014); Joel P. Trachtman (2010), 'International Law and Domestic Political Coalitions: The Grand Theory of Compliance with International Law,' available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1549337 (accessed 8 February 2014).

8 Falkner and Treib (2008), p. 296.

9 Epstein and Sedelmeier (2008), p. 795.

10 Dimitrova (2010), p. 138.

11 Dimitrova (2010), p. 141; Falkner and Treib (2008), p. 308.

12 By virtue of the specific nature of the sanctions, non-state internal actors (such as civic society, NGOs, trade unions, entrepreneurs, etc.) are left aside as they are not as interested in proper sanctions policy implementation as in some other fields. However, in some cases they play an important role in good implementation of European legislation, such as gender equality legislation (Sedelmeier (2009), p. 1) or legislation from the field of working time and equal treatment (Falkner and Treib (2008), p. 293).

13 Thomas J. Biersteker et al. (2001), 'Targeted Financial Sanctions. A Manual for Design and Implementation. Contributions from the Interlaken Process,' available at: http://www.watsoninstitute.org/pub/TFS.pdf (accessed 30 August 2012); Peter Wallensteen, Carina Staibano and Mikael Eriksson (eds.) (2003), *Making Targeted Sanctions Effective-Guidelines for the Implementation of UN Policy Options*, Uppsala: Uppsala University.

14 Act 113/1990 Coll. on economic relations with foreign countries (1990), available at: http://www.psp.cz/sqw/sbirka.sqw?cz=113&r=1990 (accessed 19 October 2014).

15 Act 38/1994 Coll. on foreign trade in military supplies (1994), available at: http://www.psp.cz/sqw/sbirka.sqw?r=1994&cz=38 (accessed 19 October 2014).

16 This was due to insufficient cooperation during the investigation of the terrorist attacks on the PanAm (1988) and UTA France (1989) flights.

17 Resolution 748 (1992), available at: http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Disarm%20SRES731.pdf (accessed 19 October 2014).

18 Parliament of the Czech Republic, Parliamentary Press 211/1999, Government bill for measures with regard to Yugoslavia (1999), available at: http://www.psp.cz/sqw/text/tiskt.sqw?O=3&CT=211&CTI=0 (accessed 09 December 2012).

19 Act 98/2000 Coll. on implementation of international sanctions to keep international peace and safety (2000), available at: http://www.psp.cz/sqw/sbirka.sqw?cz=98&r=2000 (accessed 19 October 2014).
20 Act 61/1996 Coll. on measures against legislation of proceeds from criminal activities (1996), available at: http://www.psp.cz/sqw/sbirka.sqw?cz=61&r=1996 (accessed 19 October 2014).
21 For more details see Radka Druláková and Jiří Tvrdý (2012), 'Současná česká sankční politika,' in Radka Druláková and Štěpánka Zemanová (eds.) Mezinárodní kontext české sankční politiky, Plzeň: Aleš Čeněk, p. 188.
22 Act 69/2006 Coll. on the implementation of international sanctions (2006), available at: http://www.psp.cz/sqw/sbirka.sqw?cz=69&r=2006 (accessed 19 October 2014).
23 Parliament of the Czech Republic, Stenographic record of the 47th meeting of the House of Representatives on 21 September 2005 (2005), available at: http://www.psp.cz/eknih/2002ps/stenprot/047schuz/s047073.htm#r5 (accessed 21 January 2014).
24 Act 69/2006 Coll. on the implementation of international sanctions (2006).
25 Act. 210/2008 Coll. government regulation on implementation of specific measurements in the fight against terrorism (2008), available at: http://www.psp.cz/sqw/sbirka.sqw?cz=210&r=2008 (accessed 19 October 2014).
26 Act. 88/2009 Coll. government regulation on implementation of specific measurements in the fight against terrorism (2009), available at: http://www.mfcr.cz/cs/legislativa/legislativni-dokumenty/2009/narizeni-vlady-c-882009-9932 (accessed 19 October 2014).
27 Act 42/1980 Coll. on economic relations with foreign countries (1980), available at: http://www.psp.cz/sqw/sbirka.sqw?cz=42&r=1980 (accessed 19 October 2014).
28 Journal of the Ministry of Economy of the Slovak Republic (1999), Chapter 2.
29 Mats Braun (2011), 'Slovakia and the Czech Republic in the European Integration Process: Birds of a Feather Flying Apart?' in Robert Steinmetz and Anders Wivel (eds.) Small States in Europe: Challenges and Opportunities, Surrey: Ashgate, p. 153.
30 See for example UN Report of the Panel of Experts pursuant to Security Council resolution 1343 (2001), available at: www.un.org/sc/committees/1521/liberiapoe.shtml (accessed 20 May 2013).
31 Act 42/1980 Coll. on economic relations with foreign countries (1980).
32 Act 273/2002 Coll. on imposition of UNSC sanctions (2002), avaiable at: http://www.zakonypreludi.sk/zz/2002-273 (accessed 19 October 2014).
33 Parliament of the Czech Republic, Stenographic record of the 61st meeting of the Chamber of Deputies on 2 July 2005 (2005), available at: http://www.psp.cz/eknih/1998nr/stenprot/061schuz/s061050.htm (accessed 24 January 2014).
34 Act 460/2002 Coll. on the implementation of international sanctions (2002), available at: www.zbierka.sk/sk/predpisy/460-2002-z-z.p-6623.pdf (accessed 19 October 2014).
35 *ibid.*

