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European Sovereignty

Let's be clear. Any attempt to formalize along legal terms the concept of European sovereignty is doomed to failure. There are several reasons for this. The first is that sovereignty has since at least Bodin given rise to multiple and polysemic interpretations. They all express the tension between the absolutisation of its initial definition and the relativisation of its reality.¹ The second is that in Europe, where this concept was born, it has been confronted since the Treaty of Rome in 1957 with the gradual establishment of Community institutions that have come to heckle it. This is without putting an end to the persistent debates on the transfer of competences from the Member States to the European Union.² The introduction of the expression of European sovereignty into the public debate amplifies this polysemy. A study on this topic in 2021 highlighted the plurality of meanings conferred on it in different European nations. It concludes, for example, that, in all European nations, it is in Poland that its meaning is the most positive.³ This result is both intuitively surprising and contextually consistent. Surprising to the extent that Poland is identified with what might be called a sovereignist state determined to limit Community encroachments. Contextually coherent because in Poland both terms are very popular: sovereignty, because in many Central European countries the fall of communism was seen as a restoration of national sovereignty; European, because it is indeed proven that the pro-European sentiment is very strong in this country. The combination of the terms sovereignty *and* Europe therefore resonates positively in the Polish imagination. But this result cannot imply any adherence to a European supranationality.

¹. See Olivier Beaud, "Sovereignty", in Philippe Raynaud and Stéphane Rials (eds.), *Dictionnaire de philosophie politique*, Paris, PUF, 1996, pp. 732-735.

². Arnaud Montebourg, 'The Council of State has become an active agent of the subsidence of France's sovereignty' (interview), *LeFigaro.fr*, 14 April 2024.

³. Jean-Jaurès and Friedrich-Ebert Foundations, 'De la souveraineté européenne', *European analyses*, July 2021.

The political foundations of European sovereignty

The question arose thanks to the Sorbonne speech delivered by President Macron in 2017. He made explicit reference to the idea of European sovereignty. In doing so, it shifted the debate on sovereignty from an assessment of transfers of national competences to Europe to a definition placing Europe at the heart of the relevant measure of sovereignty. True sovereignty would be exercised at European level. But, significantly, the latter is defined not by its legal framework, but by its political ambitions in six areas: defence, border control, foreign policy, the green transition, digital and industrial policy. European sovereignty is therefore a political subject and not a legal object. It refers more to traditional issues of power than to a question about the exercise of democracy at European level.⁴ It was formally recognised for the first time in the Versailles Declaration at the March 2022 European Council. The fact that the formal recognition of this concept coincided with the beginning of the war in Ukraine confirms our hypothesis. It reflects Europeans' common awareness of the dangers they face and the need to tackle them collectively without changing the institutional framework.

This purely political voluntarist vision of an *a priori* legal concept could be attributed to a very French vision favouring substance over form, political will over legal formalism. It could also be referred to the idea familiar to the French of 'Europe puissance'.⁵ This interpretation is not wrong. But it is not limited to that. In his Prague speech in 2022, German Chancellor Scholz used the same term, saying that "European sovereignty means that we become more autonomous in all areas, that we take greater responsibility for our own security, that we

⁴. 'References to European sovereignty are perceived by citizens as being linked to external constraints and very little to the experience of popular sovereignty', as François Foret rightly notes ('The notion of European sovereignty is more familiar in France than in Belgium', *Le Monde*, 12 April 2024). On the debates surrounding this issue, see Pierre Buhler, 'European sovereignty: Waiting for Godot?', *LaGrandeConversation.com*, July 6, 2023.

⁵. Zaki Laïdi, 'L'Europe au défi du moment gaullien', *Le Débat*, No 206, 2019, pp. 48-59.

cooperate more closely and that we are cohesive in defending our values and interests in the world". There is less flamboyance than in the French discourse but not necessarily less ambition.

