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**Master's Thesis of International Studies**

# **U.S. Allies and Diverging Interests in Times of Strategic Competition**

**- Secondary Sanctions in the Case of Nord Stream 2 -**

전략경쟁 시대에 미(美) 동맹국과 동맹국간 이해 갈등 : 노드  
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**Graduate School of International Studies  
Seoul National University  
International Cooperation Major**

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# **U.S. Allies and Diverging Interests in Times of Strategic Competition**

**- Secondary Sanctions in the Case of Nord Stream 2 –**

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**Submitting a master's thesis of International Studies**

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## Abstract

The starting point of this thesis is the curious case of two allies with conflicting policies regarding their adversary. The United States views Russia to be challenging American power. Germany, an ally of the US, supports the Nord Stream 2 project, a pipeline that is intended to bring Russian gas to Europe. The US fiercely opposes the pipeline project and has targeted it with (secondary) sanctions that could affect German companies. The German government in turn rejects those secondary sanctions and views them as an infringement to its sovereignty.

In addition to reviewing existing literature, the thesis draws on primary sources such as government statements and debates in the US Congress or the German Bundestag in order to outline the two countries' policy positions. It further analyzes the findings using alliance management theory. The thesis notes that the conflicting policies are a result of diverging interests: While strategic concerns and threat perceptions prevail in the US strategy regarding Russia, Germany is more preoccupied with economic considerations and achieving cooperation.

With regard to those diverging interests, the two allies are in the process of intra-alliance bargaining. Noting the parallels of the Nord Stream 2 controversy to a similar case of the 1980s, the thesis finds that being the leader of an alliance does not mean that the US has the power to restrict the commercial relations of its allies. Hence, it is concluded that secondary sanctions might not have been the right policy tool in the case at hand. Attempting to compel allies to cooperate on foreign policy objectives may have long-term negative effects for the US—something that should be kept in mind not only when dealing with Germany, but also in relations with other allies.

**Keyword :** Alliance, Secondary Sanctions, Diverging Interests, Russia, Nord Stream 2, Germany

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## Acronyms

CAATSA	Countering America’s Adversaries Through Sanctions Act
EU	European Union
GSDB	Global Sanctions Data Base
ISAF	International Stability Assistance Force in Afghanistan
LNG	Liquefied Natural Gas
LSP	List of Specified Persons
NATO	North Atlantic Treaty Organization
NRC	NATO-Russia Council
OFAC	Office of Foreign Assets Control
PEESA	Protecting Europe’s Energy Security Act of 2019
US	United States of America

# 1 Introduction

## 1.1 Research Background

Reading the key security strategic document of the United States of America, the National Security Strategy of 2017, a perceived challenge to American power from the side of China and Russia appears on a prominent place in the chapter “A Competitive World” – first, before threats of the Democratic Republic of Korea or the Islamic Republic of Iran. According to the document, “China and Russia challenge American power, influence, and interests, attempting to erode American security and prosperity.” The security strategy follows the Trump administration’s “America first” principle and even in the realm of diplomacy, the American strategy sees the country to be in a competition for relations to other countries in order to advance American interests. It also views economic tools, including sanctions, as possible “important parts of broader strategies to deter, coerce and constrain adversaries”. It acknowledges the importance of its European allies while seeing Russia threatening European unity and security (The White House 2017a).

Germany, an important ally to the US within the NATO, acknowledges its close partnership with the US as well as the latter’s role for European security and stability and emphasizes importance of and its loyalty to the alliance in its Security Policy White Book. In the same document it also recognizes a potential future challenge regarding Russia strategic rivalry with the West (Federal Government 2016). At the same time, Germany is a key country in the Nord Stream 2 gas pipeline project, which intends to bring Russian gas via the Baltic Sea to the German Lubmin (near Greifswald) and from there to the rest of Europe. Russia’s state-owned Gazprom is the majority shareholder of Nord Stream 2 AG, which owns and will operate Nord Stream 2. Among the financial investors are two German companies, Uniper and Wintershall DEA (Nord Stream 2 AG). While being a private sector project, the German government has granted the permission for its



construction and welcomes the diversification of energy resources that it brings (Altmaier 2019; Federal Ministry for Economic Affairs and Energy 2019a).

The US, however, showcases a diametrically opposing policy to its ally, especially regarding the Nord Stream 2 pipeline project. Acknowledging the importance of relationships with Europe and Germany as crucial for US national security interests, Russia has been put under US sanctions. First, directly related to Russia's actions in Ukraine in 2014. Later, Russian gas pipelines were specifically targeted. First, with the Countering America's Adversaries Through Sanctions Act of 2017 (CAATSA –US Public Law 115-44, Sec. 232), which also expresses US opposition to the Nord Stream 2 pipeline (Sec 257.9) and then with the Protecting Europe's Energy Security Act of 2019 (PEESA- US Public Law 116-92), which was further clarified in October 2020. The rationale for those sanctions is one of providing the US the necessary means “to address Russian pipeline projects that create risks to US national security, threaten Europe's energy security, and consequently, endanger Europe's political and economic welfare.” The sanctions regime does not only apply to US persons (individuals or entities) but also targets third-country actors engaged in the Nord Stream 2 project and thus has secondary sanctions effects that could apply to European companies (US Department of State). Unsurprisingly, the sanctions have not been met with enthusiasm on the part of Germany (German Bundestag 2020b).

The 2020 Munich Security Report published on the occasion of the 56<sup>th</sup> Munich Security Conference also notes the policy discords within the West by mentioning not only the differing positions of the US and European countries in the strategy towards Russia in general, but also the different stance of German Chancellor Angela Merkel and US Vice President Mike Pence regarding the Nord Stream 2 pipeline project. In general, it can be summarized that the US views Russia as “a challenge to the West” while many countries in Europe, including Germany, do not necessarily share the same perception and even if Russia may not be a “reliable political partner”, stable economic relations with Russia are still in Europe's interest (Munich Security Conference 2020).

## 1.2 Research Purpose and Research Questions

Given the above-mentioned situation, it seems to be clear, that despite the partnership with the US in security affairs and generally close relations, interests between the US and Germany have been diverging, especially concerning the strategy towards Russia. The US openly opposes the Nord Stream 2 project, which the German government supports politically.

A similar dynamic, where the US sees itself to be in a strategic competition with a great regional power (The White House 2017a), while an important partner and ally does not share the same perception, can be found in the Indo-Pacific region. Here, South Korea is caught up between the rivalry of the US and China, as the former is a pillar of Korea's security strategy (Republic of Korea Ministry of National Defense 2018) and the latter the country's most important trading partner (Republic of Korea Ministry of National Defense 2018). This challenge becomes increasingly apparent as currently implemented US sanctions target the Chinese company Huawei, which is an important provider of 5G equipment for Korean telecom companies (Gillispie 2020).

With my master thesis I try to answer several questions by analyzing US - Germany relations concerning the case of the Nord Stream 2 project and finally see what implications my findings may have, not only for the sanctions policy in Europe, but also with regard to other allies, such as Korea.

1. Why do Germany and the US have conflicting policies? What are the countries' interests?
2. How does the US use secondary sanctions to compel partners to cooperate on its foreign policy objectives?
3. What are the reactions of allies in the face of US pressure? Why do they concede to pressure? Or why not?

In order to analyze how the US uses secondary sanctions to compel allies/partners to cooperate on its foreign policy goals, I investigate the Nord Stream 2 controversy as a case study. For this

master thesis, I use qualitative research methods. In addition to reviewing existing literature on alliances, NATO, sanctions, US – Germany and Germany-Russia relations, I draw on the relevant laws and regulations as well as government documents and reports published by the actors involved to get a full picture of the relationships and conflicts involved.

The analytical framework which I apply to the case at hand is borrowed from Snyder's alliance management theory, which will be introduced in the next section.

In the case of Nord Stream 2, the outcome of the intra-alliance bargaining is not decided yet. Nevertheless, the analysis of the case through alliance theory may provide insights from which policy implications could be drawn for the use of secondary sanctions as a foreign policy tool. No least, because the case features interesting parallels with a case from the past: the so-called *Soviet gas pipeline incident* from the 1980s.

The thesis is structured in the following order. After reviewing existing literature on the relevant issues, an explanatory chapter follows. It is intended to line out the background of US-Germany relations as well as the use of sanctions in foreign policy. Thirdly, I conduct a case study of Nord Stream 2. Here, the American as well as the German policies are investigated. This chapter ends with a preliminary conclusion on the sanctions outcomes. Then, the policies are analyzed through the lens of Snyder's alliance management theory before elaborating on possible implications for US foreign policy.

## 2 Theoretical Framework and Literature Review

This master thesis focusses on questions of interactions and cooperation among allies regarding their policies. Hence, in this section, I introduce Snyder's intra-alliance bargaining theory, which I will use as the theoretical framework for the analysis of my case study. In addition, a brief overview of alternative approaches, such as an autonomy-security trade-off model and a game theory model, will be given.

## 2.1 Theoretical Framework

When it comes to the field of alliance theory, Snyder's *Alliance Politics* still holds great authority. As the forming of alliances is less interesting for our case, this section focuses on alliance management. Snyder sets forth two dimensions in intra-alliance bargaining: common interests, in which the allies are mutually dependent on each other; and divergent or even conflicting interests, issues on which they are in conflict and over which the bargaining takes place (Snyder 1997, 165). One of the instances Snyder identifies are negotiations concerning policy toward an adversary in non-crisis situations. In this case, war is not a likely outcome, less important interests are at stake and the alliance will probably not be disrupted over those conflicting interests (Snyder 1997, 178). In every bargaining situation, bargaining power is key for the deciding the outcome of the bargaining situation. Here, Snyder names three factors that influence bargaining power: Dependence on the alliance, interests at stake and the degree of commitment (Snyder 1997, 166). In an alliance, all members find themselves facing a security-autonomy trade-off. Initially, upon negotiating the alliance, taking into account their respective bargaining power, allies may have reached an "optimum security-autonomy mix" for each member. However, this optimum may be disrupted in the light of changes in the alliance's environment, the allies' capabilities, domestic situations or their interests. This may result in an alliance-security dilemma, characterized by the fears of abandonment and entrapment (Snyder 1997, 180f).

### 2.1.1 Intra-alliance Bargaining

Glenn Snyder introduces intra-alliance bargaining as a part of alliance management. Management may be either collaborative or unilateral and involve coordinating policies, military planning, balancing risks, and benefits through adapting military expenditures or withholding support from the alliance. In managing the alliance, the allies pursue common as well as diverging interests. It can be understood as process of bargaining, in which the allies aim at maximizing their joint benefits while minimizing the possible costs imposed on their own individual interests (Snyder 1997, 165f). The alliance members are engaged in the alliance game, managing their security-autonomy trade-off (Snyder 1997, 180).

### 2.1.2 Bargaining Situation

Snyder identifies several bargaining situations and one type concerns negotiations concerning policy matters toward an adversary in non-crisis situations. War is not a likely outcome, less important interests are at stake and the alliance will probably not be disrupted over those conflicting interests (Snyder 1997, 178).

### 2.1.3 Bargaining Power

According to Snyder, the key determinant for bargaining outcomes is the allies' relative bargaining power. The elements of bargaining power are the allies' dependence on the alliance, their alliance commitment, and their interests in the bargaining object (Snyder 1997, 166ff). The Table below (Figure 4) shows Snyder's conceptualization of bargaining power, giving scores to each element. Following, the three elements will be introduced.

	Interests	Dependence	Commitment
high	3	1	1
moderate	2	2	2
low	1	3	3

Figure 1: Scoring for elements of alliance bargaining power (Snyder 1997, 175)

#### *Dependence on the alliance*

In general, dependence on the alliance could be defined as the ally's opportunity cost of ending it. It may be one state's need of military assistance, the degree to which the ally fills that need, the adversary's capacities and the availability of alternatives to the alliance. The higher the dependence on the alliance, the lower is the bargaining power score (Snyder 1997, 166ff).

#### *Degree of Commitment*

Like the alliance dependence, commitment to the alliance affects the bargaining power negatively. Higher commitment signifies a lower bargaining power score. Snyder defines commitment as an "arrangement of values that favors one option over others". In order to evaluate the degree of commitment, Snyder identifies the language of the treaty text and external interests of helping the

ally as indicators. The more explicit the treaty language sets out the verbal commitment to the alliance, the more it becomes difficult to withhold fulfillment of one's obligations. If an ally has an incentive to provide support to its alliance partner, it will be more likely to fulfill its alliance obligations (Snyder 1997, 168f).

### *Interests*

In intra-alliance bargaining Snyder assumes two dimensions: common interests and divergent interests, the bargaining takes place in the latter category. The higher the ally values its interests at stake in the bargaining process and the lower its values what it gets in return, the less likely the ally is going to give in. This cost of concession affects the level of bargaining power positively: higher interests at stake contribute to an increase in bargaining power (Snyder 1997, 170f).

## 2.2 Literature Review

This section outlines alternative approaches to intra-alliance bargaining. As the literature on this matter is vast, it only provides a glimpse of the possible theoretical approaches and focusses on intra-alliance interactions.

One way to account for the dynamics within an alliance would be a model capturing the trade-offs between autonomy and security. Morrow, arguing that viewing alliances as policy tools, aggregating capabilities, and deterring threats is incomplete, suggests that alliances can be used to promote the policy objectives of their members – especially the ones of great powers. In exchange for an increased protection from threats, junior alliance partners can offer concessions, to their senior alliance partner, increasing its freedom of action. Possible concessions could be found in policy coordination or the provision of military bases. Preferences, strategies, and outcomes of international issues are determined by points reflecting national preferences, positions specifying strategies and the status quo. Morrow argues that alliances have effects on the autonomy as well as the security of states. States aim to achieve their preferred combination

of the two elements. Among others, author hypothesizes that asymmetric alliances are not only easier to form but are also more durable than symmetric alliances (Morrow 1991).