36 Act 127/2005 Coll. on the implementation of international sanctions (2005), available at: www.zbierka.sk/sk/predpisy/127-2005-z-z.p-8531.pdf - (accessed 19 October 2014).
37 National Council of the Slovak Republic, Stenographic record of the 41st meeting on 16 March 2005 (2005), available at: http://www.psp.cz/eknih/2002nr/stenprot/041schuz/s041008.htm (accessed 14 December 2012).
38 For terminology see Dimitrova (2010), p. 138.
39 Act 126/2011 Coll. on implementation of international sanctions - explanatory memorandum (2011), available at: http://eurokodex.sk/dovodova-sprava/Dovodova-sprava-k-zakonu-c-126-2011-Z-z.aspx (accessed 24 January 2014).
40 Act 394/2011 Coll. amending 492/2009 Coll., 130/2011 Coll. and other acts (2011), available at: http://www.zakonypreludi.sk/zz/2011-394 (accessed 19 February 2015).
41 Compare Raustiala and Slaughter (2002), p. 539.
42 Act 98/2000 Coll. on implementation of international sanctions to keep international peace and safety (2000).
43 Act 170/2003 Coll. on sanctions concerning the Republic of Iraq (2003), available at: http://www.sagit.cz/pages/sbirkatxt.asp?cd=76&typ=r&zdroj=sb03170 (accessed 19 February 2015).
44 Resolution 1483 (2003), available at: http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N03/368/53/PDF/N0336853.pdf?OpenElement (accessed 19 February 2015).
45 Act 98/2000 Coll. on implementation of international sanctions to keep international peace and safety (2000).
46 Act 4/2005 Coll. on measures concerning the Republic of Iraq (2005), available at: http://www.zakonyprolidi.cz/cs/2005-4 (accessed 19 February 2015).
47 Act 69/2006 Coll. on the implementation of international sanctions (2006), available at: http://www.psp.cz/sqw/sbirka.sqw?cz=69&r=2006 (accessed 19 October 2014).
48 Act 227/2009 Coll. amending some other acts in connection with the Basic Register Act (2009), available at: http://www.psp.cz/sqw/sbirka.sqw?cz=227&r=2009 (accessed 19 October 2014).
49 Natural persons can be fined up to CZK 4 mil maximum, and legal persons up to CZK 50 mil maximum. The most significant kinds of violation of international sanctions by natural persons can be punishable with a maximum of eight years of imprisonment pursuant to Section 410.
50 Procedural decree 281/2006 Coll, on sanctions implementation (2006), available at: http://www.zakonyprolidi.cz/cs/2006-281 (accessed 19 February 2015).
51 Act 42/1980 Coll. on economic relations with foreign countries (1980).
52 Act 460/2002 Coll. on the implementation of international sanctions (2002), available at: www.zbierka.sk/sk/predpisy/460-2002-z-z.p-6623.pdf (accessed 19 October 2014).
53 Act 127/2005 Coll. on the implementation of international sanctions (2005), available at: www.zbierka.sk/sk/predpisy/127-2005-z-z.p-8531.pdf -

(accessed 19 October 2014).