Having removed the legal dimension of the problem, it is therefore necessary to address its political content, the only one relevant for assessing its effectiveness. In truth, European sovereignty presupposes the existence of clearly identified common European interests and the threat to them. It would thus be *the political moment when Europe admits that the interdependence on which it had hitherto built its relationship with the world is becoming increasingly conflictual and potentially damaging to its interests*. By the same token, Europe is converting to a more realistic view of the international system, which states that, in the absence of an international principle, States alone ensure their survival.⁶ Realism deliberately underestimates the power of multilateral norms to pacify international relations. Europe does not renounce its preference for the norm, but accepts that it is no longer sufficient to ward off force.⁷ In doing so, it is driven to think of itself as a power, an idea against which it had historically built itself.

The Chinese Revealer

A market power first and foremost, Europe has rediscovered the stakes of strength through this prism. Since 1957, it has had at its disposal the classic instruments of a trade policy which for a long time was the only Community-based external action instrument. For a long time, this policy was pursued in a context very favourable to European interests, since until the early 2000s the Union was the world's main trading economic power alongside the United States.

This configuration is now outdated. Europe's weight has subsided. In 2014, the share of the EU and the US in the GLOBAL GDP was at parity. In 2024, the gap is nine percentage

⁶. Kenneth N. Waltz, *Theory of International Politics*, New York, N.Y., McGraw-Hill, 1979.

⁷. See Zaki Laidi, *The Standard Without Force. The riddle of European power*, Paris, Presses de Sciences Po, 2005.

points to the advantage of the United States.⁸ The EU share is expected to fall further by 2040 to put Europe behind China as well and at parity with India. Four factors are accelerating this trend: the demographic deficit, the loss of competitiveness, the lack of a scale effect undermining the emergence of European champions, the massive outward transfer of savings in the absence of an integrated capital market. That imbalance is accentuated vis-à-vis China by that country's economic policy choices which statify the economy, distort the allocation of resources by market forces and deliberately reduce access to its internal market.⁹ If we do not start from this major geopolitical reality and if we do not confront the discourse on sovereignty with this reality, we run the risk of rigorously understanding nothing about the stakes of European sovereignty. Weighing less in the world, Europe is therefore obliged to descend into the arena to fight on foot in a world marked by the decline in protection that multilateralism was for it. The United States, which was the guarantor with it, is moving away from it with a loud noise under Trump and then with a low noise under Biden.¹⁰ China practises an eminently selective multilateralism: it wants to continue to hide behind the multilateral trading system in order to continue to penetrate foreign markets, while exempting itself from the principles of reciprocity and access to its market as soon as it is in a position of technological mastery. By contributing 30% of the world's manufacturing output but absorbing only 10% of global demand, Beijing resorts to the massive export of its goods in order not to make internal adjustments. Europe thus finds itself alone among the greats with no real allies or undisputed arbiter. Inheritor of Kant, she discovers every day that passes the conversion of the world to a Hobbesian reality that she had wanted to drive from her horizon: "In a harmless international environment, we relied on equal opportunities and a rules-based

⁸. These shares have thus increased, in ten years, from 23.52% and 22.12% respectively to 17.41% and 26.40% ('In 20 years, the EU's share of the GLOBAL GDP has almost halved', LeGrandContinent.eu, 26 April 2024).

⁹. See "Significant Distortions in the Economy the People's Republic of China for the Purpose of Trade Defence Investigations", European Commission Working Paper, 10 April 2024, § 3.3.4.

¹⁰. Zaki Laïdi, "How Multipolarity Deconstructs Multilateralism", *Le Débat*, n° 201, 2018, pp. 36-46.

international order – hoping that others would do the same. Today, however, the world is changing rapidly. He took us by surprise.¹¹

In time, Europe's point of inflection towards a realistic vision of the world, and therefore towards the assertion of European sovereignty, was in 2019 when the EU, in an official document, described China not only as a partner, but also as a strategic competitor and a systemic rival.¹² For by admitting for the first time that China is a rival, Europe is adopting the language of realism. Whoever makes the formal dichotomy between *friend* and *enemy* the essence of politics.¹³

The translation of this representation has been accompanied since 2017 by the introduction by the Union of four new economic instruments:

- the first is the mechanism for controlling foreign investment in Europe in order to protect the European economy from any takeover by external actors in sensitive areas endangering its security;¹⁴ proposed for many years, it ended up being set up only after Berlin lifted its objections to its creation following the acquisition by a Chinese company of a German technological gem;¹⁵

- the second is that which now makes it possible to monitor foreign investment in Europe to ensure that it does not initially receive undue subsidies in key sectors such as the automotive, infrastructure and energy sectors.¹⁶ It was activated in May 2024 to curb exports

¹¹. Mario Draghi, "A radical change is needed", LeGrandContinent.eu, 16 April 2024.

¹². eu -CHINA, A Strategic Outlook: Commission and HR/VP Contribution to the European Council', 12 March 2019, p. 4.

¹³. Carl Schmitt, *The Notion of Politics* (1927), Paris, Flammarion, 2009.

¹⁴. "The European Foreign Direct Investment Screening Mechanism becomes fully operational", European Commission press release, 9 October 2020.

¹⁵. Joshua Kirschenbaum, Étienne Soula and Meaghan Clohessy, "had Foreign Investment Screening: At Last, a Start," GMFUS.org, September 26, 2019.

¹⁶. Frank Bickenbach *et al.*, "Foul Play? On the Scale and Scope of Industrial Subsidies in China", *Kiel Policy Brief*, No 173, April 2024.

of Chinese electric cars, which pose a very serious threat to the European automotive industry;¹⁷

- the third concerns the creation of a tool capable of guaranteeing reciprocity in the opening up of public procurement;¹⁸

- the fourth, finally, makes it possible to react by means of sanctions to any economic coercion guided by political imperatives.¹⁹

The time when Europe accepted distortions with Beijing on the grounds that the advantages opened up by the vastness of the Chinese market made it possible to turn a blind eye to infringements of the principles of reciprocity is now over because Europe's margin in China has shrunk considerably. What Europe sees instead is how China seeks to trap it by making it dependent on its market. A new step was taken in 2023 with the popularisation of the *derisking* principle proposed by the President of the European Commission.²⁰ As opposed to decoupling, *derisking* implies a reduction in Europe's exposure to China in all areas where its dependence on China is considered too strong or detrimental to its sovereignty. But the equation is difficult to solve. Because Europe must both seek better access to the Chinese market while making sure to disengage from this country wherever its presence is likely to increase its dependence and therefore its vulnerability.²¹ In addition, the commitments made at European level are met with resistance from States which, like Germany, are very reluctant to disengage from a China which, despite the difficulties it presents, offers the advantage of

¹⁷. “Commission opens investigation into subsidised electric cars from China”, European Commission press release, Brussels, 4 March 2023.

¹⁸. ‘International public procurement instrument: Council gives green light to new rules promoting reciprocity’, Council of the European Union press release, 17 June 2022.

¹⁹. Regulation 2023/2675 of the European Parliament and of the Council of 22 November 2023.

²⁰. Speech by Ursula von der Leyen at the European Policy Center, Brussels, 30 March 2023.

²¹. On European dilemmas in China, see Jorge Wuttke, "Fitness Centre China: World Champion in Development Can Do More, Solve Overcapacity", SCMP.com, 8 April 2024.

being a huge market. This is all the more so since it is the sectors most exposed to Chinese competition that are often, at the same time, the most present on the Chinese market.

The war in Ukraine

While the Chinese factor has done much to make Europe aware of the world's conflictuality, Russia's invasion of Ukraine has on another level convinced of the impossibility of escaping it. In other words, the war in Ukraine proved not to be an unforeseen accident but a major break in the European order.