In a piece on the ROK-US alliance, Park finds that for South Korea, the US – ROK alliance was based on considerations of an autonomy-security trade-off in the beginning. Then, starting in the 1990s, South Korea became less willing to give up its autonomy in favor of the US and adopted a policy of “balanced diplomacy” between the US and China, trying to improve its relations with the latter. Despite the increasing nuclear threat from North Korea, South Korea has not fully cooperative with the US on all issues. However, in recent years, the South Korean alliance policy seemingly shifted back to the predictions of the autonomy-security trade off model – meaning that South Korea as the junior partner would give up parts of its autonomy to its big-power in exchange for including South Korea under the US nuclear umbrella. Having opposed THAAD due to Chinese pressure, South Korea finally decided to deploy the American anti-ballistic defense system following a North Korean missile test in 2017. Although Korea showed reluctance to yield its autonomy to the US, it eventually returned to the autonomy-security trade off model, Park argues (Park 2019).

Finding neorealism and neo-liberalism inadequate to explain the intra-alliance bargaining process between the US and its NATO allies in the case of the Bosnian crisis in the 1990s, Papayoanou develops a game theory model. In the Bosnian crisis in the 1990s, despite diverging policy preferences, the US generally adopted a policy of compromise and accommodation regarding its NATO allies. The author finds that states leaning towards collaboration might act unilaterally and be less likely to agree to a compromise if they believe their ally to be also of the collaborative type, the higher it values its preferred policy position over a compromise and the higher it values the alliance (Papayoanu 1997).

Wilkins examines Australia’s bargaining position vis-à-vis the US and how Australia can promote its own interests within the bilateral alliance. The author uses Glenn Snyder’s intra-alliance

management framework to analyze Australia's strengths and weaknesses, creating a "ledger", and notices a shift in bargaining power to the detriment of Australia as a result of the Trump administration's unconventional approach to alliances (Wilkins 2019).

## 2.3 Summary

Compared to other theoretical approaches to intra-alliance inter-actions, Snyder's alliance management theory and the conceptualization of bargaining power constitutes a rather simple framework of analysis. The definitions and measurements of the determinants of bargaining power are vague. However, as Wilkin's has shown in his piece on Australian bargaining power, it enables to contrast the strengths and weaknesses of an alliance partner in intra-alliance bargaining.

Whereas Snyder focusses his theory narrowly on issues of a security or military nature, I think it would be just as applicable to cases of tensions between geo-strategic and economic interests at stake, especially in non-crisis situations. It thus provides an adequate framework for the analysis of the Nord Stream 2 controversy.

## 3 Setting the Scene

Before diving into the case study on Nord Stream 2, this chapter "sets the scene" by providing an overview of sanctions as a foreign policy tool as well as an outline of US-Germany relations.

### 3.1 Sanctions

Sanctions have been a tool of foreign tool for a long time. Consequently, the literature covering sanctions is vast. This section begins with an introduction to sanctions in general. Following, a conceptual distinction between primary and secondary sanction is provided, continued with a discussion the controversy regarding the legality of secondary sanctions in the light of international law and secondary sanctions' effects.



### 3.1.1 Introduction to Sanctions

Traditionally, sanctions are defined as consequences triggered by a violation of international law. They are implemented in order to bring the violating state back to legality (Pellet and Miron 2013). A broader definition can be found in Hufbauer et. al. Here, sanctions are seen as “deliberate, government inspired withdrawal, or threat of withdrawal, of customary trade or financial relations” to achieve foreign policy goals (Hufbauer, Schott, Elliott, and Oegg 2007). Andreas F. Lowenfeld defines economic sanctions as a “measure of an economic – as contrasted with diplomatic or military – character taken by states to express disapproval of the acts of the target state or to induce that state to change some police or practice or even its governmental structure” (Lowenfeld 2008). This second understanding suggests sanctions can be seen as a reaction to a behavior of the targeted state that is considered condemnable, even if it does not constitute a breach of international law (Stoll, Blockmans, Hagemejer, Hartwell, Gött, Karunska, and Maurer 2020).

According to Hufbauer et al, the success of achieving the intended foreign policy goal depended not only on the way the sanction was implemented, but also on the economic and political environment of the targeted state and the goal that was pursued with the sanction. Among the policy recommendations on how to make sanctions more effective, Hufbauer et al. suggest that sanctions are most effective against friends, allies, and trading partners rather than adversaries, as for those countries the economic and diplomatic cost will be significantly higher. In addition, the authors find democracies to be more compliant with sanction demands compared to autocratic regimes. Also, according to the research at hand, it cannot be expected that a higher number of sender states, acting in coalition, will yield better results. In some cases, cooperation may not be necessary and in others, it may in fact hinder the effectiveness of sanctions. The authors add that especially “attempts to force” cooperation, such as extraterritorial controls, will probably not have the desired outcome and may cause evasion or backlash. Finally in addition to ensuring the right measures are used for the problem at hand, costs for domestic constituencies need to be matched to the benefits expected from the sanctions policy (Hufbauer et al. 2007).

Similarly, Peksen finds multilateral sanctions led by international organizations coming with significant economic costs and aiming at achieving moderate policy goals to be the most effective. Especially, if they target allies and are directed at democracies. In the end, the author cautions about counterproductive aspects of imposing sanctions. In some cases, sanctions may not only be ineffective but could have negative effects that are in opposition to the intended outcome (Peksen 2019).

In a recent research project creating *The Global Sanctions Data Base (GSDB)*, compiling more than 700 sanctions cases in the initial version and more than 1000 cases after the first update, Felbermayr et. al. identify five sanction categories: trade, financial activity, arms, military assistance, travel. Furthermore, the data base analysis the found sanctioning cases with regard to nine policy objectives: policy change, destabilize regime, territorial conflict, prevent war, terrorism, end war, human rights, democracy, other objectives. Finally, the database provides insights in whether the policy objectives have been achieved upon imposing of a sanction. The authors divide success and failure of a sanction into five scores: partial success/achievement, full success/achievement, settlement by negotiations, enhancement/failure and ongoing. To determine whether a sanctioning effort achieved its policy objective, the GSDB takes official government statements or international press announcements into account. In conclusion, the authors find that the use of economic sanctions has increased in recent decades. However, they note that it is still not determined whether sanctions affect economic outcomes or whether they initiate the political changes envisioned by the sanctioning state. According to the research paper accompanying the GSDB, the average success rate of sanctions is around 30%. The authors find that sanctions have negative effects on trade (Felbermayr, Kirilakha, Syropoulos, Yalcin, and Yotov 2020). In an update of the GSDB, the focus shifts to sanctions during the Trump era. Here, the authors note a significant increase in new sanctions, many of which aim at policy change and the fight of terrorism (Kirilakha, Felbermayr, Syropoulos, Yalcin and Yotov 2021).

Particularly interesting are also Bryan Early’s insights on “busted sanctions”. To a great part, third-party countries, sanctions busters, spoil their success. The author reaches the conclusions that contrary to intuition, allies of sanctioning states are not more likely to cooperate on the sanctions but are in fact great candidates for “sanctions busting”. This is the case, when the political interests in supporting the ally’s sanctioning efforts is conflict with the commercial interests of their constituents (Early 2015, 71). Indeed, being part of an alliance does not always mean that all security and foreign policy interests are shared by all members. This is particularly true when it comes to a non-military issue (Early 2015, 72). Early continues to point out that using coercive measures against allies to compel them to participate in the sender state’s sanctioning efforts comes at high diplomatic costs, potentially causing resentment and intra-alliance tensions. The sanctioning state has to evaluate the benefits of using such tools against their diplomatic costs. More often than not, the costs will outweigh the benefits (Early 2015, 74).

### 3.1.2 Secondary Sanctions

#### *Definition*

Usually, when sanctions are imposed, they restrict companies or individuals of the sender state from engaging in business with the targeted state (or group). These are called primary sanctions. Secondary sanctions, in contrast, apply to the economic relations between persons or entities of *third countries* and the sanctions target (Meyer 2009). Hence, secondary sanctions aim not only at coercing policy change or a change of behavior of the target state, but also of third states (Meyer 2009, 4,7).

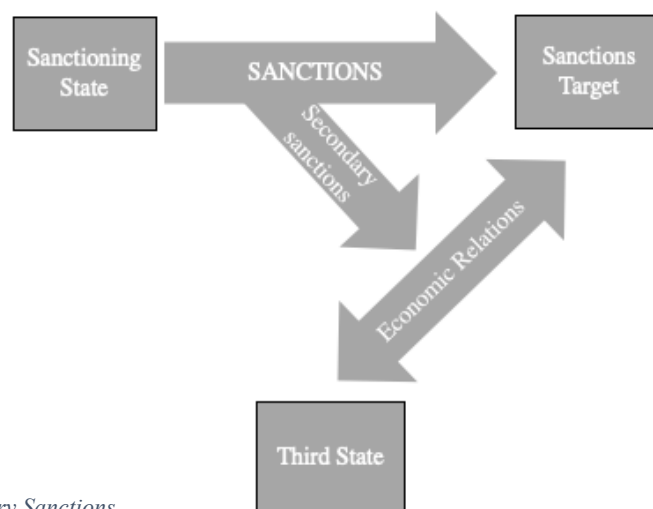


Figure 2: Secondary Sanctions

### *Controversy regarding Secondary Sanctions*

In customary international law, the principle of non-intervention aims at the protection of state sovereignty. Although there is no universally agreed upon definition of this principle, it generally refers to an “interference by a State in the internal or foreign affairs of another State” in a matter that falls within this State’s exclusive responsibility and is undertaken by forcible means aiming at imposing “a certain conduct of consequence on a sovereign State.” (Kunig 2008, 1). In recent practice, forcible means also include forms of economic coercion. However, a distinction between legitimate measures and illegal form of pressures is difficult (Kunig 2008, 25).

As secondary sanctions apply to foreign individuals or companies over which the sanctioning state normally would not have jurisdiction, they possess an extraterritorial nature (Meagher 2020, 1005). Due to this aspect of extraterritoriality, they are a controversial form of economic sanctioning as they could be considered to be interfering with other states’ sovereign decisions in the area of external economic relations. Hence, they raise the questions of legitimacy (Ruys and Ryngaert 2020, 9).

Meyer argues that secondary sanctions are lawful if they only regulate due to jurisdiction based on territorial and nationality grounds (Meyer 2009). Although he views secondary sanctions as politically problematic, if using military force is the alternative, they are preferable. Nevertheless, they should be lawful, otherwise they may provoke retaliatory measures by other countries. Secondary sanctions should be in conformity with principles of international jurisdiction, such as territorial and effects jurisdiction, nationality jurisdiction or passive personality jurisdiction and protective jurisdiction (Meyer 2009, 930-938).

In customary international law of jurisdiction, one could distinguish between access restrictions, and measures that go beyond access restrictions. As the former can be understood as a denial of access to the financial system, the markets or individual persons of the sending state, which would be a denial of privileges rather than a denial of rights, Ruys and Ryngaert do not identify any

jurisdictional and consequently no legal problems (Ruys and Ryngaert 2020, 11ff). With regard to sanctions that go beyond access restrictions, such as civil and criminal penalties on non-sending state firms, the authors point towards “jurisdictional triggers” that establish a substantial connection making this form of extraterritorial jurisdiction lawful, if certain conditions are met. As such links, control by a company of the sending state, the use of the sending state’s technology, the use of the sending state’s financial system and trafficking in property that was confiscated by the sending state, are named (Ruys and Ryngaert 2020, 16ff).

#### *US Policy and (Secondary) Sanctions*

Sanctions have long been a tool in US foreign policy. Implemented in order to wield international influence, they are the reflection of the post-World War II norm of avoiding the use of military force in international relations as well US policy makers’ choice of different tools available. They fall short of using force yet exert more pressure than diplomatic measures (Meagher 2020, 1003).

In a comparison with other states and organizations, the US accounts by far for the most sanctioning cases. From the 1101 cases included in the GSDB, the US accounts for roughly a third. The EU is the runner up with around one tenth of the sanctioning cases (Kirilakha et. al. 2021). Starting with President Reagan, sanctions started to proliferate (Hufbauer and Jung 2020, 1). This trend seems to have even accelerated during the recent years falling in the time of the Trump administration. Especially in the categories “policy change” and “terrorism” a significant increase could be seen (Kirilakha et al. 2021, 3). This increase of coercive economic measures as a foreign policy against adversaries during the Trump administration may have been motivated by the success of financial sanctions against Iran during the Obama presidency (Peksen 2019, 635). However, in contrast to the sanctions implemented by his predecessor, European partners were reluctant to cooperate on sanctions against Iran, after President Trump had declared the 2015 Joint Comprehensive Program of Action, or the Iran nuclear deal, as ineffective (Hufbauer and Jung 2020, 2).

In US policy, sanctions have been used as an expression of condemnation of a particular practice, as form of punishment and deterrence of objectional behavior, in order to block the flow of economic support that could be used against US interests, to isolate an actor (state, company, individual), coerce regime change or force the change of objectional behavior (Rennack and Shuey 1999, 5f). Among others, the following policy tools have been leveraged as sanctions: Termination, suspension, limitation, conditioning or prohibition of foreign assistance, restriction of financial transactions or seizure/ freezing of financial assets within US jurisdiction, cancelation, or denial of access to the US and fines or imprisonment in the case criminal offenses / criminalizing certain behaviors (Rennack and Shuey 1999, 7).

The US not only implements primary, but also secondary sanctions. Those are based on the presumption that with the US being central to the global economy, especially due to the critical role of the US dollar and American banks in global commerce, threatening to restrict access to American markets will critically enhance the efficiency of sanctions (Meagher 2020, 1005).

In the context of secondary sanctions, targeting firms instead of companies may be more successful, as generally, coercing companies is considered. Rather than balance of power considerations or questions of political reputation, firms are most concerned about making profits. Being forced to decide between the US or the targeted market, companies will probably decide in favor of the US and comply with the sanctions. However, it comes at the caveat that the governments of concerned companies may turn the situation in an interstate dispute anyways (Drezner 1999, 83).

The evolution of their use in US foreign policy may be grouped into two stages. In a first phase, the emphasis was on secondary boycotts and export controls in the 1980s and 1990s. The 1981-82 Soviet gas pipeline sanctions and the Helms-Burton Act as well as the Iran and Libya Sanctions ACT of 1996 fell into this period (Sossai 2019, 64). Later, the focus shifted away from just including limits on trade to weaponizing the financial sector, creating a “chilling effect”. Here,

the Treasury Department's Office of Foreign Assets Control (OFAC) is the primary administrator. For example, the Iran Sanctions, Accountability, and Divestment Act of 2010 included, among others, access restrictions to the US financial system. More recently, in 2017, the US Congress enacted the Countering America's Adversaries Through Sanctions Act targeting Iran, North Korea and Russia. Non-US persons also potentially face sanctions for entering into as well as facilitating "significant" transactions for or on behalf of sanction targets (Sossai 2019, 65f).