54 An expert committee for the evaluation of measures against money laundering and financing of terrorism (Moneyval) was founded by the Council of Europe in 1998. It monitors not only the efficiency of the fight against money laundering, but also the sanctions policies of individual membership countries (in particular, the implementation of financial sanctions).

55 Moneyval (2006a), Anti-Money Laundering and Combating the Financing of Terrorism, Third Round Detailed Assessment Report on Slovakia, available at: http://www.coe.int/t/dghl/monitoring/moneyval/evaluations/round3/MONEYVAL(2006)09Rep-SVK3_en.pdf (accessed 12 December 2012).

56 Act 126/2011 Coll. on implementation of international sanctions - explanatory memorandum (2011).

57 Moneyval (2006b), Anti-Money Laundering and Combating the Financing of Terrorism, Report on Fourth Assessment Visit Slovak Republic, available at: http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/SVK4_MER_MONEYVAL(2011)21_en.pdf (accessed 9 June, 2014).

58 The Ministry of Economy, the Ministry of Transport, Construction and Regional Development, the Ministry of Culture, the Ministry of Education, Science, Research and Sports, the Home Office, the Ministry of Labour, Social Affairs and Family, the Ministry of Justice and the Industrial Property Office.

59 Ministry of Foreign Affairs of the Slovak Republic (2013), Sankcie EÚ, available at: http://www.foreign.gov.sk/sk/europske_zalezitosti/europske_politiky-sankcie_eu (accessed 24 April 2013).

60 Act 747/2004 Coll. on supervision over financial market (2004), available at: www.zbierka.sk/sk/predpisy/747-2004-z-z.p-8358.pdf (accessed 19 October 2014).

61 Council Reg 961/10 (2010), available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:281:0001:0077:EN:PDF (accessed 22 February 2015).

62 Act 42/1980 Coll. on economic relations with foreign countries (1980).

63 Braun (2011), p. 153.

64 Act 69/2006 Coll. on the implementation of international sanctions (2006).

65 Moneyval (2011), Anti-Money Laundering and Combating the Financing of Terrorism, Report on Fourth Assessment Visit – Executive Summary Czech Republic, available at: http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/round4/CZE4_Sum_MONEYVAL(2011)01_en.pdf (accessed 10 March 2013).

66 According to a correspondence held with the staff of the Department of Banking, Ministry of Finance of the Slovak Republic, 11 July 2014.

67 Moneyval (2006a); Moneyval (2007), Written Progress Report submitted to MONEYVAL by Slovakia, available at: http://www.coe.int/t/dghl/monitoring/moneyval/Evaluations/progress%20reports/MONEYVAL(2007)17Progrep-SVK_en.pdf (accessed 12 March 2013). For more details on the evaluation of the sanctions policy of the Slovak Republic see Radka Druláková, Pavel Přikryl and Štěpánka Zemanová (2013), 'Provádění mezinárodních multilaterálních sankcí na Slovensku: změny po vstupu do EU,' *Současná*

Evropa 48(2), p. 109.

68 Moneyval (2011).

69 Act 126/2011 Coll. on implementation of international sanctions - explanatory memorandum (2011).

70 According to an interview with the representatives of the Ministry of Foreign and European Affaires of the Slovak Republic, 07 February, 2014.

