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

I. INTRODUCTION................................................................. 342

II. BACKGROUND................................................................. 344
   A. NATO’s History.......................................................... 344
      1. The Creation of NATO........................................... 344
      2. NATO’s First Decade .......................................... 345
      3. Countering the Soviet Threat .............................. 347
      4. NATO’s Post-Cold War Transition ....................... 349
      5. Bosnia ............................................................. 352
      6. Kosovo ............................................................ 353
   B. NATO’s Structure ..................................................... 355

III. WHY NATO SHOULD DISBAND ........................................ 358
   A. NATO’s Diminished Utility in the Current
      International System .............................................. 358
   B. Diverging Security Interests Between the United
      States and Europe.................................................. 360
   C. The Capabilities Gap Between the United States
      and Europe................................................................ 361
   D. NATO’s Structural Limitations ............................... 362
      1. “Out-of-Area” Operations.................................... 362
      2. Old Wine Into New Bottles: Applying Article 5
         in the Post-Cold War World................................. 366
      3. The Futility of NATO Expansion .......................... 368

IV. PLACING EUROPEAN SECURITY IN THE HANDS OF
    EUROPEAN NATIONS .................................................. 370
   A. A Gradual, Effective Solution ............................... 370
I. INTRODUCTION

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

\(^1\) Article 5 of the North Atlantic Treaty states:
The Parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all; and consequently they agree that, if such an armed attack occurs, each of them . . . will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area.


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


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

\(^8\) Following September 11th, the United States has shouldered much of the
Long before September 11th, commentators debated NATO’s relevance. Some argued that NATO was in transition, and was adapting into a political-military alliance. Others said that NATO is the best means to preserve peace in Europe. Finally, others wanted to preserve NATO merely for the sake of preservation. Former U.S. Senator George D. Aiken once stated that the United States should “declare victory and get out” of Vietnam. Having helped to win the Cold War without firing a shot, NATO should declare victory, disband over a ten-year period, and get out of Europe.

Part II of this Comment details NATO’s history and structure. Part III discusses the reasons why NATO should disband, focusing on a changed European security environment for which NATO is unsuitable. Part IV proposes that NATO disband over a ten-year period, allowing the Western European Union and the United Nations (U.N.) Security Council to preserve peace and stability in Europe. Part IV also discusses military and economic burden in fighting terrorism. See Thomas L. Friedman, The End of NATO?, N.Y. TIMES, Feb. 3, 2002, § 4, at 15 [hereinafter Friedman, End of NATO]. NATO has not played an integral role in this effort. Wesley K. Clark, Neglected Allies, WASH. POST, Feb. 1, 2002, at A25. Although many NATO members have contributed troops, few NATO soldiers took part in the fighting in Afghanistan and NATO’s command structure has not been involved. Old Friends and New—Europe and America, ECONOMIST, June 1, 2002, at 26. Commentators have viewed NATO’s invocation of Article 5 as a merely political measure. See, e.g., Drozdiak, Attack on U.S., supra note 3 (noting that the NATO declaration “was a really impressive endorsement”).

10. Abshire et al., supra note 5, at 1.
11. See Beatrice Heuser, Transatlantic Relations: Sharing Ideals and Costs 110–11 (1996) (discussing the fact that new problems that have arisen globally have led to the need for a new outlook for NATO encompassing various political and military agendas).
13. Ted Galen Carpenter, Beyond NATO: Staying Out of Europe’s Wars 112–13 (1994) [hereinafter Carpenter, Beyond NATO] (noting the tendency of policy professionals to “cling tenaciously to familiar policies and institutions”).
objections to ending NATO, and explains why these objections fail. This Comment concludes that European nations can—and should—assume a greater responsibility for their own defense.

II. BACKGROUND

A. NATO’s History

1. The Creation of NATO

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

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

17. See, e.g., NORTH ATLANTIC TREATY ORGANISATION, NATO HANDBOOK 25 (50th anniversary ed. 1998) [hereinafter NATO HANDBOOK] (stating the need for economic reconstruction in Europe in the years after World War II).
18. Id.; see also ISMAY, supra note 16, at 3 (discussing the “vacuum of strength” left to the Soviet Union following the defeat of Germany and Japan in World War II).
19. NATO HANDBOOK, supra note 17, at 26.
21. Id.
22. Id. at 8.
Arthur Vandenberg introduced a resolution recommending that the United States associate with “regional and other collective arrangements... based on continuous and effective self-help and mutual aid, and as affect its national security.” The Vandenberg Resolution passed in the U.S. Senate. By proposing that the United States contribute to maintaining peace in Europe, the Vandenburg Resolution enabled U.S. involvement in a transatlantic alliance. Implicit in the Vandenberg Resolution, however, was the hope that “the Europeans would be producers, and not solely consumers, of security.”

The United States, Canada, and the Brussels Treaty powers began negotiating a mutual defense treaty on July 6, 1948. They wanted a treaty that would remain within the framework of the U.N. Charter. Seeking “a larger grouping of countries,” the Brussels Treaty powers invited Denmark, Iceland, Italy, Norway, and Portugal to participate in the negotiations. Though the Soviet Union tried to disrupt the negotiations, twelve countries signed the North Atlantic Treaty on April 4, 1949. By September 1949, all NATO members had ratified the North Atlantic Treaty.