With regard to secondary sanctions, there seem to have been opposing views on both sides of the Atlantic for quite some time. Not only did the European NATO allies (successfully) demand secondary sanctions to be lifted in the 1981-82 Soviet gas pipeline incident, following the implementation of extraterritorial sanctions against Cuba, Libya and Iran, but the EU also adopted the European Blocking Regulation in 1996, as a countermeasure against their effects (Sossai 2019, 62).

DeSouza, analyzing the *Soviet gas pipeline incident* of 1981-82 in the light of alliance management, concludes that despite political and military dominance, the leader of an alliance does not have the power to manage trade relations between other members and the alliance's political adversaries. Political-military alliances cannot automatically be expected to include peacetime commercial transactions. The author argues that the outcome of the dispute between the US and its European allies affirmed an emerging norm regarding the peacetime responsibilities in an alliance (DeSouza 1984).

The 1980s pipeline sanctions incident despite some differences, features some parallels to Iran and Russia sanctions in recent years. The case from the past may be seen as cautionary tale for unilateral action today. The sanctions imposed in the 1980s displayed a failure to define clear goals and objectives, as well as a failure to achieve an agreement to the intended sanctions outcomes internally. Moreover, they neglected a demonstration of readiness on the side of the US to absorb economic costs of the sanctions. The US usually pushes for sanctions that only have

minimal effects on its own economy while its allies and partners are affected disproportionately. Also, the 1981/82 *Soviet gas pipeline incident* clearly shows that the US failed to anticipate and further could not appropriately manage resistance to its sanctions policy. However, since 1982, the US improved its abilities in identifying and exploiting the vulnerabilities of its targets. Moreover, Europe today is relatively more dependent on the economic relations with the US than the US is on Europe. This may be one of the reasons for the lack of a retaliatory approach regarding the Nord Stream 2 sanctions threatening European companies (Nephew 2019, 18ff).

## 3.2 US-Germany Relations

This section provides a brief overview of US-Germany relations, showing how the Trump administration may have impacted the relationship in recent years and highlighting the two countries' alliance relations and the diverging policies when dealing with Russia.

### 3.2.1 Relations Post-World War II

During the Cold War, the US and Germany developed a close relationship that has constituted a crucial part of transatlantic relations. Until the 1970s the partnership was forged on the common threat perceptions regarding the Soviet Union. Then, in the era of détente those perceptions started to diverge, laying the grounds for continuous contention on the matter. In addition to a decrease in the perceived dependence on the alliance on the side of West Germany, the beginning of economic competition between the US and Europe started to strain the relations. Nevertheless, overall, the bilateral relations in the beginning of the new millennium could be considered positive, not least due to the strong support the US showed for German unification (Larres and Wittlinger 2018, 152f). However, with 9/11 and the subsequent war on terror, deep rooted strategical differences were revealed. Despite a great outpour of sympathy towards the US and German contribution to the Operation Enduring Freedom in Afghanistan, German views on the causes of terrorism and the means to fight it did not align with the American ones. Finally, the real split in US-German relations occurred over the Iraq War in 2003 (Kaim 2003, 130ff).



Although Germany is still a key partner for US European policy, the strategic cultures of the two countries are diametrically opposing. As an aftermath of Germany's World War 2 legacy, policies that may seem aggressive are largely avoided in Germany. It has embraced approaches of dialogue, diplomacy and multilateralism as means of dealing with opponents. In US policy, in contrast, the use of force and the threat thereof plays a much larger role. Consequently, whereas the US has constantly reinforced their military force, Germany downgraded its military capabilities (Szabo 2015, 111ff). This may also be a result of the perception that there are no sufficient threats that would warrant a strategic German security policy (Keller 2012, 100).

In its foreign policy, Germany prioritizes the stability of economic relations over political considerations (Szabo 2015, 8). Germany's economy is heavily reliant on exports and some of its key markets beyond the EU lie east: in Eastern Europe, Russia, the Middle East and Asia. Hence, for German companies, global considerations and lobbying in foreign policy matters are essential. Some may argue that German politics follow the lead of German business (Szabo 2015, 6).

The US, in contrast, has long emphasized the promotion of values when conducting foreign policy. With the country's missionary tradition and the emergence of Wilsonianism, the US engagement in international affairs after World War I was shaped by the desire to export American values (Mead 2002).

Nevertheless, the two countries maintain close trade relations. For the US, Germany accounts for 4.5% of total imports, ranking ranks 5<sup>th</sup> and accounting for 3.8% of total exports, ranking 6<sup>th</sup> (US Census Bureau). For Germany, the US ranks first as destination country for German exports (8.6%) and third for imports (6.6%) (Destatis).

### 3.2.2 The Trump Factor

Although one of America's closest partners for decades, Germany's relations with the US have been fluctuating in recent times. Following a period of estrangement as a result of Germany's refusal to participate in the invasion of Iraq, relations improved towards the end of the Bush administration. With Obama too, transatlantic relations were not always smooth, but overall US-

Germany relations remained on good terms (Larres 2018, 193ff). Despite remaining tensions regarding economic policy and burden sharing, during the Obama years and the Ukraine crisis, Germany and the US achieved close cooperation on how to deal with Russia (Szabo 2018, 235).

The bilateral relationship was built on their common belief in and support of the multilateral order (Helwig 2020). The advent of the Trump era profoundly affected the bilateral relations. Donald J. Trump's election in 2016 came totally unexpected for most Germans and sent shockwaves through the German foreign policy establishment. The relationship between Chancellor Merkel and President Trump was off a rocky start (Larres 2018, 195f). The chancellor did not hide her concern and reminded the president elect of the common values on which the bilateral relations are built (Federal Chancellor 2016). Confidence in the American president plummeted, and German views of the US worsened significantly (Pew 2018). Following the G7 summit in 2017, Chancellor Angela Merkel said that Europe can no longer rely on others, meaning the US. Europeans have to take their fate into their own hands, she added (Farrell 2017).

### 3.2.3 NATO

The US and Germany are allied through NATO, a military alliance established in 1949 as part of President Truman's containment policy. Though not directed against a particular nation, but aggression as such, it was clearly formed to counter the threat of Soviet expansion in Europe. Based on shared values it is effectively tying American support to Western European defense (Kissinger 1994, 457ff). Lord Ismay, who should later become NATO's first Secretary General is often quoted saying that NATO's purpose was "*keep the Soviet Union out, the Americans in, and the Germans down.*" (North Atlantic Treaty Organization). NATO is a collective defense alliance, which is also apparent from the treaty text (The North Atlantic Treaty, Art. 5).

After the end of the Cold War, the question whether the North Atlantic Treaty Organization (NATO) would persist or not arose in the literature. For example, Gordon, examines the intra-alliance tensions in the 1990s, saying that the cohesion and importance of NATO is declining. Despite this observation, he concludes that the alliance will persist (Gordon 1996).

NATO exists up today, 70 years after its foundation and thirty years after the collapse of the Soviet Union. This is remarkable as usually alliances dissolve upon victory or if their *raison d'être* vanishes. However, NATO is still present and even expanded, decades after the Cold War ended (Joffe 2009). Today, the alliance is constituted of 30 members (North Atlantic Treaty Organization 2020a).

One reoccurring topic of contention is the question of defense burden sharing within NATO. The US annual defense spending as a share of GDP is by far the largest in the alliance. With 3.5% in 2018 it also exceeds the NATO guideline of 2%.<sup>1</sup> Most members do not reach the 2% mark. Germany's defense spending of 2018 was at 1.4% of its GDP (North Atlantic Treaty Organization 2018a). Particularly during the Trump administration, transatlantic relations soured. During his campaign for the presidency, President Trump had called the alliance obsolete, although he later took back those words (The White House 2017b). He found clear words, demanding NATO's European partners to fulfill their financial commitments, without reiterating American commitment to collective defense (The White House 2017c; Glasser 2017). In 2018, Trump demanded the defense spending of all members to be increased up to 4% (The White House 2018).<sup>2</sup>

Had investments in defense capabilities been the token for a US security guarantee during the Cold War, this role was overtaken by contributions to out-of-area missions in recent decades (Ringsmose 2010). Hence some authors find that the answer to questions of free riding and burden sharing should be more nuanced. Among others, it could be argued that the US *does* outspend its allies, but the US global commitments and interests are also far larger than those of its allies, which requires higher defense spending (Jakobsen 2018). Similarly, Kivimäki suggesting a definition of fair burden sharing and free riding in NATO, creates two types of

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<sup>1</sup> In the wake of the Ukraine crisis in 2014, NATO members confirmed their intentions with regard to increasing defense spending to 2% of their GDP on the Wales Summit (North Atlantic Treaty Organization 2014).

<sup>2</sup> Germany was singled out by the US for not fulfilling its defense spending commitments (The White House 2019).

variables to calculate burden sharing: US defense efforts aimed at providing protection to NATO allies on the one hand and US global security efforts that are reliant on NATO allies on the one hand. Hence, the imbalance of alliance contributions has decreased (Kivimäki 2019).

Locatelli and Testoni argue that the asymmetry of capability within NATO has contributed to its stability. It has provided incentives for policy convergence despite otherwise diverging interests among its members. According to the authors, the Member States would benefit from further developing a division of labor (Locatelli and Testoni 2009). They put forward that asymmetric alliances are a win-win situation for both the superpower and its minor power allies. While the major power ally does not need to rely on any other great power to maintain its role as it is backed by its minor power partners, the group of smaller powers enjoys higher levels of security. Although they have to make policy concessions, they get to enjoy free riding with regard to their defense spending (Locatelli and Testoni 2009, 350).

During the Cold War, NATO focused on hedging against the Soviet Union and the expansion of communism during the Cold War. After the Soviet Union's dissolution, the common threat shared by NATO members vanished and NATO had to find a new purpose. In the years after the end of the Cold War, NATO's strategic focus shifted to the stabilization of Central and Eastern Europe, where new democracies emerged. This phase was followed by NATO's engagement in out-of-area missions such as the Kosovo War or Afghanistan (Keller 2012, 96f).

Had the focus been on new threats, such as terror groups in the early 2000, the focus has shifted back to Russia in recent years (Dutta and Banerjee 2019, 7-9). This became also apparent in the NATO Wales Summit Declaration of 2014. Russia was condemned for the escalation and "illegal military intervention in Ukraine." It was seen as a challenge to a free and peaceful Europe (North Atlantic Organization 2014). In 2018, Russia was still listed as a major threat to "Euro-Atlantic security and the rules-based international order." Support for Ukraine was reiterated (North Atlantic Organization 2018b).

The end of the Cold War and the loss of the common threat has weakened the alliance's cohesion (Gordon 1996). Press-Barnathan argues that in a unipolar system lies greater potential for diverging threat perceptions between the hegemonic ally and the regional allies. Due to the system's structure, variations in geography, perceptions of intentions, domestic factors and ideology have a high impact on the allies' threat perceptions (Press-Barnathan 2006, 273). For example, contrary to a time when a bipolar system is dominant, regional allies tend to be less concerned about "threats of a broader strategic, world order nature" that may be of priority to the hegemonic power (Press-Barnathan 2006, 276). Additionally, within the alliance there may be disagreement about how to deal with occurring threats (Press-Barnathan 2006, 278).

Not only got the security environment more difficult, but also the relations within the alliance. Within NATO and its diverse Member States varying interests and threat perceptions exist. This is particularly true with regard to Russia. A divide between Europe and the US regarding the assessment of geopolitical contingencies became apparent (Kirchner and Sperling 2002, 445). Additionally, division can also be found in Europe: while the alliance's Baltic and Eastern European members view Russia as threatening, the members of Western Europe lean towards emphasizing the benefits of a cooperative relationship with Russia (Warren 2010, 29f).<sup>3</sup> In 2002, a mechanism for consultation and cooperation between NATO and Russia was created: the NATO-Russia Council (NRC). However, with the Ukraine crisis in 2014, all cooperation between the two parties was suspended (North Atlantic Treaty Organization 2020b). The Ukraine crisis allowed NATO to demonstrate unity among its members. However, their underlying interests did not converge. Although all NATO countries share the perception that the Russian annexation of Crimea and the war in Eastern Ukraine poses a threat, their evaluation of the gravity of that threat varies (Major 2019, 6, 12).

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<sup>3</sup> It should be noted that the Ukraine crisis has changed those dynamics.

Germany greatly supported NATO efforts during the Cold War and in the first phase after its end, but it was reluctant joining efforts in out-of-area operations. Nevertheless, in Afghanistan it was one of the greatest contributors to the ISAF (Keller 2012, 98).

Despite diverging interests, Germany views NATO as an important pillar of its security policy, which is reflected in its security policy white paper. It states that the alliance is crucial for European security, without the US engagement, Europe would not be able to efficiently defend itself against the threats of the 21<sup>st</sup> century or guarantee deterrence (Federal Government 2016, 49). However, this rhetoric of commitment is not reflected in the financial, political, and military reality (Major 2019, 10).

#### 3.2.4 Relations to Russia

Ever since the end of World War II, Germany and the US have had diverging policies regarding Russia. Those divergences are the result of geography, historic legacies, strategic cultures, and economic interests (Szabo 2018, 231f).

This difference in strategic culture is also apparent in German and American public views on various policy issues. In 2020, a Pew study demonstrated that 78 % Americans say that military force is sometimes necessary. In contrast, only 47% of Germans are of the same opinion. Similarly, 60% of Americans compared to 34% of Germans say that the US should defend a NATO ally using military force in the event of a Russian attack (Poushter and Mordecai 2020).