Book Reviews

John Kaag and Sarah Kreps, *Drone Warfare,* Polity
ISBN 978-0-7456-8098-9

Drone Warfare

Daniel Connolly

Philosopher John Kaag and political scientist Sarah Kreps share the concern that drone technology is developing faster than our ability to understand its implications. The result of their collaboration, *Drone Warfare* (2014, Polity Press) is an interdisciplinary synthesis of the legal, political and moral arguments surrounding the United States' use of armed drones to conduct targeted killings of suspected terrorists. Their treatment of US drone policy, while largely critical, is nevertheless more measured than some other recent books that have dealt with the topic, such as Medea Benjamin's *Drone Warfare: Killing by Remote Control* (2012) or Grégoire Chamayou's *A Theory of the Drone* (2015). Kaag and Kreps, far from calling for an outright ban on the technology, are confessedly pragmatic: 'Perhaps they are a necessary evil, but part of this book is meant to determine how necessary and how evil' (p. 13).

Kaag and Kreps concede that drones are a precise weapon system that is tactically successful at attacking Al Qaeda and other terrorist groups while minimizing American and civilian casualties. In this regard, drones are a positive development and may even have 'significant utility…in very specific scenarios' (p. 51). Nevertheless, they conclude that the long-term consequences of the United States' drone policy is deeply troubling for normative as well as practical reasons. Despite apparent short-term success, they characterize American drone warfare as a strategic failure, which is most evident in the form of 'the visceral opposition' that they create among targeted populations in the Middle East (p. 14). But blowback is not the main thrust of their argument. In subsequent chapters, Kaag and Kreps demonstrate that the failure of drone warfare has troubling consequences for democracy, international law and ethics.

One of the reasons that drones are so attractive is that they effectively lower the costs of war for democratic countries. Although fiscal savings are important, the real advantage occurs at the level of domestic politics. Waging war with drones allows democratic governments to avoid negative publicity from friendly casualties, sidesteps the question of what to do with captured terrorists and apparently enjoys strong support from the citizenry itself. Poll data suggests that a majority of Americans support drone warfare, even if they do not know much about it (see Table 3.1, p. 62). More troublingly, Kaag and Kreps argue that the evolution of drone policy in the US has been marked by the erosion of traditional democratic checks and balances. Neither Congress nor the judiciary has exercised adequate oversight over the executive branch's use of drone strikes. Ultimately, drones threaten to detach war-making from the democratic constraints that have traditionally regulated it and thus expose 'a loophole in Kant's democratic peace theory' (p. 65)

Although the Obama administration characterizes its drone policy as compliant with international law, Kaag and Kreps argue that aspects of it actually violate the requirements of both *jus ad bellum*—the international legal principles governing when states may go to war—and *jus in bello*—the rules by which war must be conducted. First, the administration's legal justifications for conducting targeted killings outside declared battlefields, such as Pakistan or Yemen, rely on overly broad interpretations of what constitutes self-defence and imminent threat. Second, even though drones are highly accurate weapons systems, the targeting decisions governing their use, such as signature strikes on unidentified individuals who are judged to fit a pattern of terrorist activity, and the overall lack of transparency surrounding death counts, raises worrying questions in regard to the principles of distinction and proportionality.

The chapter on the ethics of drone warfare steps back from specific legal and political issues and tackles the broader moral implications of killing by remote control. This technology creates a 'moral hazard' whereby policymakers and military personnel are increasingly drawn to risky behaviour because they do not have to worry about the consequences of their actions. In this fashion, the expediency of drone violence comes to overshadow the more important question of whether or not these strikes are morally right in the first place. Yet, Kaag and Kreps see a glimmer of hope. This new distance from the passions of

hand-to-hand combat can create a space for the practitioners of remote warfare to potentially reflect on the moral and legal implications of their job. However, this will require new forms of training and a willingness to ask difficult questions. The alternative is a world in which drone strikes, and their long-term negative consequences, become increasingly commonplace.

Written in accessible and clear prose, this book is useful for anyone interested in learning more about the emerging issue of drone warfare. That said, this book is primarily aimed at an American audience. The pragmatic approach espoused by Kaag and Kreps revolves around calculated appeals to American self-interest, accentuated by the fear that proliferation is inevitably putting drone technology in the hands of a growing circle of foreigners. This frightening future, they warn, can only be avoided by American self-restraint and the creation of an international body to regulate the use of drones. In the end, this book implies that a reformed version of drone warfare will better sustain American hegemony than the model currently being followed.