2. NATO’s First Decade

The North Atlantic Council (NAC) met for the first time on September 17, 1949. The Council established a Defense
Committee, a Military Committee, and Regional Planning Groups to develop defense plans.\textsuperscript{37} NATO's members agreed that the Council would meet annually and at times deemed necessary by any member.\textsuperscript{38} NATO developed its first strategic concept in January 1950,\textsuperscript{39} which called for the “integrated defense of the North Atlantic area.”\textsuperscript{40} The main task facing NATO was straightforward—to deter Soviet aggression.\textsuperscript{41} Because the Soviet threat was quite significant during NATO's formative years, this task seemed quite formidable.\textsuperscript{42}

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

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

\textsuperscript{37} Id. at 25.
\textsuperscript{38} Id. at 24.
\textsuperscript{39} Id. at 27.
\textsuperscript{40} Id.
\textsuperscript{41} NATO HANDBOOK, supra note 17, at 23.
\textsuperscript{42} ISMAY, supra note 16, at 29.
\textsuperscript{43} Id. at 31–32.
\textsuperscript{44} Id. at 31.
\textsuperscript{45} Id. at 32.
\textsuperscript{46} Id. at 35.
\textsuperscript{47} Id.
\textsuperscript{48} Id. at 11. Spain joined NATO in 1982, but its support for NATO has been ambiguous at best. HEUSER, supra note 11, at 29.
\textsuperscript{49} ISMAY, supra note 16, at x.
\textsuperscript{50} Id. at 33.
Germany joined NATO. The Soviet Union created its own alliance—the Warsaw Treaty Organization—only nine days after West Germany’s admission into NATO. The Warsaw Pact mirrored the key provisions of the North Atlantic Treaty. With “all the Soviet Union’s Communist neighbors” in the Warsaw Treaty Organization, Europe’s security division became completely formalized.

3. Countering the Soviet Threat

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

Though France sought security independence as NATO developed, most NATO members increased their security
dependence on the United States.\textsuperscript{62} During the Cold War, the United States and its NATO allies enjoyed a “fundamental compatibility of interests,”\textsuperscript{63} yet did not have a similarity of resources.\textsuperscript{64} This dissimilarity of resources contradicted NATO’s goal of providing a common defense for people on both sides of the Atlantic.\textsuperscript{65} As this arrangement developed, the United States became dissatisfied with its NATO allies.\textsuperscript{66}

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

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

\begin{footnotes}
\footnotetext[62]{KAY, \textit{supra} note 29, at 48.}
\footnotetext[63]{CARPENTER, \textit{Beyond NATO}, \textit{supra} note 13, at 8.}
\footnotetext[64]{KEITH A. DUNN, \textit{In Defense of NATO: The Alliance’s Enduring Value} 57 (1990).}
\footnotetext[65]{ISMAY, \textit{supra} note 16, at 15–16.}
\footnotetext[66]{KAY, \textit{supra} note 29, at 48–49 (discussing the introduction of the Mansfield Resolution in the U.S. Senate in 1971, which sought to reduce U.S. troop levels in Europe); see also MELVYN KRAUSS, \textit{How NATO Weakens the West} 112 (1986).}
\footnotetext[68]{\textit{Politics, Fund Cuts Hamper NATO Effort}, AV. WK. & SPACE TECH., Mar. 17, 1975, at 43.}
\footnotetext[70]{\textit{Si vis pacem}, \textit{Economist}, May 24, 1980, at 11.}
\footnotetext[71]{See KISSINGER, \textit{Diplomacy, supra} note 60, at 763 (“[A]t the beginning of the 1980s, it was as if communist momentum might sweep all before it . . . .”).}
\footnotetext[72]{See id. at 820.}
\end{footnotes}
Soviet Union mistakenly viewed “NATO’s endemic bickering as a symptom [of] the [Alliance’s] demise, rather than grasping that this expression of diverse interests was its abiding strength.”\footnote{74} The deployment of Pershing II cruise missiles in western Europe constituted a credible deterrent to Soviet aggression.\footnote{75} Though the Soviet Union had more troops and weapons than most NATO members, NATO’s members possessed sophisticated and effective weapons that the Soviets could not match.\footnote{76} In 1989 and 1990, the Soviet Union imploded dramatically.\footnote{77} Though commentators have debated what caused the Soviet Union’s demise,\footnote{78} one can certainly say that NATO helped defeat the Soviet Union.\footnote{79} At the end of the Cold War, NATO could claim that it was the most successful international organization in history.\footnote{80}

4. **NATO’s Post-Cold War Transition**

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

---

74. Mastny, supra note 73, at 180. Although the Soviet Union walked out of arms talks in Geneva in 1983, it failed to foment discord in NATO. \textit{KAPLAN, supra} note 52, at 145–46.  
75. Mastny, supra note 73, at 185.  
76. Id. at 186–87.  
77. \textit{See KAPLAN, supra} note 52, at 156–57, 162–63.  
78. Kissinger, \textit{Diplomacy, supra} note 60, at 802 (“Victory in the Cold War . . . came about as a result of the confluence of forty years of American bipartisan effort and seventy years of communist ossification.”); \textit{see, e.g., Dinesh D’Souza, Ronald Reagan: How an Ordinary Man Became an Extraordinary Leader} 197 (1997) (“In the cold war, Reagan turned out to be our Churchill; it was his vision and leadership that led us to victory.”). \textit{But see Robert Skidelsky, The State and Economy: Reflections on the Transition from Communism to Capitalism in Russia, in Postcommunism: Four Perspectives} 89 (Michael Mandelbaum ed., 1996) (“The proximate cause of the fall of the Soviet Union was state bankruptcy.”); Strobe Talbott, \textit{Rethinking the Red Menace}, TIME, Jan. 1, 1990, at 66, 69 (concluding that “[t]he doves in the Great Debate of the past 40 years were right all along”).  
80. \textit{See} Mastny, supra note 73, at 189.  
81. \textit{NATO HANDBOOK, supra} note 17, at 27.
of a collective defence capability.\textsuperscript{82} NATO created the North Atlantic Cooperation Council (NACC) to establish beneficial relations with Eastern European countries.\textsuperscript{83} At a meeting of the NAC in January 1994, NATO invited all NACC members and other nations to join the “Partnership for Peace” (PfP).\textsuperscript{84} The PfP sought to increase defense consultation, enhance peace-keeping abilities, and forge security partnerships among European nations.\textsuperscript{85}

Additionally, NATO sought “constructive and cooperative relations with Russia.”\textsuperscript{86} Building on the framework of NACC, Russia joined the PfP on June 22, 1994.\textsuperscript{87} NATO and Russia broadened their relationship by signing the “Founding Act on Mutual Relations, Cooperation and Security between NATO and the Russian Federation” on May 27, 1997.\textsuperscript{88} The Act established a Permanent Joint Council (PJC) through which NATO and Russia can develop a security partnership.\textsuperscript{89} Despite the best efforts of both NATO and Russia,\textsuperscript{90} the PJC has not been tremendously successful.\textsuperscript{91} Recently, NATO and Russia effectively revived the PJC by inaugurating a NATO-Russia
Council. Whether the NATO-Russia Council will achieve any relevance remains to be seen.