In 2003, the first European strategic report stated: "Europe has never been more prosperous, more secure or more free. The violence of the first half of the twentieth century gave way to a period of peace and stability unprecedented in European history."²² In 2022, the Strategic Compass opens with the following sentence: "Europe is in danger", just before the start of the war in Ukraine.²³

This war has basically acted as a source of strategic clarification at European level. It has reduced national differentials in threat perception. Indeed, Russia's invasion of Ukraine is the first sign of a return to interstate war in Europe since 1945. European states, which previously distinguished themselves between "dialogueuists" (France, Germany, Italy), "hawks" (Baltic countries, Poland and Sweden) and agnostics (Spain, Portugal, Belgium, etc.), have converged since 2022 to consider that the Russian threat concerns them all. And that it required them to show solidarity with each other and with Ukraine.²⁴ This dual principle was translated into a political act that surprised both by its speed and its effectiveness. Indeed, in the space of two years, the European Union adopted thirteen packages of sanctions aimed at limiting the resources of the Russian war effort while decoupling Europe from Russia

²². 'A secure Europe in a better world', speech by the High Representative of the Union for the Common Foreign and Security Policy at the European Council of 20 June 2023.

²³. Council of the European Union, A Strategic Compass for Security and Defence. For a European Union that protects its citizens, values and interests, and contributes to international peace and security", 21 March 2022.

²⁴. Zaki Laïdi, 'To the sound of the canon: Europe's geopolitical awakening?', SciencesPo.fr, Paris, 24 September 2023.

economically. Thus, the European Union managed to take four important steps, all of which ran counter to its immediate economic interests but reflected its determination to reduce its vulnerability to Moscow: embargo on imports of Russian crude oil from December 2021, embargo on petroleum products in February 2023, introduction of a ceiling on the price of oil sold globally to Russia thanks to the de facto monopoly exercised by European insurance companies on shipping, freezing of Russian assets in Europe for an amount of EUR 300 billion. In response to these measures, Russia believed that it was weakening Europe by drastically reducing its gas exports to it, thus contributing to a powerful economic decoupling between them. If *one defines hard power* not by military power but by the ability to punish an adversary, one would say that the war in Ukraine gave Europe the opportunity to gain that power. Its political resilience and internal market have thus enabled the EU to absorb the shock of the drastic reduction in its energy dependence on Moscow. Thus, Europe managed to increase its energy consumption imported from Russia from 26% of the total in 2021 to only 4% at the end of 2023. There are few contemporary examples of an energy dependency that has declined so quickly and in such a short time. Moreover, reducing Europe's dependence on fossil fuels, which had previously been part of the fight against climate change, was thus coupled with the need to drastically reduce its energy dependence on Russia.

To this first part of the political affirmation was added a second part, which focused on the financial and military economic effort in support of Ukraine. Two years after the start of the war, the consolidated commitments of the Member States, the European Commission and the European Peace Facility make the EU the largest donor of aid to Ukraine ahead of the United States.²⁵ Europe's political autonomy vis-à-vis Ukraine even seemed to increase as most EU states, including France, expressed their political and military support for Ukraine, while the US seemed to become more hesitant and conditional, given the configuration of power relations in Congress. In any case, this war proved that Europe is no longer a military dwarf, even though neither the EU nor its Member States are directly engaged alongside Ukraine. However, although Europe is getting closer, the moment of truth has not yet come. It will only sound in the event of a reduction in the US guarantee vis-à-vis Europe, even in the event of a redoubled Russian aggression vis-à-vis the EU. Europe's strategic autonomy would

²⁵. See "Ukraine Support Tracker: A Database of Military, Financial and Humanitarian Aid to Ukraine", IfW-Kiel.org.

require an unprecedented configuration in which Russia's military pressure on it would increase without the US guarantee being exercised. It is therefore to its capacity to assume decoupling, even partial, with the United States that the Union will be able to claim to be strategically autonomous. She's still a long way off. And while President Macron was the first not to rule out sending troops to Ukraine, he ran into the German Chancellor who, like the United Kingdom, rejects such an eventuality. But whether we like it or not, the terms of the European strategic conversation are changing. Including in Eastern Europe and in particular in Poland, whose unwavering Atlanticism stumbles on an unprecedented American reality.²⁶ It could lead Washington under Trump, no longer to leave NATO, but to defend an exclusively transactional definition of its content. The United States guarantees security only to States which make a substantial military effort and which in fact obtain supplies of United States military equipment.²⁷