Greg Austin, *Cyber Policy in China,* Polity 2014
ISBN 978-0-7456-6980-9

Cyber Policy in China

Wonhee Lee

Greg Austin's *Cyber Policy in China* provides an extensive and illuminating survey of China's quest, since the year 2000, for informatisation—the process by which China is transforming itself into an advanced information society. With his chronological analysis, Austin neatly interweaves nearly 1,000 sources from China and the US, focusing on the interplay between 'ideal policy values' in China's informatisation ambition and 'leadership values'— such as regime stability, economic nationalism and a strong sense of national security—attached to the old ethics of state governance in China. According to the author, the conflict between these two types of values is slowing the pace of China's transformation into an advanced information society. Furthermore, successful resolution of this conflict depends on the Chinese leadership's ability to adjust its ethical values and governing principles to 'match the information society ambition' (p. 175).

To examine the divergence between the two different types of values, the author picks out 'nine ideal policy values for an information society' and categorizes them into three key policy areas: 1) national information ecosystem; 2) innovative economic system; and 3) global information ecosystem. When it comes to the first of the three, the 'freedom of information exchange' is constrained by political and ideological sensitivities, while the need to 'protect information exchange' and 'prevent false information and rumors' gains momentum in the centralized party-state political system in China. Regarding the second, China's vision for an innovative economy—'commitment to transform,' 'industrial and scientific innovation,' and 'human resources development'—still contradicts gradualism, state-centered structures,

and a nationalistic perception of economic development. Finally, in the third policy area, China's national security imperatives and its desire to become a hegemon have encouraged the nation to enhance its 'strategic stability' vis-à-vis the IW (information warfare) capabilities of the US. These aspirations, however, are not fully compatible with its commitment to 'bridging military divides' with the US and ensuring 'interdependent informatised security' in cooperation with other global actors.

The value-based analytical framework in the book has both strengths and weaknesses. The author's investigation tactfully combines intangible, yet critical, elements of cyber policy—that is to say, China's informatisation ambition causes value conflicts—with practical aspects of its ICT (information and communication technology) development. The book carefully draws a contrast between 'ideal policy values' for an information society and the 'leadership value' of Chinese decision-makers. By setting the points of contrast and measuring the distance between the two conflicting types of values, the author avoids evoking an emotional outcry over the lack of moral responsibility in China's leadership. After identifying the cause of the gap between the goals and outcomes of China's cyber policy and the conflicting values, the author then places significant emphasis on the role of information-age ethics as a remedy to fix the discrepancy.

Nevertheless, the book's value-based approach is marred by certain lacunae. The emphasis in *Cyber Policy in China* is on the tension between values, not between political actors, and each actor is treated as separate and unique. Consequently, narratives about possible correlations between major political events are given less attention and are not well-integrated. Most perplexing are the accounts, in Chapters 4 and 5, of China's partnership with Taiwan, where China's ambition for an innovative economy and its management of national security in cyberspace are discussed. In fact, there is an inseparable connection between China's more liberalized investment environment and its security policy towards Taiwan—the complex economic partnership led by quasi-official mechanisms coexists with the touch political relationship across the Taiwan Strait. At the beginning of Chapter 4, the book points out contributions of 'investment from electronics enterprises in Taiwan' (p. 89) and 'competitive trends outside China and by private capital' (p. 90) to China's innovative economic system; however, it

does not dig deeper into China's policy agenda to promote economic integration for peaceful unification, which can also be construed as another crucial 'leadership value.' Instead, the evolution, since the year 2000, of bilateral economic ties between the two sides across the Taiwan Strait is explained in Chapter 5 the context of China's national security policy. To set the stage for further analysis, China's policy of engagement with Taiwan should have been introduced earlier, in Chapter 4—at least briefly. Moreover, the rapid thaw in relations between China and Taiwan under the incumbent Ma Ying-jeou administration, discussed in Chapter 5, suggests that the Chinese leadership will confront uncertainty once again if the opposition party wins Taiwan's 2016 presidential election.