Article 10 of the North Atlantic Treaty allows NATO’s members, “by unanimous agreement, [to] invite any other European State in a position to further the principles of [the North Atlantic] Treaty and to contribute to the security of the North Atlantic area to accede to [the North Atlantic] Treaty.”

At the Brussels Summit in January 1994, NATO invited former Warsaw Pact nations to join the Atlantic Alliance. Supporters of NATO expansion argued that it would preserve security in Eastern Europe. They also argued that NATO expansion served a symbolic, cooperative function. At the Madrid Summit in July 1997, NATO’s members selected the Czech Republic, Hungary, and Poland to join NATO. All three nations became NATO members in April 1999. Despite criticism that NATO expansion would increase tension with Russia, NATO officials stressed that expansion would not alter the fundamentally defensive character of the Atlantic Alliance. NATO expansion is an ongoing process. At a summit in Prague in November

92. Richburg, NATO, Russia Form Limited Partnership, supra note 91.
93. Id. (“[T]he NATO-Russia Council remains a work in progress.”). If nothing else, the NATO-Russia Council will decrease Russian opposition to NATO expansion. Id.; see Glasser, supra note 91.
95. NATO HANDBOOK, supra note 17, at 81.
96. CARPENTER, BEYOND NATO, supra note 13, at 13.
97. Id. at 12 (“[P]roponents of an enlarged NATO often speak in the most ethereal terms about fostering political cooperation and promoting stability.”).
101. NATO HANDBOOK, supra note 17, at 81 (“It threatens no one.”).
102. NATO LOGISTICS HANDBOOK, supra note 88, at 17.
2002, seven former Communist countries were formally invited to join NATO.\footnote{5.Michael Evans & Roland Watson, \textit{Warsaw Pact Allies Sign Up to a New NATO}, \textit{Times} (London), Nov. 22, 2002, at 18. The seven countries were Bulgaria, Romania, Slovenia, Slovakia, Estonia, Latvia, and Lithuania. \textit{Id.}}

\textbf{5. Bosnia}

The Atlantic Alliance undertook its first military engagement during the Bosnia conflict.\footnote{4.\textit{NATO Handbook}, supra note 17, at 116.} In response to “the siege of Sarajevo,” NATO demanded that the Bosnian Serbs “withdraw their heavy weapons to a distance of twenty kilometers from the city center, or place them under the control of the United Nations.”\footnote{5.\textit{Id.} at 116–19.} Shortly after delivering this ultimatum, NATO aircraft shot down four Serb warplanes that had violated the U.N.’s “No-Fly Zone” over Bosnia-Herzegovina.\footnote{6.\textit{Laura Silber & Allan Little}, \textit{Yugoslavia: Death of a Nation} 315–16 (rev. ed. 1997). For a thorough discussion of the origins of the Bosnia conflict, see \textit{id.} at 31–47.} NATO members enforced the “No-Fly Zone,” implemented U.N. resolutions, and attacked Bosnian Serb sites.\footnote{7.\textit{Id.} at 119–20.} Due to a combination of air strikes and diplomatic pressure, the Bosnian Serbs signed “the Bosnian Peace Agreement between the Republic of Bosnia and Herzegovina, the Republic of Croatia, and the Federal Republic of Yugoslavia” (Bosnian Peace Agreement).\footnote{8.\textit{Id.} at 119–20.}

NATO created a multinational “Implementation Force” (IFOR) to implement the Bosnian Peace Agreement.\footnote{9.\textit{Id.} at 120.} IFOR troops ensured compliance with the cease-fire and monitored the withdrawal of Serbian troops from the “zone of separation back to their . . . territories.”\footnote{10.\textit{Id.} IFOR troops also performed peace-building functions, such as de-mining, repair of bridges and railroads, and supervision of elections. \textit{Id.} at 123.} Eventually, IFOR’s mandate expired and NATO established a “Stabilisation Force” (SFOR) to preserve security in Bosnia.\footnote{11.\textit{Id.} at 124.}
to have an eighteen-month mission, NATO has renewed SFOR’s mandate frequently, and has transformed SFOR into a multinational force.\footnote{112}

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

\section{Kosovo}

NATO intervened in another politically divisive conflict in Kosovo.\footnote{120} Responding to ethnic cleansing committed against Kosovar Albanians by Slobodan Milosevic’s Serbian army,\footnote{121}
NATO went to war against one man. The Atlantic Alliance conducted an extensive bombing campaign against the Serbian army. After seventy-eight days, Milosevic agreed to withdraw the Serbian army from Kosovo. The bombing campaign occurred while NATO celebrated its fiftieth anniversary and the unity of its members during the Cold War. The Kosovo conflict, however, was politically divisive: both Russia and China threatened to veto any U.N. resolution authorizing the use of force against Serbia. Having intervened in Kosovo after excessive deliberation, NATO conducted the bombing campaign with insufficient deliberation. The results of the bombing campaign were erratic. Some have questioned whether the bombing campaign even helped to end the Kosovo conflict.

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

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

122. Id. at 1.
124. Id.
125. Gribbin, supra note 79.
126. DAALDER & O’HANLON, supra note 121, at 36.
127. Brown, supra note 100, at 214 (“NATO’s leaders did nothing but issue diplomatic protests when Milosevic began his crackdown in Kosovo in early 1998 . . . .”).
128. See DAALDER & O’HANLON, supra note 121, at 92–93 (discussing the mistaken assumption of the Clinton Administration that the bombing campaign would force Milosevic to capitulate quickly).
130. Barry & Thomas, The Kosovo Cover-Up, supra note 123, at 23.
131. See John Sloboda, So Much Expended for So Little Good, in KOSOVO: THE POLITICS OF DELUSION 114 (Michael Waller et al. eds., 2001) (arguing that NATO's involvement in Kosovo “fell outside NATO’s core rationale as a purely defensive alliance”). But see DAALDER & O’HANLON, supra note 121, at 16 (“The story of the Kosovo crisis is largely a saga of NATO . . . doing the right thing . . . the wrong way.”).
the right thing,\textsuperscript{132} did “the right thing . . . the wrong way,”\textsuperscript{133} or did the wrong thing,\textsuperscript{134} the Kosovo conflict raised more questions about NATO than it answered.\textsuperscript{135} One can ponder the following questions: whether the bombing campaign forced Milosevic to withdraw the Serbian army,\textsuperscript{136} whether NATO will become involved in other intra-state conflicts,\textsuperscript{137} and whether NATO will forge a lasting peace in Kosovo.\textsuperscript{138} These questions remain unanswered.\textsuperscript{139}