Germany's roles as a civilian power and as a trading state may have created a path dependency that makes it difficult to adapt to changed conditions. With regard to Russia, that means Germany maintains a foreign policy of cooperation and conciliation combining dialogue and moderate deterrence without any strategic goal beyond de-escalation. This approach may be seen as insufficient for adapting to altered global conditions (Spanger 2020). Nevertheless, in recent years there seems to have been a shift in German policy toward Russia. Whereas a focus on diplomacy and negotiation still prevail over strategies of military force, strategic priorities and perception of

the Russian leadership seem to have changed (Forsberg 2016). Whereas Germany has been known as a geo-economic power, given the increasingly unstable situation in Europe in recent years has shifted to become a more geo-political actor (Szabo 2017). In the German foreign policy, the importance of stable economic relationships outweighs political considerations in terms of *Moralpolitik* (moral politics). While strategic concerns and threat perceptions prevail in the US strategy, Germany is more preoccupied with economic considerations and cooperation. This contributes to difficulties for the two countries to agree on a common strategy. A failure to properly handle the US -Russia relationship could put the US–Germany relationship to test (Szabo 2015).

Had the US and German policies on Russia converged in the time of the Ukraine crisis during the Obama administration, the extreme realist and zero-sum world views of President Trump had the opposite effect. This was due to allegations of collusion between Russia and the Trump campaign as well as a division on Russia policy in Washington that had caused an instable American foreign policy (Szabo 2018, 237).

Another main difference in their dealings with Russia are the economic stakes at play. Whereas Germany has high stakes in economic relations with Russia, the US economic interests are far less important (Szabo 2018, 237). In 2019, US trade relations with Russia accounted for 34.9 billion in 2019, \$10.9 billion being US exports and \$24.0 billion imports. In the same year, Russia ranked at 40 for US exports of goods (Office of the United States Trade Representative). Although the US does import Russian energy, it is not dependent on it.<sup>4</sup> With regard to cooperation between US and Russian energy companies, the Exxon Rosneft joint venture was suspended due to sanctions in the wake of the Ukraine crisis (Szabo 2018, 238; Kramer and Krauss 2016).

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<sup>4</sup> However, US imports of Russian oil have been increasing. Reportedly, the US was ranked the second largest importer of Russian oil last year. (Merry 2020). Russian oil accounted for 7% of US oil imports in 2020 (Blas 2021).

For Germany in contrast, economic relations and especially energy relations with Russia play a more important role. German-Russian gas relations developed during the Cold War as part of Germany's *Ostpolitik* (rapprochement and détente) – the New Eastern Policy of West Germany. Following an agreement of the Federal Republic of Germany and the USSR, gas supplies to West Germany started in 1973. This relationship was based on pragmatism and converging economic and political interests. As the contractual obligations were fulfilled throughout, Russia has been seen as a reliable supplier (Mitrova and Westphal 2017; 13ff). Nevertheless, Bros, Mitrova and Westphal view German-Russian gas relations to be in a process of transformation induced by changing global energy markets, the German *Energiewende* (Energy Transformation) and regulation of the gas market on the EU level. Particularly since the Ukraine crisis, relations in the natural gas sector have become more complicated (Bros, Mitrova and Westphal 2017).

With \$31, 3 billion worth of Russian imports to Germany and \$26, 5 billion German exports, Russia ranks at 13 for imports and 14 for German exports (GTAI 2020). Germany is heavily dependent on imports in the energy sector. Of its energy consumption, 34% are mineral oil and 23% natural gas – regarding both Germany relies on imports for 97,2% and 96,2% respectively (Federal Ministry for Economic Affairs and Energy 2019b). Roughly a third of Germany's crude oil (Federal Ministry for Economic Affairs and Energy 2019b) and natural gas imports (Federal Office for Economic Affairs and Export Controls) come from Russia.<sup>5</sup> Hence, Russia is one of Germany's key energy suppliers (Mitrova and Westphal 2017, 11).

## 4 Nord Stream 2 Case

First, this chapter provides a brief overview of the Nord Stream 2 pipeline project. Then, it elaborates on the US position and its sanctions policy regarding the project. This is mirrored by the German policy and the country's actions to support Nord Stream 2 as well as its reactions to

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<sup>5</sup> Starting 2016, the Federal Office for Economic Affairs and Export Controls does not provide natural gas import data allocated to country of origin for reasons of data protection. Hence, from that time onwards, only total import data is available.



US sanctions. Finally, the chapter concludes with an outline of consequences caused by the US sanctions.

## 4.1 The Nord Stream 2 Pipeline Project

The pipeline, once the construction is completed, is supposed to stretch approximately 1,230 kilometers, bringing Russian gas to Europe through the Baltic Sea and the German Bay of Greifswald (Gazprom). It runs through the exclusive economic zones of Russia, Finland, Sweden, Denmark, and Germany. Once operational, it would have a capacity of 55bcm of natural gas per year (Nord Stream 2 AG 2018).

In September 2015, as part of the Eastern Economic Forum in Vladivostok, the Russian company Gazprom signed a shareholder's agreement for the Nord Stream 2 pipeline project with European companies BASF, E.ON, ENGIE, OMV and Shell (Gazprom, 2015). In 2017, the financing agreements were signed between the project company implementing the pipeline project, Nord Stream 2 AG, and the European energy companies ENGIE, OMV, Royal Dutch Shell, Uniper, and Wintershall. The five European partners committed to bear 50% of the total cost of the pipeline (Gazprom). Each promised to account for up to €950 million, but Gazprom is the sole shareholder of the project (Elijah 2021). The overall cost is estimated to be €9.5 billion (Nord Stream 2 AG 2018).

The pipelaying activity started in 2018 and as of April 2021, about 94% have been finished. In German waters, approximately 30 km and 120 km in Danish waters are left to be laid (Nord Stream 2 AG - Construction).<sup>6</sup>

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<sup>6</sup> Update: In June 2021, the completion of pipelay on one of the two Nord Stream 2 lines was completed. Nord Stream 2, <https://www.nord-stream2.com/media-info/news-events/the-offshore-part-of-one-line-of-nord-stream-2-has-been-mechanically-completed-149/> (accessed 2021-06-29).

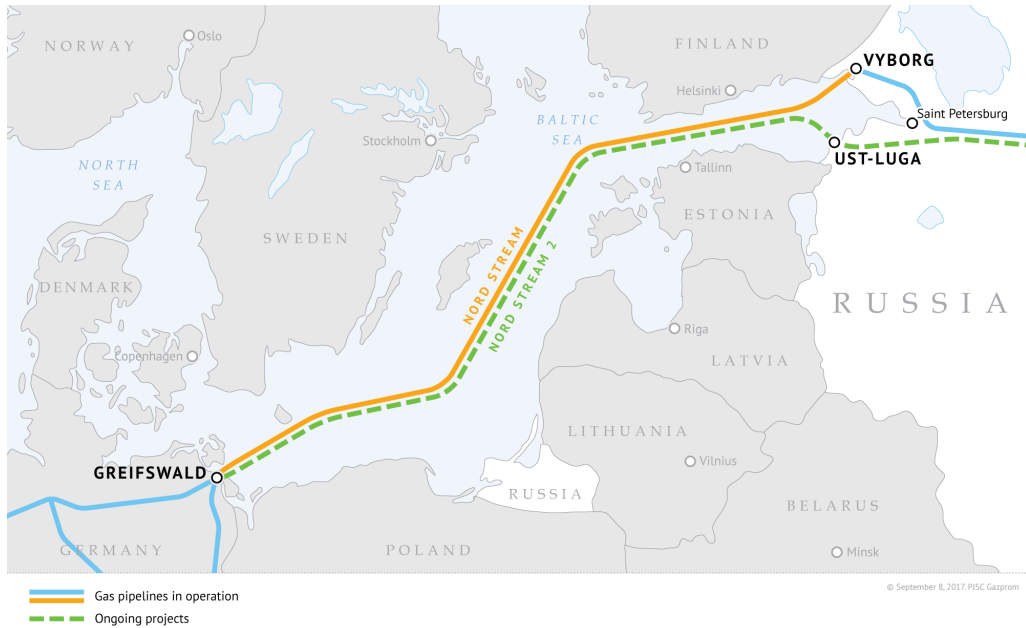


Figure 3: Nord Stream 2 Route (Gazprom: <https://www.gazprom.com/projects/nord-stream2/>)

Initially scheduled to be finished by the end of 2019 (Federal Maritime and Hydrographic Agency 2018), the completion of the pipeline's construction has been delayed due to the threat of US sanctions.

From the beginning, the project has caused a political controversy within Europe as well as in transatlantic relations. Countries like Poland, the Baltic states and Ukraine have continuously expressed their opposition to the pipeline. Germany and Austria, for example can be found on the other side of the argument (Zhiznin and Timokhov 2019, 33ff). In *A matter of preference: Taking sides on the Nord Stream 2 pipeline project*, Jong et al. investigate the formation of preferences regarding the Nord Stream 2 pipeline in the EU using surveys. The authors find that in addition to material and geopolitical interests, positions on Russia shape such preferences (Jong, Van de Graaf and Haesebrouck 2020).

The US has voiced criticism early on, starting from the Obama administration (Hochstein 2016), being maintained during the Trump administration (Bureau of Energy Resources 2019) and continued during the Biden administration (Blinken 2021). While its supporters cite a

diversification of gas supply routes, its opponents caution that it not only harms efforts in support of Ukraine, but it also increases European dependence on Russian gas (Goldthau 2016, 7).

The following sections shed light on the different positions and strategies of the US, the project's loudest opponent and Germany, one of Nord Stream's fiercest supporters.

## 4.2 US Policy

As the debate around Nord Stream 2 began to heat up after 2016, this section focuses on the US position and strategy during the Trump administration (2017-2021). Cited are mostly policy documents, press statements and remarks of the Department of State as well as hearings in US Senate committees.

### 4.2.1 Policy Positions

#### *Russia*

As mentioned in the introduction, according to the National Security Strategy of 2017, the US sees itself to be in a strategic competition with the “revisionist powers” of China and Russia. Both intend to shift the regional balance of power in their favor and want to shape the current order in a way that goes against US values and interests. Russia aims at establishing spheres of influence in its neighborhood and seeks to weaken American influence while driving a wedge between the US and its allies and partners (The White House 2017a, 25).

In 2014, the situation had become more severe. President Obama condemned Russia's actions in Ukraine as a threat to the peace, security and territorial integrity of Ukraine (The President 2014b). Moreover, they were perceived as a threat to US national security and foreign policy. Consequently, President Obama declared a national emergency (The President 2014a).

## *Energy*

The security strategy contains a section called “Embrace Energy Dominance”. As a result of its recently found abundance of energy resources,<sup>7</sup> the US aims at promoting exports of their energy resources, diversifying energy sources of their allies as well as enabling domestic economic gains (The White House 2017a, 23).

The State Department’s Bureau of Energy Resources names European energy security not only as a strategic priority but is also crucial to US national security (Bureau of Energy Resources). The rationale for America’s interest in European energy is the belief that a lack of a “secure access to reliable and diversified energy” makes nations more vulnerable to pressure from other powers (State Bureau of European and Eurasian Affairs and USAID Bureau for Europe and Eurasia 2019, 4).

In the past, Russia has shown that it is not only willing to use its energy resources as a “geopolitical weapon” against US allies, but it also has the capacity to do so (Mitchell 2017). Consequently, one of the Bureau’s priority missions during the Trump administration was to “break Russia’s stranglehold over Europe’s energy markets”, by implementing pressure against infrastructure projects funded by Russia (Bureau of Energy Resources 2017a).

From the US perspective, the dangers of European dependence on Russian gas became apparent in several incidents, when gas supplies to and through Ukraine were cut off by Russia in 2006, 2009 and 2014. The US pledge support for a diversification of European energy supplies encompassing types, sources, and delivery routes. This includes increasing the import of liquefied natural gas (LNG) from the US (McCarrik 2017). However, accusations that the US would oppose Russian pipeline projects in Europe in order to be able to sell more US LNG to the region are dismissed as the result of Russian propaganda (US Congress 2017).

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<sup>7</sup> The US accounted for the largest amount of production and 23% of global growth in natural gas production in 2019 (BP 2020, 32).

## *Nord Stream 2*

In contrast, the US explicitly opposes infrastructure projects such as Nord Stream 2 that contribute to the dependence on Russian energy supplies. Two main arguments are given: First, with the construction of those pipelines, Russia aims at eliminating Ukraine as a gas transit state and is consequently depriving the country of its transit revenues. Second, the concentration of high proportions of Russian gas supplies in just a single route increases the European vulnerability to supply disruptions (McCarrik 2017). Also, the additional funds generated by the pipeline project may also be used to finance Russia's "malign activities" (US Department of the Treasury 2018). US officials have emphasized that Nord Stream 2 is not a commercial project, but a political tool that plays into Russia's hands, increasing its leverage over the West, while at the same time aiming at separating Ukraine from Europe. The pipeline is seen as not consistent with Western values of "mutually beneficial and reciprocal" commerce (Fannon 2018).

### 4.2.2 Sanctions

Following the annexation of Crimea by the Russian Federation in 2014, the US, in coordination with the EU and other partners, has implemented sanctions against Russia (Hudson 2014). Starting from March 2014, President Obama authorized several executive orders. Those put in place travel restrictions for, blocked property of certain persons and prohibited certain transactions (The President 2014a; 2014b; 2014c; 2014d).

In the wake of allegations regarding Russia's interference in the 2016 US presidential elections, the US Congress codified sanctions against Russia into law in order to deprive President Trump of the ability to unilaterally lift those sanctions (House of Representatives 2017, H6268).

The *Countering America's Adversaries Through Sanctions Act (CAATSA)*, signed into law in August 2017, imposed sanctions on Iran, Russia, and North Korea. Part II, also titled as *Countering Russian Influence in Europe and Eurasia Act of 2017*, covers sanctions against Russia. It includes major congressional powers regarding waiving sanctions (CAATSA Sec. 216). Sec.

232 provides that the President may impose sanctions – in coordination with allies of the US – against a person investing in Russian pipeline projects or selling, leasing, providing goods, services, technology, information to Russia that “could directly and significantly facilitate the maintenance of the construction, modernization, or repair of energy export pipelines by the Russian Federation.”

Sec. 235 enumerates types of sanctions that could be imposed for such acts. For example, these could be an Export-Import Bank denial of issuance of any guarantee, insurance, extension of credit, or participation in the extension of credit, export sanctions, prohibiting loans from US financial institutions, prohibitions on financial institutions: prohibition on designation as primary dealer, prohibition on service as a repository of government funds, prohibition of transactions in foreign exchange subject to US jurisdiction, prohibition of transfers of credits or payment subject to US jurisdiction to any financial institution, or prohibition of property transactions.