The author takes a unique perspective in *Cyber Policy in China*—he empathises with China's leadership. The book is not merely a description of the technical aspects of China's ICT development, nor an investigation into the People's Liberation Army's cyber warfare strategies and tactics. Instead, it is a call for those interested in China, at home or abroad, to take a more holistic approach to understanding China's cyber policy. The book is also a critical assessment of how the Party-state system in China juggles its informatisation plan with other competing priorities. The book asserts that it is important to realise that China and western countries have different versions of "leadership values." All in all, the author's comprehensive research and analysis offer new insight into the debate on China's cyber security policy.

Thomas Hale, David Held and Kevin Young, *Gridlock: Why Global Cooperation is Failing When We Need It Most,* Polity 2013, ISBN 978-0-7456-6239-8

Gridlock

Why Global Cooperation is Failing When We Need It Most

Diletta Fabiani

In *Gridlock: Why Global Cooperation is Failing When We Need It Most*, authors Thomas Dale, David Held and Kevin Young ask: Why are international negotiations increasingly stalling at a time when we desperately need them to efficiently tackle current global issues?

According to the authors, international institutions are failing because they are in a state of 'gridlock'—the concept defined as a 'specific set of conditions and mechanisms that impede global cooperation in the present day' (p. 3), its source lying in 'self-reinforcing interdependence' cycles dating back to World War II.

Self-reinforcing interdependence is actually a consequence of institutions performing well in their beginnings. The post-war proliferation of institutions had the objective of creating a new world order that would not let global war happen again: By deepening the level of interdependence, no single state could 'order the world for their own interest' (p. 5). Now, however, these same institutions can't manage this deep level of interdependence, as they were created and designed to face the issues of a specific, now long-gone, historical moment.

The authors explain that there are four paths that lead to gridlock: growing multipolarity, institutional inertia, harder problems and fragmentation. As more emerging countries become wealthier, multipolarity in the world increases; with more members involved in deci-

sion-making processes, the cost of reaching an agreement grows as well. Institutions are also 'sticky'—in other words, resistant to change and hard to modify (especially when coupled with formal structures). While this ensures their long-term survival, it can also enlarge the gap between the current needs of the actors and possible institutional responses.

Problems have become more complex too, with changes in their intensity and extensity; due to globalisation and the consequent interdependence, they have become more transnational and require larger policy adjustments to be solved—adjustments that are harder to make. Fragmented institutions can hinder the birth and growth of stronger governmental solutions; fragmentation includes weak inter-institutional coordination, excessive division in discrete tasks and forum-shopping by actors to avoid institutional constraints.

The authors analyse gridlock in three different fields: security, economy and environment. In all these sectors, systems that have been built from World War II to the present have changed the nature of the problems they were created to solve, undermining their own utility in the process. Gridlock and the paths leading to it are common to all the fields.

In the final chapter, the authors look at the current state of affairs and make predictions for the future. In the short term, the following trends may compound gridlock, exacerbating it and making cooperation harder: a return to rivalry and unilateral actions for great powers; failed states combined with inter-systemic security threats; and deregulation of markets and the possible growth of technocratic solutions over political ones.

Three nations/regions (US, Europe and China) are analysed in further detail, in order to show how developments at the national level can affect the gridlock in the short term.

Gridlock, however, is not unavoidable, as there are counter-tendency waves that could be ridden to overcome it: integration of national and international political arenas; trans-border governance arrangements; the growing influence of non-state actors; norm diffusion and capacity building in compliance to international agreements; and new types of global governance institutions (Track 2 institutions, for example).

Finally, some ongoing trends might lead to necessary institutional reforms and create pathways through the gridlock: popular protest

movements contesting the current global order, small institutional adaptations and limited reform of the organisational principles and structures of global governance.

The authors conclude that rebuilding the international order is not an impossible feat, as it has been done in the past. However, if policies want to overcome the gridlock by successfully reforming current institutions, they will need to include both bottom-up and top-down political solutions.