\section*{B. NATO's Structure}

The North Atlantic Treaty\textsuperscript{140} is NATO's legal, contractual basis.\textsuperscript{141} It provides for collective defense.\textsuperscript{142} NATO's primary committee is the NAC, the only body mentioned explicitly in the North Atlantic Treaty.\textsuperscript{143} All NATO members meet at the NAC

\footnotesize{\begin{itemize}
\item[133.] Daalder & O'Hanlon, supra note 121, at 16.
\item[134.] Kyril Drezov & Bülent Gökay, \textit{Bombing Yugoslavia: It is Simply the Wrong Thing to Do, in Kosovo: The Politics of Delusion}, supra note 131, at 74.
\item[135.] See, e.g., Brown, supra note 100, at 208 (raising questions about NATO's ability to promote stability in the remote corners of the European continent).
\item[136.] Barry & Thomas, \textit{The Kosovo Cover-Up}, supra note 123, at 23–25 (stating the bombing campaign “against the Serb military in Kosovo was largely ineffective,” and noting that the accuracy and effectiveness of the bombing campaign were overstated).
\item[137.] Gary Dempsey, \textit{Kosovo Questions Without Answers}, WASH. TIMES, Oct. 7, 1998, at A17 (“Indeed, if NATO can intervene in Kosovo, it can theoretically intervene anywhere.”).
\item[138.] Keith B. Richburg, \textit{Patrols on Kosovo's Borders Increased; NATO Troops Won't Enter Macedonia}, WASH. POST, Mar. 17, 2001, at A17 [hereinafter Richburg, \textit{Patrols on Kosovo's Borders}].
\item[139.] See, e.g., Brown, supra note 100, at 208–09 (stating that NATO's involvement in Kosovo was not plainly effective, and noting that many of the mission's objectives were not met). Despite these unanswered questions, the situation in Kosovo has gradually become more stable. See Finn, \textit{NATO Plans to Trim Balkan Force}, supra note 112 (noting that the NATO-led force in Kosovo “will fall from 38,000 troops to 33,200”).
\item[140.] North Atlantic Treaty, supra note 1, 63 Stat. at 2242, 34 U.N.T.S. at 246.
\item[141.] NATO HANDBOOK, supra note 17, at 23.
\item[142.] Id.
\item[143.] North Atlantic Treaty, supra note 1, art. 9, 63 Stat. at 2244, 34 U.N.T.S. at
\end{itemize}
at least once a week at the alliance’s headquarters in Brussels, Belgium. The NAC also meets at higher levels involving foreign ministers, defense ministers, and heads of state. The NAC operates by consensus; each NATO member has an equal right to express its views. The Secretary-General of NATO normally chairs the NAC. The NAC considers all major issues facing NATO, and can establish committees or planning groups to consider particular issues.

NATO’s core provision is Article 5, which provides that an attack on one NATO member is an attack on all NATO members. All NATO members must “maintain and develop their individual and collective capacities to resist armed attack.” The NAC provides a forum for discussion when a NATO member might suffer or has suffered an attack. If a member suffers an attack, all NATO members will assist that nation. NATO then immediately reports any action to the U.N. Security Council. NATO must cease collective defense action “when the Security Council has taken the measures necessary to restore and maintain international peace and security.”

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

248.

144. NATO HANDBOOK, supra note 17, at 35, 234.
145. Id. at 35.
146. Id. at 35, 37.
147. Id. at 37.
148. Id. at 35.
151. Id. art. 3, 63 Stat. at 2242, 34 U.N.T.S. at 246.
152. Id. art. 4, 63 Stat. at 2242, 34 U.N.T.S. at 246.
153. Id. art. 5, 63 Stat. at 2244, 34 U.N.T.S. at 246.
154. Id.
155. Id.
156. NATO HANDBOOK, supra note 17, at 38.
157. See supra notes 56–61 and accompanying text (discussing France’s withdrawal from NATO’s military command).
members participate in the DPC. The DPC has many subordinate committees with detailed responsibilities. Defense ministers also meet in the Nuclear Planning Group (NPG), which discusses policy issues relating to NATO’s nuclear capacity. The main issues facing the NPG are security of nuclear weapons, nuclear arms control, and nuclear proliferation.

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

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

158. NATO HANDBOOK, supra note 17, at 38.
159. Id. at 39. One subordinate committee is the Military Committee; although subordinate to the NAC and the DPC, it has a special status as NATO’s senior military authority. Id. at 40.
160. Id. at 39.
161. Id.
162. See supra notes 83–85 and accompanying text (discussing the PfP).
163. NATO HANDBOOK, supra note 17, at 44.
164. Id.
165. Id. at 47.
166. Id. at 53.
167. Many other NATO committees have existed or exist currently. Id. at 42-56. For purposes of brevity, however, I have attempted to discuss only NATO’s principal committees.
168. Id. at 56.
169. Id. at 251.
170. Id. at 249. NATO has always appointed an American as SACEUR. See KRAUSS, supra note 66, at 119.
recommendations to NATO's political leaders and meets with the NAC frequently. SACEUR also develops military contacts with NATO's PfP partners. SACEUR has three principal commanders who report to him: the Commander-in-Chief Allied Forces Northwestern Europe; the Commander-in-Chief Allied Forces Central Europe; and the Commander-in-Chief Allied Forces Southern Europe.