However, the strategic earthquake facing Europe does not imply the emergence of a European strategic sovereignty on security and defence in the short term. Indeed, European sovereignty suffers from several evils, including problems of allocation of resources and collective action.²⁸

In the foreground, the trend is relatively favourable. But it will take a long time for it to materialise, especially since in the mid-2020s the NATO Member States furthest from the famous 2% PIB mark allocated to defence are also experiencing serious public finance problems. However, such an ambition is not out of reach for those who are aware of the colossal effort made by the countries most exposed to the Russian threat. When it comes to collective action, however, the challenge is greater, and the march is even higher. Because, on this register, it is necessary once again to overcome the will of the States to keep defence security issues within the national perimeter, whatever, moreover, the will of the European

²⁶. Radek Sikorski, 'Poland's Foreign Minister on Concerns the US Will Abandon Ukraine, Europe', PBS.org, 19 February 2024.

²⁷. "If He Wins," Donald Trump's *interview with Time*, April 30, 2024.

²⁸. Max Bergmann and Sophia Besch, "Why European Defense Still Depends on America", ForeignAffairs.com, 7 March 2023.

Commission to increase its power vis-à-vis the States in the field of defence.²⁹ It is also necessary to take into account the enormous difficulties of the European States in pooling their forces and resources. This is evidenced by the clear under-utilisation of the resources opened by the European Defence Agency. But the root of the problem lies less in a form of opposition between the Member States and the Commission than in the powerful rivalries which exist between the former in order to retain their national industrial champions, their jobs or their technological advantage.³⁰ However, in a Europe of 27 where defence industries are concentrated between only five states (Germany, France, Italy, Sweden and Poland), a simple interstate agreement would, for example, create a powerful European defence fund. And this, moreover, without communitarising it. However, even such a prospect is made difficult by national rivalries, as illustrated by the very difficult progress between Germany and France on the aircraft and tank of the future. Neither state is now able to manufacture this aircraft or tank on its own. But neither seems willing to easily share with the other the technology to design them or the resources to manufacture them.

Meanwhile, the war in Ukraine has highlighted the ambivalence of the principle of European defence sovereignty and the complexity of its translation. Indeed, in 2022-2023, 80% of European arms purchases took place outside Europe. And of that 80%, 69% took place in the United States.³¹ This reality, which therefore tempers any discourse on European sovereignty, nevertheless expresses a deliberate political choice at a time when Europe's very strong political, cultural and, above all, industrial unpreparedness is facing a full-scale war. A high-intensity interstate war for which Europe was simply not prepared. And to which it will take a long time to adjust. European sovereignty in the field of security and defence can only be assessed over a long period of time.

²⁹. Several states, including Germany, expressed very strong reservations at the March 2024 European Council about any communitisation of defence policy.

³⁰. Anne Rovin and Pierre Avril, 'Germany opposes Iris2, the 'European Starlink' deemed too favourable to France', *Le Figaro*, 2 May 2024.

³¹. Jean-Pierre Maulny, "The Impact of the War in Ukraine on the European Defence Market", *IRIS Policy Paper*, September 2023.

Obstacles ahead

Both the war in Ukraine and China's growing assertiveness have made Europe aware of the need to take better responsibility for the world's conflicts. This qualitative change is undeniable. However, it would be illusory to see in it the foreshadowing of a triumphant march towards power, a bit like the United States after the Spanish-American war in Cuba.³² There is no linearity in this process.

Firstly, because Europe is not a state and therefore does not have a natural form of unified command. Secondly, because Europe can only be powerful when the interests of its Member States are clearly aligned. This is still largely the case in Ukraine but certainly not in Gaza. Finally, because as some disinhibitions are exceeded others come to light.