According to the public guidance for CAATSA Sec. 232 published in 2017, the sanctions seek to avoid causing harm to European energy security. Only those investments or loans made before CAATSA was signed into law are subject to sanctions. Additionally, the sanctions do not target investments or activities just related to standard repair and maintenance works on existing pipelines (Bureau of Energy Resources 2017b).

In the updated public guidance from 2020, the scope of CAATSA was extended to also include Russian pipeline projects signed after the law was enacted. This was done to clarify that Russian pipelines such as Nord Stream 2 are subject to sanctions under CAATSA. This is also true for investment and loan agreements made prior to enactment of the law (Bureau of Energy Resources 2020).

In September 2018, President Trump issued an executive order delegating powers regarding the implementation of sanctions within the scope of CAATSA to the Secretary of State and the Secretary of the Treasury (The President 2018).

In 2019, as part of the *National Defense Authorization Act for Fiscal Year 2020*, the US Congress adopted the *Protecting Europe's Energy Security Act of 2019 (PEESA)*. It was introduced by Republican Senator Ted Cruz and Democratic Senator Jeanne Shaheen to the Senate's Foreign Relations Committee as a bipartisan bill to stop the construction of Nord Stream 2 (Cruz 2019).

PEESA 2019 requires the Department of State and the Department of the Treasury to submit a report identifying vessels engaged in pipe-laying for the construction of Russian pipelines, namely Nord Stream 2 and TurkStream. Additionally, the report shall identify foreign persons engaged in certain activities with said vessels, such as selling or leasing. The President may then impose sanctions against such persons (PEESA Sec. 7503).

PEESA was amended with the Protecting Europe's Energy Security Clarification Act 2020, expanding the types of vessel activities to not only "pipe-laying", but also "pipe-laying activities". This includes, among others, site preparation, trenching, surveying, welding, and coating of pipe. Additionally, aside from persons selling or leasing vessels, after the amendment also those facilitating selling and leasing are subject to the sanctions law. Moreover, providing underwriting services or insurance or reinsurance for vessels got added to the list. Finally, consultations between the Secretary of State and the Secretary of the Treasury in relations with the submission of the report on sanctionable activities now have to include concerns raised by the governments of any country of the European Union or those of Norway or Switzerland (National Defense Authorization Act for Fiscal Year 2021 Sec. 1242).

Apart from the legislation mentioned above, US senators have also engaged in activities underlining the sanctions policy. In August 2020, for example, US Senators Ted Cruz, Tom Cotton and Ron Johnson sent a letter, serving "as a formal legal notice", to the Fährhafen Sassnitz GmbH, the company operating Mukran port, a project hub for the pipeline storing pipes and provisioning pipe-laying vessels. It threatens the firm as well as its board members, shareholders,

and employees with “crushing legal and economic sanctions” and explains the US sanctions regime in relation to Nord Stream 2 in detail (Cruz, Cotton and Johnson 2020).

This section has highlighted that the US strongly opposes the project and wants to prevent its completion with the implementation of (secondary) sanctions. However, they should be seen in the overall context of US sanctions against Russia. Generally, the sanctions are used as a tool to coerce Russia into changing its policy regarding Ukraine. The underlying objectives can be found in geostrategic goals such as depriving Russia of advantage over the US or leverage against its allies. Also, they could have an economic objective of allowing the US to expand LNG export to Europe.

### 4.3 German Policy

Although this research focusses on Germany, the positions held and actions taken by the German government, the European Union must be taken into account. It should not be underestimated, how much the EU influences if not sets the legal and regulatory framework and has fundamental impact on market structures as well as political framing (Bros, Mitrova, and Westphal 2017).

#### 4.3.1 Policy Positions

##### *Russia*

Looking at the German security policy white book, it becomes clear, that German perceptions of its security environment are fundamentally different from the American ones. Although Germany sees the international order in turmoil, primary causes of the radical changes taking place are seen in abstract forces of globalization, digitalization, and demographic challenges as well as the emergence of transnational non-state networks (Federal Government 2016, 28ff). When it comes to Russia, its actions in Eastern Ukraine and Crimea are seen as an open challenge to the European order of peace, causing profound consequences for European and German security. Russia seems to have turned against a close partnership with the West in favor of strategic rivalry. Although this poses a challenge for European security, Germany acknowledges a broad spectrum of



common interests and shared relations that connect Europe and Russia. After all, Russia, it the EU's biggest neighbor. Hence, according to the white book, sustainable European security and prosperity can only be guaranteed in cooperation with Russia (Federal Government 2016, 31f).

### *Energy*

Germany relies heavily on imports for its energy supplies. Natural gas, accounting for about 30% of its energy consumption, shows particularly high levels of imports: more than 90% (AGEB 2021). Germany's natural gas supplies come from mainly three supplier countries: Russia, the Netherlands and Norway. Given its high dependency on imports, ensuring energy security is a big concern of the German government (Federal Ministry for Economic Affairs and Energy 2020a, 2).

The concept of *Energiewende* (*energy transition*) is central to the German energy policy, aiming at overhauling Germany's energy supply towards a "secure, environmentally friendly, and economically successful" future (Federal Ministry for Economic Affairs and Energy). Its progress is monitored in a yearly report. Natural gas is seen as a transitional energy source from fossil fuels to renewable energy. Among other strategies, a diversification of energy supplies is deemed necessary in order to improve supply security. For this purpose, LNG imports as well as the construction of pipelines, such as Nord Stream 2, are named (Federal Ministry for Economic Affairs and Energy 2019, 34, 141). The German government does not see any contradiction between increasing LNG imports and enhancing the European pipeline infrastructure (Federal Ministry for Economic Affairs and Energy 2016, question 8). Additionally, making Germany a location for LNG infrastructure has been part of the objectives stipulated by the government in its coalition agreement (Federal Government 2018a, 3335).

### *Nord Stream 2*

Given Germany's increasing energy demand and the declining gas resources in countries of the European Union and the European Economic Area as well as the German policy of phasing out coal, the German government puts a high emphasis on ensuring energy supply security.

It should be noted that in Germany, the private sector, and not the state, is primarily responsible for the gas supply as well as the necessary infrastructure. Following the liberalization of the German energy market in 1998, market mechanisms are expected to ensure competitive prices (Federal Ministry for Economic Affairs and Energy 2020a, 3). Consequently, with regard to Nord Stream 2, German politicians often assert that it is first and foremost a private sector project (Merkel 2018a; Altmaier 2019). However, the German government has frequently expressed its positive attitude towards the pipeline (Federal Government 2018b).

Nevertheless, the German government also acknowledges the political implications of Nord Stream 2, especially in relations with Ukraine. Repeatedly, it has assured that Ukraine will not lose its status as a transit country for Russian gas (Merkel 2018a; Merkel 2018b; Altmaier 2019). It is in the German as well as the European interest that Ukraine maintains this role (Federal Government 2018b). Hence, the German Government advocates the use of the Ukrainian gas infrastructure in the gas transit to Europe beyond the completion of the Nord Stream 2 pipeline (Federal Ministry for Economic Affairs and Energy 2016, question 12).

The German government has often come to the defense of the Nord Stream 2 pipeline project. So did Minister of Economic Affairs and Energy, Peter Altmaier, in a speech in February 2019 (Altmaier 2019). Nord Stream 2, LNG terminals and questions related to Ukraine are not seen as contradictory, but as different sides of the same coin. Having guaranteed gas supply security in the last decades, Germany has never been susceptible to blackmail. Even during Cold War, Russia has always delivered the gas promised. Rather than being a question of ally or enemy, supply security should be the question of responsible policy, the minister said (Altmaier 2019).

### *US Secondary Sanctions*

In the wake of the Ukraine crisis, the German government condemned the referendum in March 2014 as a breach of international law (Federal Government 2014a) and when the EU decided to impose sanctions against Russia for its conduct, the German government fully supported those

restrictive measures (Federal Government 2014b). The government welcomed the close coordination and partnership between the EU and the US regarding the annexation of Crimea and the conflict in Eastern Ukraine.

When the US Senate proposed sanctions that could affect the Nord Stream 2 pipeline project in 2017, however, the German government pointed out that this proposal had the potential to undermine the common position. Especially the possibility of secondary sanctions has been seen critically. The German government stated that it objects sanctions with extraterritorial effects as a matter of principle (Federal Ministry for Economic Affairs and Energy 2017a). This position was maintained throughout the evolving US sanctions legislations against the pipeline project (Foreign Office 2020a, question 1; Foreign Office 2020b, question 1-2). In 2019, when the sanctions threats became more concrete, German Finance Minister Olaf Scholz heavily criticized the sanctions on German television as an infringement of German as well as European internal affairs and sovereignty. Also, he found the sanctions to be inappropriate and incomprehensible among friends that are connected through NATO (Tagesschau 2019).

Following the poisoning of the Russian opposition politician Alexei Navalny, the German government insisted on its position regarding Nord Stream 2. Nevertheless, it also supported the renewed EU sanctions against six Russian individuals and a state research institute (Federal Ministry of Finance 2020a, question 15; Council Implementing Regulation (EU) 2020/1480). It also maintained its standpoint of support of the pipeline in early 2021, when the European Parliament adopted a resolution in the wake of Navalny's arrest upon his return to Russia.<sup>8</sup>

The research service of the Bundestag regards the US sanctions with extraterritorial effects to be in a grey zone of international law. Although the legal means to fight the sanctions may be limited,

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<sup>8</sup> The resolution had demanded the pipeline construction to be stopped immediately (European Parliament 2021).

they can be criticized from a political standpoint for using the legitimate territorial link as a pretext to expand extraterritorial sovereignty. Hence, the research service suggests the German government to pursue diplomatic solutions with the US (German Bundestag Research Service 2020). On another note, it is interesting to observe that even actors that are generally opposed to the pipeline project, do not support US secondary sanctions. For example, members of the BÜNDNIS 90/DIE GRÜNEN parliamentary faction, generally opposed to the pipeline for environmental reasons, regard the sanctions as a breach of international law due to their extraterritorial nature (German Bundestag 2020a).

On the European level, the EU High Representative for Foreign Affairs and Security Policy and Commission Vice-President Josep Borell too, expressed the Union's opposition to sanctions against "European companies carrying out legitimate business". They are seen to be in conflict with international law. He added that other countries should not determine European policies (European External Action Service 2020). Additionally, in August 2020, 24 EU Member States brought forward a demarche protesting the sanctions as an interference in European affairs (Wetzel 2020).

Also, in the German government, there seems to be a perception, that one of the main reasons for the US opposition against the Nord Stream 2 pipeline, is the objective to significantly increase exports of US LNG to Europe. When asked whether the Federal government was aware of tendencies of the US aiming at increasing LNG exports to Europe, the government said it had acknowledged that the expansion of LNG exports was one of the objectives of President Trump. It further named initiatives of the US government that aimed at increasing the export of US energy supplies (Federal Ministry for Economic Affairs and Energy 2018, question 5). Peter Altmaier, German Minister for Economic Affairs and Energy suggested that Germany would invest in LNG infrastructure to help making US LNG more competitive "as a gesture to our American friends", despite his initial concerns regarding LNG (European Commission 2018). Currently, there are no LNG terminals in Germany. However, in 2019, an ordinance on improving the regulatory

framework for the development of LNG infrastructure was enacted (Federal Ministry for Economic Affairs and Energy 2019c; Federal Law Gazette 2019).

#### 4.3.2 Actions in Support of Nord Stream 2

##### *Contacts to the Business Sector*

Despite being a private sector project, the German government has been continuously involved in the Nord Stream 2 project. When asked about meetings between representatives of the German government and representatives of Nord Stream 2, the German government emphasized that sheer scale of the infrastructure project, complex legal and political questions arise, making meetings between the government and the representatives of involved companies necessary. Following the signing of the Nord Stream 2 Shareholder Agreement, the German Vice-Chancellor and Minister for Economic Affairs and Energy, Sigmar Gabriel, met with Nord Stream 2 representatives several times, discussing matters such as the planning of the project or questions regarding the relevant regulatory framework (Federal Ministry for Economic Affairs and Energy 2016, question 15).

In a press conference following a meeting of Minister Gabriel and the Russian President, Vladimir Putin, in October 2015, Gabriel said that Nord Stream 2 is in not only in Germany's interests, but also interesting beyond its borders. He added that he would try to keep the project under the competence of German authorities to avoid "external meddling". As a consequence, "Ukraine's role as a transit nation" would have to be settled (Kremlin 2015).

Due to close relations between business and politics, concerns about possible conflicts of interests and criticism of lobbyism were raised regarding Nord Stream 2. Gerhard Schröder, the former German Chancellor (1998-2005) is Chairman of Nord Stream AG's shareholder committee and Chairman of the Board of Directors of Nord Stream 2 (von Salzen 2016) and Marion Scheller, former Division Chief in the Ministry of Economic Affairs and Energy, became the Senior Advisor for Governmental Relations at Nord Stream 2 (von Martin and Nagel 2016).

Following a parliamentary interpellation, inquiring about this “revolving door effect” in relations to the pipeline project, the German government disclosed a list of meetings between members of the government and representatives of Nord Stream 2, Gazprom, Wintershall, Uniper, Shell and Engie from January 2015 to October 2017. The government pointed out that this list may not be complete (Federal Ministry for Economic Affairs and Energy 2017b, questions 1-4). From the German Chancellery, for example, Chancellor Merkel met representatives from Engie and Shell to discuss questions of energy and climate policies. Minister of Economic Affairs and Energy, Sigmar Gabriel met representatives from Gazprom, Nord Stream AG, OMV and Uniper on 15 occasions. In those meetings, he discussed matters concerning cooperation with Russia, expansion of the Nord Stream pipeline, gas transit through Ukraine, the Nord Stream 2 project, the current situation for companies in the energy sector, supply security and Nord Stream 2, and the current state of implementation of Nord Stream 2. After Minister Gabriel took the office of Minister for Foreign Affairs in January 2017, Brigitte Zypries was appointed Minister for Economic Affairs and Energy. In the same year, she met Nord Stream 2, Gazprom, Wintershall and Uniper representatives on three occasions. Eight additional meetings from other officials of the ministry were listed in the inquired period. Another ministry involved in conversations with the company representatives was the Foreign Office. The Minister, Walter Steinmeier and later Sigmar Gabriel, as well as state secretaries had several meetings with Wintershall, Nord Stream 2 and Uniper to be briefed on the project status of Nord Stream 2. So did the ambassadors of the Brussels, Moscow, and Copenhagen embassies.<sup>9</sup>

#### *Compromise on Regulatory Framework on EU Level*

Germany has also been lobbying constantly for the project on the EU level. This was particularly visible in 2019, when the EU amended its Gas Directive, adopting a compromise reached between

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<sup>9</sup> Out of the 62 meetings listed, six fell were held by the Chancellery, 28 by the Ministry of Economic Affairs and Energy, one by the Ministry of Finance and 26 by the Foreign Office (including embassies). Gerhard Schröder, the former German Chancellor, took part in four.