III. WHY NATO SHOULD DISBAND

A. NATO’s Diminished Utility in the Current International System

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

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

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

183. Id.
184. Id.
185. See supra notes 25–35 and accompanying text (discussing the creation of NATO).
186. See Malcolm, supra note 174, at 20.
187. See Chace, supra note 114. An example of a crisis-developed coalition would be if “the U.S., France and Russia [intervened] in a Hungarian-Romanian conflict over the lost Hungarian lands now part of Romanian Transylvania. Even if done under a U.N. umbrella, it would be a very traditional way of preserving the peace.” Id.
188. See Newhouse, supra note 9.
189. See id.
191. North Atlantic Treaty, supra note 1, art. 5, 63 Stat. at 2244, 34 U.N.T.S. at 246; see, e.g., Malcolm, supra note 174, at 50 (“NATO is the servant; its master is the agreed policy of [nineteen] member governments—[thirty-eight] arms and [thirty-eight] legs. On a contentious issue . . . , those arms and legs may put most of their energy into kicking and striking one another.”).
B. Diverging Security Interests Between the United States and Europe

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

196. See Malcolm, supra note 174, at 51 (noting the disagreements between NATO members over how to resolve the Bosnia conflict).
197. David Ignatius, The Transatlantic Rift is Getting Serious, Wash. Post, Feb. 15, 2002, at A33 (noting that NATO is “like a marriage that has gotten out of sync—with one partner feeling left behind as the other becomes more successful”); see also Jim Hoagland, Fog of Peace, Wash. Post, Aug. 16, 2001, at A25 (analogizing NATO to “an unsuccessful marriage [of] two people sleeping in the same bed but dreaming different dreams”).
200. Daley, For First Time, supra note 2.
201. See Kamp, supra note 100, at 120.
203. Id.
than exacerbate this political tension, NATO should cease to exist.\textsuperscript{204}

C. The Capabilities Gap Between the United States and Europe

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

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

\begin{footnotesize}
\begin{enumerate}
\item[204.] See Ignatius, supra note 197.
\item[205.] See Dempsey, supra note 137.
\item[206.] KRAUSS, supra note 66, at 19–21, 70. This concern exists today. John Chalmers & Paul Taylor, Rumsfeld Urges NATO Action to Counter New Threats, WASH. POST, June 7, 2002, at A21 (“NATO Secretary General George Robertson urged the ministers to spend more to ensure the alliance was able to respond to new threats.”).
\item[207.] See KRAUSS, supra note 66, at 111.
\item[208.] Id.
\item[209.] Id. at 119 (detailing a proposal by former U.S. Secretary of State Henry Kissinger that NATO appoint a European, not an American, as SACEUR).
\item[210.] Tod Lindberg, The More, the Merrier; NATO Enlargement Serves U.S. Interests, WASH. TIMES, May 1, 2001, at A17.
\item[211.] Gribbin, supra note 79. Simple statistical analysis proves this: last year, the United States spent about 3.3\% of its gross domestic product on defense, while the average military spending among its European allies was 1.8\%. Chalmers & Taylor, supra note 206.
\item[212.] Ignatius, supra note 197. Concern regarding the capabilities gap also existed in the Persian Gulf War and in the conflict in Kosovo. Peter Finn, Military Gap Grows Between U.S., NATO Allies, WASH. POST, May 19, 2002, at A22 [hereinafter Finn, Military Gap Grows].
\end{enumerate}
\end{footnotesize}
welfare state in security matters. As the capabilities gap between the United States and Europe widens, the stability of NATO will become further threatened. Yet European NATO members have shown much reluctance to spend money on defense matters. Both the Cold War and the East-West security divide have ended. European nations should follow the words of the “Sinatra doctrine” and “do it [their own] way” on defense matters. NATO must disband to enable European security integration.

D. NATO’s Structural Limitations

I. “Out-of-Area” Operations

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

213. KRAUSS, supra note 66, at 137.
214. Finn, Military Gap Grows, supra note 212.
215. Id.
217. Michael Dobbs, Changes Prove to Be Bonus for Gorbachev, WASH. POST, Nov. 10, 1989, at A1 (noting that the Soviet Union had adopted the “Frank Sinatra doctrine” regarding the internal politics of eastern European countries, which would let every country be able to say “I do it my way”).
218. Id.
219. See Dempsey, supra note 137. NATO’s supporters acknowledge the current “free-rider” security problem between the United States and Europe. See, e.g., Ronald D. Asmus, United We’ll Stand; Recasting NATO to Face a Perilous World Together, WASH. POST, May 6, 2002, at A21 (“Europe is too weak militarily.”). NATO’s supporters, however, claim that “sidelining NATO” will encourage European nations to become free riders. Id. European dependence on NATO, however, has created the current “free-rider” problem. KRAUSS, supra note 66, at 137. Some commentators have advocated “giv[ing] NATO a new mission and the tools to combat weapons of mass destruction.” Asmus, supra. It is entirely unclear, however, how these proposals will solve NATO’s problems.
221. Brown, supra note 100, at 206. NATO’s intervention in Bosnia demonstrated NATO’s deviation from its original, defensive purpose. CARPENTER, BEYOND NATO, supra note 13, at 87–88.
NATO’s legal authority to intervene in Kosovo is questionable. Though none of its members were attacked, NATO intervened under the general mantra of humanitarian intervention. Commentators have thoroughly debated the question of whether NATO’s intervention in Kosovo was legal.

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


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

If NATO follows the logic of its intervention in Kosovo, then many “out-of-area” missions will await NATO. Assuming that NATO’s intervention in Kosovo “set[s] a new precedent of ethnic self-determination or humanitarian concern trumping national sovereignty,” many candidates will appear at NATO's doorstep.

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

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

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

228. Manning, supra note 226.

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

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

231. See supra notes 104–30 and accompanying text (discussing NATO's involvement in Bosnia and Kosovo).
NATO from conducting another “out-of-area” operation. Increasing NATO “out-of-area” missions is “the classic expression of an institution’s instinct to survive and expand whatever the continued usefulness of its original function.”

Those who support NATO’s intervention in Kosovo want to expand NATO’s jurisdiction without amending the North Atlantic Treaty. Following that logic, NATO should prevent discrimination against ethnic minorities in the “Near-Abroad,” or protect the Kurds from atrocities. It is unclear how far NATO will travel to undertake an “out-of-area” operation. After the Cold War, NATO had to go “out-of-area” or out of business. Having gone “out-of-area” twice with very limited success, however, NATO might go out of business.