Adjusting EU resources to this new world reality will therefore take time. This is all the more so since power logics are always dialectical. Thus, for example, while it is undeniable that the EU has managed to break its energy dependence on Russia as part of an assumed political choice, it has traded this independence for increased energy dependence on other suppliers: it reduced its gas dependence by 71% from Russia in two years while at the same time increasing its imports of US liquefied natural gas by almost 50%. Naturally, this shift has positive political consequences. However, it undeniably places Europe in greater dependence on the US, further aggravated by the fact that the price of US gas is three to five times higher than that paid by US companies, which contributes to widening the competitiveness gap between them. It is therefore no exaggeration to say that the war in Ukraine has allowed Europe to assume itself as a power while increasing its dependence on the United States both economically and militarily. But, again, the reality is more complex. Ukraine has also offered Europeans the opportunity to assert themselves politically. Thus, at a time when US support for Ukraine seems to be waning, that of Europe does not seem to be threatened. On the contrary, when in April 2024 the question of whether Ukraine should attack Russian refineries

³². Walter A. McDougall, *Promised Land, Crusader State: The American Encounter with the World since 1776*, Boston, Mass., Houghton Mifflin, 1997, pp. 7 et seq.

arose, the official US opposition to such an eventuality contrasted with the support it received from Europe.³³

Structurally, however, it is the Sino-American competition that will have the strongest influence on Europe's position in the world. With, again, ambivalent consequences. Over the period 2025-2045, the rise of China will be fundamentally more to the detriment of Europe than of the United States. The two big ones will be on par when Europe drops out. In a way, the tightening of US policy vis-à-vis China has undeniably allowed Europe to tighten its tone vis-à-vis Beijing in economic terms. Especially since the economic interests of Europe and the US vis-à-vis China are largely convergent.

But at the same time, this competition poses a problem for Europe in different ways. In the first place, by requiring it to align itself with the policy of restricting US technology, in particular in the field of semiconductors. This is an area where Europe, through one of these champions, ASM, has a technological advantage, or even a quasi-monopoly, in the ultraviolet sector. Beyond this particular case, the US desire to decouple its technological ecosystem from that of China leads to a massive investment policy aimed at boosting its industry. The *Inflation Reduction Act*, for example, has three simultaneous objectives: accelerate the energy transition by making the United States a clean energy superpower, redirect strategic investments to the country to halt its deindustrialization, increase technological decoupling with China. Beyond this US law of 2022, Europe may one day have to choose between the US ecosystem and the Chinese ecosystem given the hegemony of US high-tech. However, to the extent that alignment with the Chinese ecosystem seems totally excluded, the question arises as to how Europe could negotiate its own room for manoeuvre within an ecosystem totally dominated by the United States. And this, in a world where now it is the dominant actors who take everything.³⁴

Without technological autonomy, Europe's European sovereignty would become illusory. This would risk ending up in an international system where innovation would be American,

³³. US Department of Defense, "Pentagon Press Secretary Air Force Maj. Gen. Pat Ryder Holds a Press Briefing," Defense.gov, April 11, 2024.

³⁴. "Accelerating Europe: Competitiveness for a New Era," McKinsey.com, January 16, 2024.

development would be Chinese, and Europe would stick to the traditional exercise of its normative power. But even such a hypothesis is not guaranteed, since normative power must be backed by economic power. Europe has been a normative power in the industrial field because it has long been a very great industrial power. From the moment value is created in high-tech, it is within this field that normative power will have to be exercised. So it is no exaggeration to say that the “Brussels effect” is now exhausted.³⁵

European sovereignty is not a state to be achieved, but a political process to be maintained. Its terms are constantly renegotiated in a world in perpetual motion, where no situation is acquired but where initial weaknesses and errors are paid for at a high price.

Summary

European sovereignty is not a legal concept. It is first and foremost a political concept, through which the European Union acknowledges for the first time the conflictual nature of the global system and expresses its willingness to confront it by developing a new discourse and new instruments to defend its collective interests, both in terms of security (Ukraine) and economic competition (against China or the United States). European sovereignty introduces a break in the relationship with the world built since 1957. It must therefore be read as a process of permanent adaptation and not as a state to be achieved. This is why its effectiveness can only be measured in the long term.

³⁵. Anu Bradford, *The Brussels Effect: How the European Union Rules the World*, New York, N.Y., Oxford University Press, 2020.