France and Germany. According to the directive, generally, ownership and operatorship of a pipeline have to be separated – an effort to unbundle supply and production business. Although the amendment was passed and is basically applicable to Nord Stream 2, Germany maintained the right to decide about exemptions from the directive’s unbundling requirement. France had supported the amendment, while Germany opposed it (Yafimava 2019).

#### *Initiatives against US Secondary Sanctions*

When the US Congress considered sanction legislation specifically targeting the Nord Stream 2 pipeline in 2019, the German government stated that it had continuously been discussing the matter with its US counterparts, emphasizing the crucial role of Nord Stream 2 for German and European gas supply security (Federal Ministry for Economic Affairs and Energy 2019d, question 6). Although the government maintains its positive attitude towards the project, it reiterates that Nord Stream 2 is first and foremost a project of the participating companies (Federal Ministry for Economic Affairs and Energy 2020b, question 1). It has been discussing the matter with EU Member States, members of the EU External Actions Service and the European Commission as well as members of the US Congress and the US government (Federal Ministry for Economic Affairs and Energy 2020c; Foreign Office 2020a, question 1; Foreign Office 2020b, questions 11-12). When asked about the concrete content of said discussion, the government hinted to confidentiality requirements (Foreign Office 2020a, question 6a; Foreign Office 2020b, questions 3-4; Federal Ministry of Finance 2020a, questions 2-4).

Despite the clear words of criticism, no countermeasures were considered (Federal Ministry for Economic Affairs and Energy 2020c; Foreign Office 2020a, question 1). Contrary to INSTEX, the Instrument in Support of Trade Exchanges with Iran, the Federal Government said that there were no considerations to expand the instrument or create a similar one in order to protect European companies involved in the Nord Stream 2 project (Foreign Office 2020a, question 10). Countermeasures and protective measures were also discussed in the Bundestag, but the motion

by the AfD faction was finally defeated by the votes of the other factions (German Bundestag 2020c).

In August 2020, Federal Minister of Finance Olaf Scholz expressed the German government's concern about the sanctions targeting Nord Stream 2 to US Secretary of the Treasury.<sup>10</sup> Not only are they regarded as endangering the completion of the project, but they are also seen to “deeply infringe European energy sovereignty”. The government rejected the sanctions and suggested, “a coordinated approach”, as a way forward: In exchange for a considerable increase in financial support for LNG infrastructure as well as import capacities from the side of the German government, the US “will allow for the unhindered construction and operation of Nord Stream 2” (Federal Ministry of Finance 2020b). Apparently, the Trump administration did not accept this offer.

Although not a federal but a state level initiative, the establishment of a foundation by the Mecklenburg-Western Pomeranian regional government is worth mentioning. The pipeline is bound to make landfall on the coast of the state of Mecklenburg-Western Pomerania. The regional government of the state has set up the “Foundation for Climate and Environment Protection” (Stiftung Klima- und Umweltschutz MV), which is, in addition to environmental protection measures, mandated to make a contribution towards the completion of the Nord Stream 2 pipeline (State Government Mecklenburg-Western Pomerania. 2021).

In short, despite continuously reiterating that the pipeline is a private-sector project, the German government has been involved in and has actively supported the project. It was done mainly in order to protect the economic interests of German companies. However, the German government also sees cooperation with Russia in the energy sector and the diversification of supply routes

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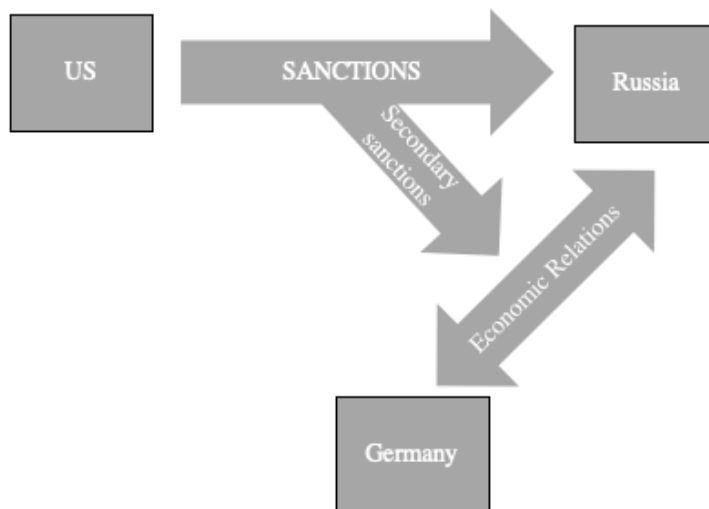
<sup>10</sup> In February 2021, the leaked letter was published by the German non-profit organization Environmental Action Germany (Deutsche Umwelthilfe). Previously, the incident had been reported on by the German weekly newspaper *Die Zeit*.



through Nord Stream 2 as vital for its energy security. At the same time, although generally supporting sanctions on Russia with regard to Ukraine, it made it clear that it is opposed the US extraterritorial sanctions targeting the pipeline. They are seen as an infringement of German sovereignty. Despite not having adopted any countermeasures or measures shielding German companies from secondary sanctions effects, it has engaged in diplomatic endeavors, trying to convince the US administration to remove the sanctions threat.

#### 4.4 Sanctioning Outcomes

This section highlights the outcome of the US sanctions targeting the Nord Stream 2 pipeline project. Here, I largely rely largely on media accounts regarding the matter.



*Figure 4: Secondary Sanctions in the Case of Nord Stream 2*

Originally, the pipeline was scheduled to be operational in the fall of 2019 (Federal Maritime and Hydrographic Agency 2018). As of May 2021, the pipeline is still not completed. This may be due to the increasing pressure exerted by the threat of being subjected to US sanctions.

In late 2019, the construction of the pipeline was underway, with only the last section remaining. However, when the US Congress adopted PEESA targeting firms involved in the pipeline construction, Swiss contractor Allseas promptly suspended its pipe-laying activities (Allseas

2019). Considering the sanctions, Russian President Putin acknowledged that the completion of the pipeline would be delayed. However, he also emphasized that Russia would be able to complete it alone, without the support of foreign partners (Kremlin 2020).

Nevertheless, the construction was halted until December 2020, when the Russian pipe-laying vessel Fortuna resumed working on the pipeline, finishing the section in German waters (NDR 2020a; NDR 2020b). The Fortuna was added to the OFAC's Specially Designated Nationals and Blocked Persons List on February 22, 2021 (Department of the Treasury 2021). In spite of the sanctions, the vessel resumed pipelaying work for the remaining section in Danish waters in February 2021 (Hernandez 2021). In March 2021, it was reported that the Russian vessel Akademik Chersky would join the project, enhancing pipe-laying capacities (Pallardy 2021).

Apart from losing Allseas' vessels, a report from the State Department on the Nord Stream 2 sanctions revealed that 18 companies had dropped out of the pipeline project. Among them is also the German contractor Bilfinger (Gardner 2021). In September 2020, the largest shipping insurance group, International Group of P&I Clubs, announced that it would not cover vessels involved in the Nord Stream 2 project (The Swedish Club 2020).

Moreover, German investor Wintershall Dea seems to shy away from further investments. It has already disbursed €730 million in loan payments prior to the revision of CAATSA in 2020 (Wintershall Dea 2020, 129). German media reported that Wintershall Dea is capping its loan investment at those €730 million – more than €200 million short of the originally sum of up to €950 million. This is speculated to have been done to protect affiliated companies from possible US sanctions (Freytag 2021).

It can be said that due to the threat of sanctions, several European companies have pulled out from the pipeline project, causing significant delays. Nevertheless, it has not been canceled. Although the German federal government has not adopted any countermeasures, it has never deviated from its policy position of supporting Nord Stream 2 politically. Additionally, it embarked on

diplomatic initiatives trying to convince the US to lift the sanctions. The US for its part has not done anything in this regard.

## 5 Analysis

From the case study on Nord Stream 2, it becomes apparent that the US and Germany have conflicting policies. The US put in significant efforts to stop the pipeline project, while Germany will not let go of it. As mentioned in the introduction, the Munich Security Report 2020 too, noted on the diverging strategies of the US and the European partners towards Russia and Nord Stream 2 (Munich Security Conference 2020). In order to understand the dynamics of this bargaining situation among the two allies, this section analyzes the Nord Stream 2 case in the light of Snyder's theory on alliance management as introduced in the theoretical framework chapter.

### 5.1 Intra-alliance Bargaining

As a reminder, in intra-alliance bargaining Snyder assumes two dimensions: common interests and divergent interests, the bargaining takes places in the latter category. The alliance members are engaged in the alliance game, managing their security-autonomy trade-off (Snyder 1997, 165, 180).

#### 5.1.1 Common Interests

In the case of NATO and US-German relations, the maintenance of the alliance is the underlying common interest of the two allies. Despite Trump's America first policy and skepticism towards NATO, the Trump administration's national security strategy reiterates the firm commitment to its European allies and partners, saying that European safety and stability also contributes to US safety. The strategic paper enumerates the benefits of the security cooperation, confronting shared threats together and joint military operations. It also pledges deeper collaboration to protect "common values, security interests and shared vision". It further names Russia, North Korea, and Iran as threats against which the US will cooperate with the European allies and partners. Finally,

the strategy promises continued strengthening of deterrence and defense in NATO's east (The White House 2017a, 47f).

Germany, in its security policy white book, acknowledges the importance of cooperation with its partners, which includes NATO (Federal Government 2016, 8). It also assumes its role in defending human rights, democracy, and international law together with its transatlantic partners (Federal Government 2016, 6). The strategic paper names Russia as a challenger to the European peace order, with consequences for its security. Russia's activities on NATO's eastern flank require a response not only from the affected countries, but also the EU and NATO (Federal Government 2016, 31f). For German and European security, NATO is indispensable. (Federal Government 2016, 49, 64).

With regard to Russia, the two countries have displayed common interests in the coordinated sanctioning in the wake of the Ukraine crisis. Both strongly condemned Russia's actions in Ukraine and viewed them as a threat their security (The President 2014a; The President 2014b; Federal Government 2014a, Federal Government 2014b).

#### 5.1.2 Diverging Interests

Although in agreement regarding the threat posed by Russia's actions in Eastern Europe, the US and Germany have different views on how far the sanctions should reach. Here, the controversy concerning the Nord Stream 2 pipeline project comes into play.

The US strongly opposes the project and wants to prevent its completion with the implementation of (secondary) sanctions. Judging from its strategic documents, from a US perspective, Russia represents a threat to the American-led international order (McInnis and Weiss 2019). Containing Russia thus is of great importance for the US. Russian gas and the Nord Stream 2 pipeline project are ways for Russia to gain influence in Europe through closer economic relations as well as an energy provider. Russia may potentially use this leverage to put a wedge between the US and its

European allies (The White House 2017a; US Department of State). Hence, its reasons for the opposition to Nord Stream 2 are mainly of a geostrategic nature. First, the European dependence on Russian gas is seen as a potential weakness, making the European partners vulnerable to Russian pressure. Second, the pipeline would cut Ukraine off from substantial revenues. This may not only be a destabilizing factor for Ukraine but may also weaken its capabilities in a military conflict with Russia (US Congress 2017, 4, 7). Third, if Russia is seen as an adversary to NATO, the pipeline represents a source of income that could finance the very “malign activity” NATO tries to counter (US Department of the Treasury 2018). However, in addition, one could assume economic considerations as well. Despite the lack of concrete statements to directly substitute the Russian supplies from the pipeline with US LNG, one cannot help but notice the circumstantial evidence. The US national security explicitly sets embracing dominance and promoting the export of US energy resources as one of its objectives (The White House 2017a, 22f). The US is leading the LNG supply growth as it had increased its LNG exports by about two thirds from 2018 to 2019. However, LNG represents only a fraction of European energy imports (BP 2020, 42f).<sup>11</sup> Also, statements that US LNG could play an important role in the European gas supply mix support this argument (McCarrik 2017).

Due to its geographic proximity, its size and its importance, Germany cannot simply ignore Russia as a regional power (Spanger 2020, 1058). Russia is the EU’s biggest neighbor, as the German security policy white book puts it. Despite frictions on several fronts, cooperation is desirable (Federal Government 2016). Being entangled in US strategic competition is not in Germany’s interest.

Germany does not view its dependency on Russian gas as a security concern. If anything, experiences from the past showed that the weakness of Russian gas supplies lay in transit countries – an issue that could be solved with the Nord Stream 2 pipelines (Bardt, Schaefer, Wolf,

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<sup>11</sup> After the US, the EU is the second biggest gas market in the world. Despite the subordinate role of LNG compared to pipeline gas in the EU, imports of American LNG have increased 272% between July 2018 and May 2019, accounting for 12, 6% of European LNG imports (European Commission 2019).

Zachman and Westphal 2018, 4). Moreover, the pipeline is said to heighten competition in the European gas market, decreasing gas prices. From an economic point of view, LNG in general as well as American LNG are no viable alternatives to Russian gas as they lack competitiveness (Zhiznin and Timokhov 2019; Frontier Economics 2020). Not least, German companies and ports are involved in the project. Not only do they expect to gain profits upon completion of the project, but German investors would also have to write off their investments (German Bundestag 2020d). Given the importance of trade relations for the German economy, economic considerations prevail over strategic/security concerns in German policy making (Szabo 2015, 6, 8). Hence, despite the particularities of energy policy and although the case of Nord Stream 2 could be framed a matter of energy security, for the German government it seems to be one of primarily economic concerns. The German government opposes the US secondary sanctions not only because they pose an economic threat to German businesses. They are also opposed as a matter of principle as they are seen as an undue interference in German (European) energy policy and thus an infringement of German (European) sovereignty.