NATO refuses to acknowledge its obsolescence. Its

---

232. Hunter, supra note 115, at 201–02.
234. See Dempsey, supra note 137 (noting former Secretary of State Madeleine Albright’s statement that “NATO should extend its geographic reach beyond the European continent and evolve into a force for peace from the Middle East to Central Africa”); see also Madeleine Albright, Why Europe Doubts, WASH. POST, May 22, 2002, at A37 (“[W]hy did we not use NATO members to help in the training of Georgian helicopter pilots? Could the alliance be involved in some out-of-area action in the greater Middle East?”).
235. See Timothy Garton Ash, A New War Reshapes Old Alliances, N.Y. TIMES, Oct. 12, 2001, at A25; see also Philip Chase, Note, Conflict in the Crimea: An Examination of Ethnic Conflict Under the Contemporary Model of Sovereignty, 34 COLUM. J. TRANSNAT’L L. 219, 229 (1995). This most likely will not happen. See Kamp, supra note 100, at 119–20 (doubting that NATO would “really be prepared to inject military forces into conflicts that might arise in Central or Eastern Europe”).
236. See Ash, supra note 235.
237. See, e.g., Daley, NATO, Though Supportive, supra note 4.
238. Brown, supra note 100, at 205. For an example of a new “out-of-area” operation, see Thomas L. Friedman, How About Sending NATO Somewhere Important?, N.Y. TIMES, Sept. 4, 2001, at A23 [hereinafter Friedman, How About Sending] (proposing a 30,000-troop NATO force to supervise and maintain a demilitarized Palestinian state).
239. See, e.g., Pryce-Jones, supra note 179, at 20 (arguing that NATO’s credibility was on the line in former Yugoslavia).
240. Chace, supra note 114. Many commentators, however, have proposed transforming NATO into a purely political alliance. Charles Krauthammer, Re-Imagining NATO, WASH. POST, May 24, 2002, at A35 (“[NATO’s] new role should be to serve as incubator for Russia’s integration into Europe and the West.”); see A Nastase Shock for NATO?, ECONOMIST, Apr. 6, 2002, at 46 (“NATO membership is at least as
members could have amended—or at least analyzed—the intricacies of the North Atlantic Treaty at NATO’s Fiftieth Anniversary Summit. They lost this opportunity to end NATO’s identity crisis. This inaction is unwise. Instead of “becoming . . . a caricature of itself” by undertaking more “out-of-area” operations, NATO should set a timetable for its termination.

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

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

---

242. Id. (“Instead of really working on the intricacies of the [North Atlantic] Treaty, the NATO summit was more of an opportunity for the member states to announce how proud of themselves they were that [Operation Allied Storm was succeeding.”).
243. Id. (“Unless NATO fixes the legal trap created by Article 5, it cannot realistically pursue a new doctrine without continually running afoul of international law.”).
244. Gribbin, supra note 79.
245. Id.
247. Id. (stating that each NATO member must take action under Article 5, but noting that “the kind of action is left to the judgment of each member state in relation to the facts of the situation”); see also NATO HANDBOOK, supra note 17, at 68, 72.
249. See Daley, NATO, Though Supportive, supra note 4.
Article 5 to issues such as international terrorism.\footnote{251} Recent events have proved that Article 5 is a creature of the Cold War.\footnote{252} Commentators have viewed NATO’s recent activation of Article 5 as a political endorsement of U.S. efforts to combat international terrorism.\footnote{253} It is quite ironic that NATO, a collective defense organization, now gives political endorsements.\footnote{254} Though some view this development positively,\footnote{255} they should not. Political support for a coalition against international terrorism is important; adapting NATO to achieve that goal, however, belies the history of the Atlantic Alliance.\footnote{256} On the other hand, if Article 5 arguably mandates that NATO members contribute troops, then Article 5 no longer reflects the political and military balance in Europe.\footnote{257}

Multiple situations exist in which circumstances render Article 5 useless. The North Atlantic Treaty does not prohibit a NATO member from refusing to contribute troops if a fellow member is attacked.\footnote{258} If a NATO member considers participation in a particular conflict too burdensome or unwieldy, that member can refuse to contribute troops.\footnote{259} Applying Article 5 proves troublesome if two NATO members declare war against each other and request NATO assistance under Article 5.\footnote{260} Uneasy choices present themselves in that

\begin{enumerate}
\item Id.
\item See Daley, NATO, Though Supportive, supra note 4.
\item Id.
\item Compare ISMAY, supra note 16, at 13 (“[A] promise to stand together in the event of an armed attack is no real deterrent to an aggressor unless it is backed by armed strength.” (emphasis added)), with Daley, For First Time, supra note 2 (“NATO’s secretary general, Lord Robertson, said the [Article 5] declaration did not necessarily mean NATO would get involved in military action.”).
\item See Ash, supra note 235 (“[A] larger but slightly looser NATO makes more sense than ever.”).
\item See ISMAY, supra note 16, at 13–15.
\item See Daley, NATO, Though Supportive, supra note 4.
\item North Atlantic Treaty, supra note 1, art. 5, 63 Stat. at 2244, 34 U.N.T.S. at 246 (“[f] . . . an armed attack occurs, each [member] . . . will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, such action as it deems necessary . . . .” (emphasis added)).
\item Id.; Kamp, supra note 100, at 124 (offering a hypothetical situation in which the United States would not involve itself, despite Article 5).
\item CLEMENT H. DODD, THE CYPRUS IMBROGLIO 8–33 (1998) (discussing the
situation: NATO can collectively do nothing, or each NATO member can pick a side in the conflict. Either way, implementation of the North Atlantic Treaty does not provide a beneficial outcome. Once a blessing during the Cold War, Article 5’s flexibility is now a burden.