This book is a fascinating read for anyone interested in international institutions, their evident struggle and how to improve their effectiveness. The book does not merely point out problems, but also offers concrete solutions. The comprehensive, detailed chapter on environmental institutions—which was the starting point of the book's creation—is extremely valuable for those interested in such topics.

At the end of the book, one cannot help but be left with some questions. For example: *At what tipping point does interdependence go from beneficial to detrimental? Does gridlock negatively affect a state's willingness to cooperate?* These questions might pave the way for promising avenues of future research on this topic.

Rorden Wilkinson, *What's Wrong with the WTO and How to Fix It,* Polity, ISBN 978-0-7456-7245-8

What's Wrong with the WTO and How to Fix It

Unislawa Williams and LaDarrien Gillette

What's Wrong with the WTO and How to Fix It by Rorden Wilkinson is not only a bold analysis of the failures of the World Trade Organization (WTO), but also a proposal for how to fundamentally reform it. According to Wilkinson, the primary goal of a reorganised WTO should be to improve humanitarian outcomes—not to increase and encourage free trade. If the aim continues to be on expanding free trade, with the expectation that humanitarian outcomes may follow, the system will continue to disproportionately favor developed states over developing ones, increasing the gap between the two. Hence, Wilkinson's proposal calls not only for a fundamental rethinking of the WTO as an organization, but also, more broadly, of the entire global trading system.

The first part of the book discusses the failure of the global trading system, at the center of which is WTO's competitive bargaining. In this context, powerful developed states enjoy a significant advantage over developing nations because they bring to the table more resources, better legal counsel, more experience, etc. As a result, negotiations necessarily involve unequals, thus leading to unequal outcomes. Attempts to reform the system, past and present, skirt this fundamental issue and fail to accept that competitive negotiations will not yield better outcomes in terms of development.

According to Wilkinson, our refusal to acknowledge that the global trading system is fundamentally unfair results, in part, from the way that we speak about trade. Wilkinson asks us to question the language used to describe the trading system, which relies on analogies to natural phenomena, such as the flow of water. By relying on this language,

the WTO has become associated with free and open markets, which are then seen as a natural part of everyday life. We largely leave the language and analogies used to describe the global trading system unquestioned, because the concepts underlying the operations of the WTO tend to be highly technical. Lawyers and economists who are involved in WTO cases and negotiations may have a purchase on the actual dynamics of the global trading system. For the layperson, however, the operations of the WTO are not easily understood and need to be interpreted and explained. Therefore, 'our belief in the inalienable good of freer trade has been such that we have seldom raised questions about the way we have pursued liberalization' (p. 20).

A fundamental reform of the WTO would require us not only to examine the way we speak about trade, but also to accept that large-scale change is necessary. Wilkinson calls for the WTO to collaborate much more closely with United Nations institutions to implement 'trade-led development-for-all' (p.146). A reformed WTO would allow for meaningful knowledge transfer, merging of competencies and real aid for trade. For example, Wilkinson calls for the establishment of a fund administered by the WTO that would provide trade assistance to developing states. The reforms Wilkinson proposes often lack sufficient detail to be directly implementable, but their basic aim is to reorganise the world trading system to more directly benefit developing states.

While developing states stand to gain much from Wilkinson's proposed changes, it is unclear how these changes would benefit the developed world and the great powers. Wilkinson makes an excellent point that the changes currently on the table do intend to improve outcomes for developing states such as China, India and Brazil. However, these countries are increasingly viewed as great powers themselves, as Wilkinson himself notes. From this perspective, these reforms are still aimed at benefiting the powerful. A more conventional perspective would claim that the impetus for change of the WTO is to accommodate countries who have a claim on great power status. In Wilkinson's analysis, it is unclear why we should expect change in favor of the smaller, weaker states.

In sum, *What's Wrong with the WTO and How to Fix It* is an interesting analysis of the fundamental failures of the WTO. It is an easy-to-read, well-written book that may be adapted to a number of settings, including the classroom. The book provides a straightforward analysis of the failures of the WTO, without being overly long. At the end, it poses a

question well-worth asking: How does free trade fit in the conversation on development and humanitarian issues?