In the case of Nord Stream 2, the American and German policies are in conflict. The US wants to stop the project whereas Germany has incentives to support its completion. This is the result of diverging underlying policy considerations: While strategic concerns and threat perceptions prevail in the US strategy regarding Russia, Germany is more preoccupied with economic considerations and cooperation.

## 5.2 Bargaining Situation

Here, the allies, the US and Germany, are in a bargaining situation regarding their conflicting policies on the Nord Stream 2 pipeline, representing a non-crisis situation in the sense of Snyder's theory.

### 5.2.1 Adversary

NATO was established in order to protect its members against Soviet expansion – without specifically naming the Soviet Union. After the end of the Cold War and the dissolution of the Soviet Union, one could say that NATO lost its only major adversary (Warren 2010, 29). Although Russia has often been in the focus of attention, especially due to concerns raised by the Eastern European allies, NATO has also engaged in cooperation with Russia. However, the nature of the relationship changed after the Ukraine crisis in 2014 and cooperation has been suspended since then (North Atlantic Treaty Organization 2020b). Russia has since been seen as a threat to NATO's eastern flank and the sovereignty of its members (Larsen 2016, 1, 3).

### 5.2.2 Non-Crisis Situation

Despite rising tensions and worsening relations with Russia, the current state of affairs can be defined as a non-crisis situation. War between a NATO member and Russia is an unlikely outcome. The decisions concerning Nord Stream 2 are of a non-military nature and concern energy relations.

### 5.2.3 Bargaining Range

Although a point of contention, the Nord Stream 2 controversy is a minor conflict in Germany and US relations, which is not seen as a breaking point for their security cooperation. Although the pipeline project is seen as a challenge to transatlantic relations (Major 2019, 10) no party has threatened to back out of NATO. Hence even if the disagreement over the pipeline continues it may not be the end of the alliance. However, both parties may have to adapt their expectations regarding their mutual political support. In fact, Snyder writes that this narrowing of the bargaining range may allow the allies to harden on their positions, not giving in even if it comes at the risk that no agreement can be reached (Snyder 1997, 172).

## 5.3 Bargaining Power

According to Snyder, the key determinant for bargaining outcomes is the allies' relative bargaining power. The elements of bargaining power are the allies' dependence on the alliance, their alliance commitment, and their interests in the bargaining object (Snyder 1997, 166ff). Next, I analyze each element in the case at hand.

### 5.3.1 Dependence on the Alliance

Had the strategic value of NATO for the US been high in the Cold War era, when Europe was for crucial maintaining the balance of power with the Soviet Union, the alliance has become less important for US security in the decades that followed the end of the Cold War (Shiffrinson 2017, 112). That is not to say that the US does not benefit from its membership in NATO, as alliances in general provide strategic advantages (Murphy 2017, 25f).

As mentioned above, Germany views the transatlantic alliance as indispensable for its security (Federal Government 2016, 49). Especially the alliance's nuclear capabilities are an essential guarantee for European and German security (Federal Government 2016, 65). Due to historic legacies, Germany puts a higher emphasis on diplomacy and multilateralism than military strength (Szabo 2015, 111ff). Germany does not have nuclear capacities and relies on US nuclear weapons. For German security, other than enhanced European security cooperation, forming an alliance outside NATO is not a viable alternative. However, despite hints towards a political will to strengthening defense cooperation on the European level and decreasing dependence on US arms,<sup>12</sup> there is currently little political discourse that would consider such cooperation as a substitution of NATO.<sup>13</sup>

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<sup>12</sup> See for example Merkel's "beer tent speech" in 2017, where the chancellor said Europeans should take their fate into their own hands (Farrell 2017) or Macron's call for Europe to end its dependency on US arms (Momtaz 2017).

<sup>13</sup> Though, some societal and political actors harshly criticize the alliance and demand its dissolution (Major 2019). So did for example, Bundestag party *Die Linke* (Die Linke 2017).



In international comparison, the US spent by far the most on military (\$778.2 billion), followed by China (\$252 billion), India (\$72.9 billion) and Russia (\$61.7 billion). Germany, with \$52.8 billion, ranked 7<sup>th</sup> (SIPRI). Despite varying threat perceptions, Germany relies on the US for deterrence of Russia. Given its small military force, the lack of nuclear capabilities as well as a lack of viable alternatives, German dependence on the alliance with the US is high. The US, however, with its superpower status and large military capacities does not rely on the alliance to an equal extent. The US dependency on NATO for its security is low.

### 5.3.2 Degree of Commitment

The North Atlantic Treaty created a collective defense alliance. Its Art 5 guarantees the assistance of each alliance member in case one member is attacked with “with such action as it deems necessary”. An attack against one NATO member is considered an attack against all. Despite this language, NATO was designed as an asymmetric alliance from the beginning, with US as the senior partner to the European junior partners. This structure was maintained after the end of the Cold War and the emergence of a unipolar world (Locatelli and Testoni 2009).

Defense spending is not only an indicator for the possible need of assistance and hence the dependence on the alliance, but it may also be considered for the alliance commitment. Art 3 of the Transatlantic Treaty stipulates an obligation of the allies to “maintain and develop” their military capacities. Since 2015 German defense spending has continuously increased. From \$38.2 billion in 2015 it has increased to \$52.8 billion in 2020. In terms of military expenditures as a share of GDP, Germany has increased its military expenditures from 1.1% to 1.4% in the same period. Despite this increase, the level of spending seems disproportionately low in comparison with the US budget. The US spent 3.5% of the GDP in 2015 and 3.7% in 2020. It amounted to \$633.8 billion and \$778.2 billion respectively (SIPRI Military Expenditure Database).

Since the end of the Cold War, apart from defense spending, participation in US-led global security efforts should also be taken into account when talking about alliance burden sharing (Ringsmose 2010, 331; Kivimäki 2019). Although reluctantly, Germany has participated in the

Kosovo War as well as in Afghanistan, where it was one of the largest contributors. However, Germany was in fierce opposition to the 2003 Iraq War (Keller 2012, 98, 104). Additionally, German-Russian relations, especially considering Nord Stream 2 which is seen as a threat to European security for other members of the alliance may call into question the German commitment to NATO.

Although concerns regarding the US commitment to NATO were not new, with Trump taking office and his explicit criticism of NATO, those concerns reached new levels (Kaufman 2017, 263f; Goldgeier 2019, 256). The president criticized the European allies for not shouldering their share of the burden and demanded an increase in defense spending. Also, before becoming president, Trump stated that he would base a decision whether to help the Baltic allies in the case of a Russian attack on the condition of the fulfillment of their burden sharing obligations (Sanger and Haberman 2016).

About a third of US overseas active-duty military personnel are stationed in NATO countries, almost half of which are located in Germany (DMDC 2020) and reducing troops in Europa has been on the agenda for all US presidents following the end of the Cold War (Richter 2020). In summer 2020, Trump announced that the US would reduce forces in Germany by 12,000 troops, more than 25% of the US military presence in Germany (The White House 2020).

Despite Trump's disruptive rhetoric regarding NATO, the transatlantic alliance continued to enjoy high levels of support by the US Congress (Senate 2018) and on the Brussels Summit in 2018, the issued declaration signaled strong commitment to the alliance (North Atlantic Treaty Organization 2018b; Goldgeier 2019, 256).

In conclusion, although Germany has a strong verbal commitment to NATO, it is not followed by actions. Its actual commitment to NATO can be considered low. The US has always shown relatively high level of material commitment. However, with Trump more than ever the

commitment became less certain and given his unpredictability, he could have credibly threatened to withhold support. US commitment to NATO may be considered moderate during the Trump administration.

### 5.3.3 Interests at Stake

The diverging interests at stake have been amply discussed above. From the American side, threat perceptions and strategic considerations with regard to Russia resulted in the opposition to Nord Stream 2. However, economic interests may play a role too, as the US has strong incentives for promoting exports of American LNG. For Germany, mostly economic interests are to be considered. For Germany, Russian gas is essential for its energy supplies and the pipeline project promises competitively priced Russian gas. Additionally, substantial investments by German companies are involved. Hence, the German leadership has supported the project politically. Although the US fiercely opposes the project, the interests at stake are minor compared to German interests in its completion. This increases Germany's bargaining power score.

### 5.3.4 Bargaining Power Score

Applying Snyder's scoring code for the determinants of bargaining power to the Nord Stream 2 pipeline case, Germany receives higher scores. Whereas German interests in the pipeline are high, its dependence on the alliance is high and its alliance commitment can be classified as low, the US has comparable low levels of interests at stake, the dependence on the alliance is also low and US commitment to NATO is moderate.

	Interests	Dependence	Commitment
Germany	high	high	low
US	low	low	moderate

*Figure 5: Snyder's scoring for elements of alliance bargaining power in the case of Nord Stream 2*

## 5.4 Bargaining Outcome: Lessons from the Past?

In the case at hand, the US and Germany are bargaining about policy toward Russia. According to the analysis above, Germany seems to have the greater bargaining power. Nevertheless, as established in the case study, the bargaining outcome is not clear yet. Thus far, no party has changed its policy stance: Germany insists on the completion of the pipeline while the US has not lifted the sanctions threat. In order to draw on lessons from the past, I would like to provide a comparison with a case similar to the Nord Stream 2 pipeline controversy: The *Soviet gas pipeline incident* of the 1980s.

In 1980, NATO feared a Soviet invasion into Poland, following protests in the country. The final communiqué of December 12, 1980 warned that “the allies would be compelled to react” (North Atlantic Treaty Organization 1980). Although NATO was occupied with the deterrence of Soviet aggression in Europe, the alliance members had different ideas as to how relations with the Soviet Union should be managed. In Europe, gas imports from the Soviet Union had become more important in the preceding decade. This came in addition to considerable investments in the forms of gas extraction and pipeline equipment exports that were meant to support the construction of a new gas pipeline from Siberia to Western Europe. Whereas the Europeans had strong incentives to maintain a *détente* with the Soviets, the Reagan administration favored a more confrontational approach. With just five hours-notice to the European partners, the US implemented first primary, then secondary sanctions. Naturally, the European allies of the Atlantic Alliance were shocked and heavily criticized the sanctions, they demanded them to be lifted. After less than a year, an agreement was reached, and the Regan administration lifted the sanctions (Nephew 2019, 9ff).

	Soviet Gas Pipeline Incident	Nord Stream 2
Situation / trigger for sanctions	Poland Solidarity Movement crackdown: fear of Soviet Invasion	Ukraine Crisis Annexation of Crimea
Sanctions Target	Soviet Union	Russia
Targeted Project	West-Siberian Pipeline (Urengoy–Pomary–Uzhhorod Pipeline), transit through Ukraine	Nord Stream 2 Pipeline, through Baltic Sea
Involvement of companies in the project	Yes equipment/components	Yes financing, equipment, vessels, insurance
Involvement of government in the project	Yes financing, gas supply contracts, nationalized equipment contractor (France)	No
Positions of European governments on the project	United	Divided
US support for the sanctions	Divided	United
Sanctioned activities relation with pipeline project	Export controls: US companies banned from exporting US technology and equipment, extended to European subsidies and equipment produced abroad by foreign companies under US license Applied to existing contracts	Primary/ secondary sanctions: Investments Selling/ leasing/providing goods/services/ technology, and information facilitating construction, modernization, or repair Vessels engaged in pipe-laying and Pipe-laying activities Applies to existing contracts
Nature of sanctions	Criminal, civil, trade restrictions	Financial
Reactions to sanctions by European governments	Oppose sanctions, ordering companies to fulfill contracts, diplomatic actions	Oppose sanctions, diplomatic actions
Reactions by European companies	Some companies backed out of the project.	Some companies backed out of the project.
Outcome	Sanctions lifted after 1 year, pipeline construction completed	Ongoing

Figure 6 Comparison of the 1980s gas pipeline and Nord Stream 2 sanctions incidents.

DeSouza, analyzing the *Soviet gas pipeline incident* of 1981-82 in the light of alliance management, provides an interesting perspective on the connection between alliance management and sanctions. The author states that within an alliance, different categories of alliance responsibility exist. Sometimes, the alliance restricts the political independence of its

member states. Naturally, alliances try to limit their adversaries from gaining power in economic, military, or diplomatic terms. Although an alliance can only exist, when its members have a certain level of shared interests, this level may be considerably lower in peace time alliances. As the US had to lift the imposed sanctions in the face of backlash from its European allies, DeSouza concludes that despite political and military dominance, the leader of an alliance does not have the power to manage trade relations between other members and the alliance's political adversaries (DeSouza 1984, 94f). Hence, it can be said that political-military alliances cannot automatically be expected to include peacetime commercial transactions. In the case of the *Soviet gas pipeline incident* and the Atlantic Alliance, most alliance members have displayed a clear preference with regard to the freedom to engage in peacetime trade relations (DeSouza 1984, 116f). The European alliance members had been more and more reluctant to accept restrictions on managing their own trade relations. Such attempts often had high costs, not only in pecuniary terms, but also in terms of intra-alliance frictions (DeSouza 1984, 96).

Given the parallels to the 1980s, DeSouza's analysis may provide insights for today's Nord Stream 2 case. Just like in the 1980s, today's sanctions episode started with a crisis. This time it was Ukraine. The allies are generally in agreement with regard to their policy on the Ukraine crisis, condemning Russian actions. However, now just like then, there is disagreement as to how to handle relations with the adversary. The US wants to target Russian gas and consequently the Nord Stream 2 pipeline project while European allies, such as Germany oppose this. Just as in the case from the 1980s, the Nord Stream 2 sanctions have evoked resistance from the European side.

The sanctions in the case of Nord Stream 2, similarly to the case in the 1980s, have minimal effects on the US economy while its allies and partners are affected disproportionately (Nephew 2019, 21). As mentioned above, whereas the US is not dependent on Russian energy, Germany relies greatly on Russian energy supplies. Even if German and US policy align on Ukraine issues, German interests in cheap Russian gas are considerably higher as that it would join sanctions

targeting the Russian energy sector. Additionally, in both cases, European companies are involved in the pipeline project and consequently targeted by the sanctions. Then, like now, European companies backed out of the project in the face of the sanctions threat (Martin 1992, 219; Nephew 1992, 12; Gardner 2021).