3. The Futility of NATO Expansion

Article 10 of the North Atlantic Treaty allows NATO nations, “by unanimous agreement, [to] invite any other European State in a position to further the principles of [the North Atlantic] Treaty and to contribute to the security of the North Atlantic area to accede to [the North Atlantic] Treaty.” The Czech Republic, Hungary, and Poland joined NATO in April 1999. More recently, seven more former Communist states were admitted into NATO. As its members invite the former Communist states to join the Alliance, NATO again risks tension and disagreement with Russia. Before September 11th, Russian President Vladimir Putin opposed NATO membership for the Baltic states. After September 11th,
however, the situation changed. Putin and NATO Secretary-General Lord Robertson met privately and discussed, among other things, NATO expansion. Putin indicated Russia’s decreased opposition to the Baltic states joining NATO. He also hinted that Russia might join NATO eventually.

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

---

270. Ash, supra note 235.
271. Id.; see also Broder, supra note 181.
272. Ash, supra note 235.
275. See Myers, Russia: Shunning NATO Summit, supra note 274.
278. See Carpenter, Beyond NATO, supra note 13, at 67 (“Bringing Russia into the alliance would create a cumbersome political-military association spanning three continents.”).
279. Id. at 68.
280. See Kissinger, What to Do, supra note 175 (stating that Russian membership in NATO would make NATO “either a general collective security system or an alliance of North Atlantic nations against China—a step with grave long-term
Inviting the Baltic states in Russia’s place, however, also expands NATO’s geographical reach greatly.\textsuperscript{281} This is unwise because admission of the Baltic states will test NATO’s security commitments fully.\textsuperscript{282} Should NATO’s membership number twenty-five or more, it will be even more difficult for NATO to act by consensus.\textsuperscript{283} Further NATO expansion is unnecessary and counterproductive.\textsuperscript{284} It would cause NATO to overextend its resources\textsuperscript{285} and stick “to the carcasses of dead policies.”\textsuperscript{286} Instead of expanding, NATO should decrease its membership and, eventually, disband.\textsuperscript{287}

IV. PLACING EUROPEAN SECURITY IN THE HANDS OF EUROPEAN NATIONS

A. A Gradual, Effective Solution

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

implications”).

\textsuperscript{281} CARPENTER, BEYOND NATO, supra note 13, at 67.

\textsuperscript{282} Id. at 64.

\textsuperscript{283} Albright, supra note 234.

\textsuperscript{284} Brown, supra note 100, at 204.

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

\textsuperscript{286} Chace, supra note 114 (quoting British Prime Minister Lord Salisbury).

\textsuperscript{287} See infra Part IV.A (proposing that NATO disband over a ten-year period).

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

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

\textsuperscript{290} Id.

\textsuperscript{291} Id. art.12, 63 Stat. at 2246, 34 U.N.T.S. at 250.
NATO members should then withdraw simultaneously from the Atlantic Alliance after nine years. One year later, with no members, NATO will disband.\\footnote{292}{Id. art.13, 63 Stat. at 2246, 34 U.N.T.S. at 250.}

1. The Western European Union

The end of NATO will produce a Euro-centric security system.\\footnote{293}{DUKE, NEW EUROPEAN SECURITY DISORDER, supra note 194, at 196–97.} In turn, the Western European Union (WEU) should replace NATO as the primary security organization in Europe. Established by the Maastricht Treaty,\\footnote{294}{Treaty of Amsterdam Amending the Treaty on European Union, The Treaties Establishing the European Communities and Certain Related Acts, Oct. 2, 1997, O.J. (C340) 145, art. 17 (1997).} the WEU is the security arm of the European Union (E.U.).\\footnote{295}{DUKE, THE ELUSIVE QUEST, supra note 98, at 240.} Though it has limited utility for conflict resolution,\\footnote{296}{See Wake up, Europe!, ECONOMIST, Sept. 15, 2001, at 45.} the WEU draws upon tremendous military and financial resources from European nations.\\footnote{297}{See CARPENTER, BEYOND NATO, supra note 13, at 135–36.} European nations now give the WEU greater support.\\footnote{298}{See Hoagland, supra note 13.} In December 1999, E.U. leaders “vowed to develop by 2003 the ability to deploy up to 60,000 soldiers within 60 days and sustain that force for up to a year.”\\footnote{299}{William Drozdiak, \textit{U.S. Tepid on European Security Defense Plan; American Stance Vexes EU Leaders}, WASH. POST, Mar. 7, 2000, at A1 [hereinafter Drozdiak, \textit{U.S. Tepid}].} Additionally, an E.U. security mission has been proposed for Macedonia.\\footnote{300}{Wake up, Europe!, supra note 296, at 45.} European nations are recognizing that the E.U. must expand and NATO must contract.\\footnote{301}{Brown, supra note 100, at 204.} 

The WEU’s parent institution, the E.U., has a Court of Justice, a Parliament, and a Council—\textit{institutions that contribute to conflict resolution}. As it expands, the E.U. should admit more members from central and eastern Europe.\\footnote{302}{Id. at 215.} To achieve this goal,
the E.U. must ease its membership criteria. The E.U.’s chief foreign policy adviser, Javier Solana, served as NATO’s Secretary-General; thus, the E.U. has a special link to NATO. Many E.U. members are also NATO members. Consequently, the E.U. is quite familiar with NATO training methods and logistics. The WEU is the best chance to preserve European security. It can develop into more than a “European pillar” of security.

The WEU can draw upon NATO airfields and bases after the Atlantic Alliance shuts its doors. It can also adopt a simple charter based on a mutual security guarantee similar in spirit to Article 5. From the time when NATO’s members deliver their notices of denunciation to the time when the dissolution becomes final, NATO officials should consult with WEU officials on many issues. NATO should assist in this gradual transition.