However, there are significant differences to the past case. Although the result of the Nord Stream 2 sanctions incident is not clear as of now, thus far, the European governments, including the German government have not taken significant steps to protect European companies from the effects of secondary sanctions. They have not ordered them to fulfill their contracts. Other than rejecting secondary sanctions verbally and engaging in diplomatic efforts, no governmental action has been taken. In the 1980s, European governments proclaimed that they would ignore the sanctions. The French government said that contracts in relation with the pipeline would be honored. Helmut Schmidt, Chancellor of West Germany, stood fast, saying “the pipeline will be built” (Reuters 1982). The French initiative triggered “negative bandwagoning” among the European governments, ordering their companies to fulfill their contracts (Martin 1992, 221). With that, contrary to the US government’s expectations, the situation had been turned into an interstate dispute, making it more difficult for the sanctions to succeed (Drezner 1999, 83).

Trump’s unpredictability and his apparent readiness to walk out on NATO may have contributed to the uncertainty on the European side. Also, since 1982, the US has improved its abilities in identifying and exploiting the vulnerabilities of its targets. Moreover, Europe today is relatively more dependent the economic relations with the US than the US is on Europe. This may be a reason for the lack of a retaliatory approach regarding the Nord Stream 2 sanctions threatening European companies (Nephew 2019, 18ff). In Germany for example, there is a concern that countermeasures would reinforce the “sanctions spiral” that necessarily is a “downward spiral” (German Bundestag 2020d).

Additionally, contrary to the 1980s, Europe is far more divided on the pipeline project. Had the European governments been united in their efforts to make the pipeline construction happen in the past, today the positions are more diverse. Whereas countries like Germany, Austria or the Netherlands are supportive of the project, many countries have a neutral stance, several others oppose it (Jong et. al 2020, 9).<sup>14</sup> The divisions on policy towards the pipeline on the European side may hinder a united approach to pressure the US to lift the sanctions. It in fact provides the US with an argument that for several NATO members, the pipeline is not in their interest.

Nevertheless, the opposition to the pipeline project does not automatically mean welcoming the US sanctions policy. On the one hand, has been mentioned that the EU Parliament opposes the pipeline project (European Parliament 2021). On the other hand, EU High Representative Borrell condemned US secondary sanctions as contrary to international law. He added that “European policies should be determined here in Europe not by third countries” (European External Action Service 2020).

Finally, another aspect that should be noted is that in the 1980s, divisions over the sanctions policy existed in Washington. Today, sanctions against Nord Stream 2 are a bipartisan effort and they are expected to enjoy the support throughout the Biden administration (Blinken 2021) – although the tone will probably have changed.

Despite notable differences to the case from the 1980s, DeSouza’s observations seem to hold true for the Nord Stream 2 case. Thus far, Germany, regardless of its dependence on the alliance, prefers to handle its energy relations with Russia without the interference from the US – and the US, despite being the senior partner in the alliance, does not have the power to dictate its terms to the junior allies. This would also support the result of my bargaining power analysis: in the case of Nord Stream 2, Germany has the greater bargaining power.

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<sup>14</sup> Most of the pipeline’s opponents are located in Europe’s east, with the UK and Denmark being notable exceptions (Jong et. al 2020, 9).



## 6 Conclusion

### 6.1 Main Findings

The starting point of this thesis was the case of two allies with conflicting policies regarding their adversary. Germany supports the Nord Stream 2 pipeline, a pipeline that is intended to bring Russian gas to Europe, while the US opposes it. In order to compel Germany to follow its foreign policy objectives, the US targeted the pipeline project with (secondary) sanctions that could affect German companies. From there, the thesis outlined both countries policies to find out why they are in conflict. The reasons were found in the diverging interests that shape such policies.

For one, the US sanctions are used as a tool to coerce Russia into changing its policy regarding Ukraine and underlying objectives can be found in geostrategic goals such as depriving Russia of an advantage over the US or leverage against its allies. However, they could also be used for economic objectives: allowing the US to expand its LNG exports to Europe.

The German policy focusses on securing economic benefits of German companies involved in the pipeline project. Additionally, the German government views cooperation with Russia in the energy sector and the construction of Nord Stream 2 as vital for its supply security. Not least, Germany has great interests in obtaining the competitively priced Russian gas for economic reasons. At the same time, although generally supporting sanctions against Russia for its actions in Ukraine, it made it clear that it opposes US extraterritorial sanctions targeting the pipeline. They are seen as an infringement of German sovereignty.

Although the Nord Stream 2 project could be framed as a case of energy security, it seems economic considerations are more important for the German policy. Securing the investments of German companies in the pipeline project and the prospect of cheap Russian gas outweigh geostrategic considerations. Hence, while strategic concerns and threat perceptions prevail in the US strategy regarding Russia, Germany is more preoccupied with economic considerations and cooperation.

Thus far, the secondary sanctions have not had the intended effect. If they were aimed at stopping the pipeline construction, they may have had a limited effects regarding the delays they have caused. European private companies may have been deterred by the sanctions threat, backing out of the project. In the meantime, Russian firms, less vulnerable to the US sanctions, continued to work on the project. However, secondary sanctions were not the right tool if they were aimed at coercing allies to fall into step with US foreign policy. Germany, one of the most important European actors in the case, has not changed its policy. Hufbauer et. al. hence seem to have a good point in saying that “sanctions should be either deployed unilaterally, because the need for one’s allies is slight, or designed in genuine cooperation with one’s allies in order to reduce backlash and evasion.” (Hufbauer et. al. 2007, 175). When applying the case to Snyder’s alliance bargaining theory, it becomes clear that in the case of Nord Stream 2, Germany’s great interests in the pipeline project increase its bargaining power to a point, where secondary sanctions are ineffective.

German businesses are an important factor in German policy making that should not be underestimated. They have considerable power in influencing policy outcomes given Germany’s status as a trading power. Consequently, the German government has great interests in protecting their investments. Also, the sanctions, seen as an attack on European (German) sovereignty, may have caused a backlash that is counterproductive to US strategy. Even opponents of the pipeline projects reject US secondary sanctions.

Those findings are also supported by DeSouza’s analysis of the 1981/82 pipeline controversy: allies will not budge when it comes to managing their commercial relations – even if the alliance’s leader tries to compel them to change their policies.

## 6.2 Policy Implications

This analysis may bear important implications for American foreign policy. In spite of accepted security-autonomy trade-offs, allies prefer to retain their freedom in managing their economic relations and secondary sanctions that aim at restricting such freedoms are met with bewilderment.

Further, I agree with Nephew that whereas the US had to back down and lift the sanctions in 1982, today the confrontation may last even in the face of resistance. If no agreement can be reached, Europeans may be looking for ways to reduce their dependence on the US. Attempting to force allies to cooperate on US policy objectives may have long-term counterproductive effects for US foreign policy (Nephew 2019, 35f).

Those findings may not only be true for NATO. In Asia, the US finds itself in a strategic competition with China (The White House 2017a, 25). Despite some differences, the dynamics are similar. Some of the US' most important partners in the region maintain close economic relations with China. Take South Korea as an example. The military alliance with the US is an important pillar of Korean security strategy (Republic of Korea Ministry of National Defense 2018). China, in contrast, is South Korea's largest trading partner, with a volume of \$241.4 billion in 2020. Exports to China equaled \$132.5 billion, while imports stood at \$108.8 billion in the same year (Republic of Korea Ministry of Foreign Affairs).

For Korea, maintaining the balance of the relationships with the two partners is of great importance, a task that has become more and more difficult (Lee 2019). The economic interdependence with China is especially challenging at a time in which the US, Korea's most important partner in security cooperation finds itself in an increasing strategic, military, and economic competition with China (Kim 2016, 57). Even more so as the trade war that erupted during the Trump administration in 2018 has focused a great deal on technological rivalry.

In May 2019, President Trump issued an executive order that not only sanctioned potentially dangerous communications technologies and services, but also declared a national emergency (The President 2019). Those measures were extended for another year in May 2020 (The President 2020). Although the order does not name anyone, they are considered to be directly targeting Chinese products. Huawei, one of the world's leading telecom equipment providers, has been singled out as a target as it is believed to enable espionage by the Chinese government (Schmieg 2019). Subsequently, Huawei was included in the US Entity List, a blacklist that includes activities sanctioned by the State Department or such that are considered contrary to US foreign policy and/or national security interests. This measure imposes additional licensing requirements for the export of certain items (Bureau of Industry and Security).

The US also engaged in a diplomatic campaign trying to convince allies and partners to forgo the Chinese company in their 5G rollouts (Barnes and Satariano 2019). At one point, Washington even threatened to reconsider intelligence sharing with allies that use "untrusted suppliers" in their telecommunication networks (Olson 2019). The pressure campaign also included South Korean companies. A State Department official specifically mentioned LG U+, urging the company "to migrate away from untrusted vendors to trusted vendors" (Strayer 2020).

Korea has great ambitions when it comes to manifesting its role in the global 5G market and Huawei is a client as well as an important supplier of 5G equipment for Korean telecom companies. LG U+, for example, one of Korea's major telecom companies uses Huawei equipment in its 5G network infrastructure (Gillispie 2020, 6f). The US policy on Huawei hence poses a dilemma for Korea. Out of fear of economic retaliation from the Chinese side, Korea does not want to discuss 5G security issues. Also, whereas the Korean telecommunication company Samsung is a competitor to Huawei and would possibly benefit from Huawei's decline, other Korean companies collaborate with Huawei, either by importing its equipment or exporting components (Hemmings and Cho 2020). The Korean government has yet to decide on how to place itself in the geopolitical tensions. Unlike other allies of the US that have banned Huawei equipment from their 5G rollout, the Korean government has maintained the position that the

decision to follow the US sanctions would be made by the individual companies (Park 2020). However, taking into account significant economic costs of changing the infrastructure setup, it is unlikely that companies like LG will end their collaboration with Huawei (Kim 2020).

Just like Germany, Korea finds itself torn between two important partners, facing difficult choices. On the one hand, the US is an important security provider and policy discord with the ally is uncomfortable. On the other hand, economic incentives, and interests of domestic businesses in relations with China complicate policy decisions.

Similar to Nord Stream 2, Huawei has become the target of US sanctions policy. However, this time, contrary to the Nord Stream 2 case, the US has only implied primary sanctions, not secondary ones. Nevertheless, the unilateral decision already has had material impacts for US partners. One aspect is the dependence of the chip industry on US technology. In order not to be subjected to US sanctions, chip manufactures have to apply for an export license, causing uncertainty as to whether the license will be granted (Song 2020).<sup>15</sup> Although Korean companies are predicted to recover from potential losses caused by the sanctions, they are forced to reconsider their business strategy with China (Song and Lee 2020). Given the geographic proximity and its economic interdependence with China, Korea cannot give up on or risk its relations with China.

Drawing from DeSouza's analysis of the 1980s pipeline case as well as my own analysis of intra-alliance bargaining, attempts to compel allies and partners to cooperate on foreign objectives that go against their interests has not proven to be successful and potentially comes at high political costs. The US would be well advised not to pressure Korea to take sides.

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<sup>15</sup> Samsung Electronics was granted a license allowing it to supply Huawei with components apart from its 5G business (Hille, White and Inagaki 2020).

### 6.3 Limitations

This study does not come without its limitations. First of all, the secondary sanctions in the case of Nord Stream 2 are a moving target, the outcome is not determined yet. As thrilling as it is to work on a very topical case, this fact makes policy evaluations an uncertain affair. For all I know, Gazprom could announce that Nord Stream 2 is no longer an economically viable project and abandon its construction tomorrow. Or, even after completing the construction of the pipeline, the actual supply of gas might never happen. This would discredit some, although not all, of my argumentation.

Another aspect that was challenging, is the effect of secondary sanctions on German policy. As pointed out above, the secondary sanctions in the case at hand do not target Germany or the German government, but German companies. Hence, the effects on German policy can only be of an indirect nature. The assessment of the political effects of the sanctions is particularly difficult during the era of Trump when the overall US-Germany relations were strained anyways. For future research, it would be useful develop a model assessing the political impact as well as the political cost of secondary sanctions.

Lastly, for the policy analysis I had to rely on publicly available documents and statements. Luckily, when dealing with democracies, governments and legislative bodies have to showcase a certain degree of transparency in order to keep citizens informed. However, much of diplomacy happens behind closed doors, suggesting that the entire scope of actions taken can never be assessed. This made it especially difficult to outline interactions between the US government and its German counterparts.

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## 초록

본 논문의 상대국에 대한 상반된 정책을 가진 두 동맹국으로부터 출발한다. 미국은 러시아가 미국의 힘에 도전하고 있다고 보고 있는 반면, 미국의 동맹국인 독일은 러시아와 독일을 잇는 천연 가스관 노드 스트림 2 (Nord Stream 2) 사업을 지지했다. 이에 미국은 독일 기업에 큰 영향을 미칠 수 있는 제재를 가했고, 독일 정부는 이러한 제재를 반대하며 주권에 대한 침해로 보고 있다.

본 논문은 기존 문헌 검토와 더불어 미국 의회나 독일 연방의회의 정부 성명이나 토론 등을 중심으로 양국의 정책 입장을 소개하고 alliance management theory 를 활용하여 이해관계를 분석한다. 두 국가의 상반된 정책은 엇갈린 관심으로 인한 것으로 나타났다. 러시아를 위협적으로 인식하고 전략적 우려가 내재되어 있는 미국의 對러시아 전략과 달리 독일은 경제적 및 협력적 관계에 더 집중하고 있는 경향을 보인다.

이러한 이해관계의 충돌로, 현재 두 동맹국은 동맹내 협상 (intra-alliance bargaining) 과정에 있다. 노드 스트림 2 논란과 1980 년대의 유사한 사례에 따라, 본 논문은 미국이 동맹국들을 대표할지라도 그들의 상업적 관계를 제한할 수 없다는 것을 발견하며 결국 부차적인 제재가 올바른 정책수단이 아닐 수 있다는 결론을 맺는다. 나아가, 동맹국들을 외교 정책 목적으로 협력을 강요하는 것은 장기적으로 볼 때 미국에게 부정적인 영향을 끼칠 수 있다는 것을 보여주며 이는 독일 뿐만 아니라 다른 동맹국들과의 관계에도 해당된다.

**주요어:** 동맹, 제재, 이해 갈등, 러시아, 노드 스트림 2 (Nord Stream 2), 독일

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