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

304. Id. at 215–16.
305. Drozdiak, U.S. Tepid, supra note 299.
307. Wake up, Europe!, supra note 296, at 45.
308. See Carpenter, Beyond NATO, supra note 13, at 124–25.
309. Wake up, Europe!, supra note 296, at 45–46.
311. Wake up, Europe!, supra note 296, at 45.
313. See, e.g., Hunter, supra note 115, at 202–03.
314. Id.
315. See, e.g., id. at 203 (“[America] must not raise its expectations for European action too high, too fast . . . .”).
316. Hoagland, supra note 197 (“There is still plenty of life in, and need for, this partnership.”); see also infra notes 349–60 and accompanying text (discussing the strong relations the United States has with many European nations).
States will continue to be a good friend to European nations.\textsuperscript{317}

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

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

\begin{flushleft}
\textsuperscript{317} Krauss, supra note 66, at 235.
\textsuperscript{318} Carpenter, Beyond NATO, supra note 13, at 131.
\textsuperscript{319} See id. NATO officials reacted similarly. Id. at 134.
\textsuperscript{320} Id. at 133–34.
\textsuperscript{321} Id. at 134.
\textsuperscript{322} See Hoagland, supra note 197.
\textsuperscript{323} Mastny, supra note 73, at 176.
\textsuperscript{324} Hunter, supra note 115, at 202.
\textsuperscript{325} Drozdiak, \textit{U.S. Tepid}, supra note 299.
\textsuperscript{326} Id.
\textsuperscript{327} Duke, New European Security Disorder, supra note 194, at 212.
\end{flushleft}
2. The U.N. Security Council

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


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

333. *See id.*

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

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

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

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


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

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

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

\footnote{340. See supra notes 336–37 and accompanying text (discussing the Security Council's actions after September 11th).}

\footnote{341. See NATO HANDBOOK, supra note 17, at 83.}

\footnote{342. BASIC FACTS, supra note 338, at 9.}

\footnote{343. NATO HANDBOOK, supra note 17, at 35.}
members voting against the resolution. By authorizing "coalitions of the willing" to solve European security problems, the Security Council can help to preserve European security after NATO disbands.

B. Objections to Ending NATO

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

345. Brown, supra note 100, at 213.
346. Dunn, supra note 64, at 69–71; see also Hunter, supra note 115, at 190 (“[T]he hard work of building a lasting system of European security for the 21st century has just begun.”).
348. See supra Part II.A.; Krauss, supra note 66, at 234–35 (noting that substantial U.S. military installations could be left in place in Europe).
349. Heuser, supra note 11, at 22.
350. See id. at 29 (stating that Italy has sought its own “special relationship” with the United States).
351. Id. at 30 (describing Turkey as a “particularly willing and loyal NATO ally [of the United States]”).
352. See David Garnham, Ending Europe’s Security Dependence, in The Future of NATO, supra note 310, at 132–33 (chronicling recent, positive developments in U.S.-German relations).
353. Heuser, supra note 11, at 30 (portraying the Netherlands as a “loyal but uncontroversial partner[,]” of the United States).
354. Id. (averring that Denmark “always look[s] to America for leadership”).
355. Id. (stating that Norway also looks to the United States for leadership).
side during the Cold War—this commitment surpasses diplomatic formalities. The United States will not isolate itself from Europe merely because NATO disbands. Additionally, European nations do not need a formal security link to the United States. Even with NATO gone, “[t]here is still plenty of life in, and need for, [the United States-Europe security] partnership.”

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

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

---

357. HEUSER, supra note 11, at 108–10.
358. See, e.g., KRAUSS, supra note 66, at 233–34. It is hardly a leap in logic to conclude that the United States and NATO members will continue to work together after the end of NATO. See Old Friends and New—Europe and America, supra note 8, at 27 (“America’s relationship with Europe—expressed not just in NATO but through a multiplicity of trading, investment and intelligence ties, as well as common values—is undoubtedly substantial.”). For example, no NATO action is necessary for the United States and Europe to combat international terrorism. Instead, the United States and NATO members can—and should—“work together on intelligence operations and police work.” Ignatius, supra note 197.
359. See Old Friends and New—Europe and America, supra note 8, at 27.
360. Hoagland, supra note 197.
361. KRAUSS, supra note 66, at 133.
362. DUNN, supra note 64, at 70.
363. Shapiro v. United States, 335 U.S. 1, 55 (1948) (Frankfurter, J., dissenting) (internal quotation marks omitted).
364. DUKE, NEW EUROPEAN SECURITY DISORDER, supra note 194, at 276.
365. KRAUSS, supra note 66, at 133.
366. CARPENTER, BEYOND NATO, supra note 13, at 142; DUKE, NEW EUROPEAN SECURITY DISORDER, supra note 194, at 213.
367. See CARPENTER, BEYOND NATO, supra note 13, at 142 (noting that NATO “partisans” really fear that Europeans will not need Americans and will exclude them from state affairs).
368. ABSHIRE ET AL., supra note 5, at 6 (dismissing the WEU as a flawed security structure).
responsibility for the defense of Europe. The transition to a Euro-centric security system should not occur overnight. Thus, this criticism is partially correct. Weaning European nations from NATO, however, must occur sooner rather than later. “NATO’s rejuvenation does not go far enough and fails to provide a new or imaginative answer to European security problems.” New solutions are necessary to solve European security conflicts, and European nations need security interdependence. NATO cannot achieve either of these goals.

V. CONCLUSION

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

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

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

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

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

373. Id. at 311.

374. Id.

375. Id. at 311–12.

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

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

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

379. See supra notes 104–30 and accompanying text (discussing NATO’s involvement in Bosnia and Kosovo).
2003] DECLARING VICTORY 379

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

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

Michael M. Gallagher

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

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

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

383. Compare Gribbin, supra note 79 (stating that NATO helped win the Cold War “without marching a single company into combat”), with George Scott, The Rise and Fall of the League of Nations 399 (1973) (“It was impossible to deny the ultimate failure of the League [of Nations]: the horrors through which the world had passed were too recent and the living evidence of them too grotesque.”), and F.S. Northedge, The League of Nations: Its Life and Times, 1920-1946 276 (1986) (“[T]he League of Nations ... did not survive the efforts to mount collective action against the Italian invasion of Abyssinia.”), and Hilaire McCoubrey & Justin Morris, Regional Peacekeeping in the Post-Cold War Era 159–60 (2000) (discussing the reasons why SEATO failed).

384. ISMAY, supra note 16, at 8.

385. Id. at 8–9.

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

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

* B.A., 2000, Georgetown University; J.D. expected, 2003, University of Houston Law Center. This Comment received the Houston Journal of International Law Board 24 Writing Award. I dedicate this Comment to my parents. Many thanks go to Carlie Bishop, Brad Bowling, Lorenzo Cortes, Simon Garfield, David Hartnett, and Jennifer White for their thoughtful, meticulous contributions to this Comment.