

VANCOUVER YOUTH MODEL UNITED NATIONS 2020



EUROPEAN UNION

BACKGROUND GUIDE



VANCOUVER YOUTH MODEL UNITED NATIONS 2020

Committee Name

Director: Zara Smith

Chair: Michel Collet

Assistant Director: Rachel Zheng

Assistant Chair: Edward Wang

Dear delegates,

My name is Zara Smith, and it is my pleasure to be your director of the European Union for VYMUN 2020. As your director, I hope to nurture an educational and exciting experience that leads to self-discovery at VYMUN 2020. This year, we will examine two topics: Arms Exports to Conflict-Affected Areas and Net Neutrality in Europe.

Our first topic, Arms Exports to Conflict-Affected Areas, has been relevant for the past decade. With strong arms trade relations to countries involved in conflicts around the world, EU member states have to balance economic and ethical decisions. The desperate humanitarian situation in many areas of conflict is being aggravated by EU arms exports. The EU is committed to meeting the UN's standards of seeking peace and ensuring the safety of civilians. This brings the discussion of how much influence the EU should have over its individual member states to avoid violating international humanitarian law.

Our second topic, Net Neutrality in Europe, focuses on the principle of having an 'open internet' throughout Europe. Previously settled in the late 2010s, the net neutrality debate has since been reopened due to the rise of 5G technology. The roll out of 5G is inevitable, however, its benefits could potentially challenge the essence of net neutrality which has already been implemented on an EU-wide basis. Delegates must find a balance between keeping a net neutral Europe without stifling innovation and technological advancements.

Remember that VYMUN is a learning experience, of which many of your staff were first introduced to the world of MUN years ago. Everyone must start somewhere, and with each conference, you will grow increasingly more comfortable with the material and your speaking skills. I vividly remember how daunting my first few backgrounders were, and looking back, I wish I took the opportunity to ask more questions or reach out for support even if I didn't know where to start. If you have any questions or concerns, please don't hesitate to contact me at eu@vymun.com and I can point you in the right direction. I look forward to seeing fruitful debates and growth in October!

Sincerely,

Zara Smith
Director of EU | VYMUN 2020

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Arms Exports to Conflict-Affected Areas

Questions to Consider

1. How important are arms exports to your country? What effects, positive and negative, does selling arms have on your country?
2. What role does your country play in the arms trade and in conflict-affected areas?
3. To what degree should the EU have political control over its member states when their arms trade is related to a humanitarian crisis? Should arms trade be governed and controlled by EU institutions or should decisions be left to member states with only broad guidelines provided by the EU?
4. How would stricter policy on arms trade affect your country's foreign relations to key importers and your country's economy?

Overview

European Union member states are known to produce globally recognized arms and weaponry equipment. Countries that produce those arms aim to sell as much as possible, for economic benefit, yet stay within the boundaries of the international law. Selling to the world's main arms importers is legal but brings with it considerable moral and ethical dilemmas. This is due to the fact that key importers such as Saudi Arabia are heavily involved in internationally acknowledged conflicts, all facing humanitarian crises. The essence of this topic is the matter of EU arms exports being used to fuel conflicts, and further aggravating the humanitarian situations for civilians in affected countries.

Current examples of conflict-affected areas include the Yemeni Crisis, Syrian War, and conflicts in Libya. They illustrate the heavy influence that EU arms exports hold in their abilities to further destruction through trading arms. The Middle East has played, and will continue to do so, a massive role in the arms trade due to many conflicts in the region. This is because wherever war and conflict arise, there will be arms companies looking to make a profit. Throughout history, EU member states have displayed countless instances in which conflicts around the world have become a benefit to their economy, often substituting the humanitarian needs of civilians as a number one priority for strong political opinions and economic convenience. At present, the many conflicts that sprouted from the Arab Spring in 2011, have significantly developed arms trade relations, hence the growth of this problem.

In response, the EU has devised a number of agreements amongst member states in attempts to tackle the continual issue. The current EU arms export regime, the 'Common Position,' sets out eight criteria that member-states must test export licenses against, such as respect for international humanitarian law in the destination country.¹ European governments' failure to properly apply the Common Position means that Europe's member states are at risk of violating international law themselves. The UN is pushing for peace in conflict-affected areas, as are EU member states. Although involved EU nations have full awareness of this, they continue to fuel the conflict and humanitarian crisis with their actions.

¹ <https://www.cer.eu/publications/archive/policy-brief/2019/arms-warring-over-europes-arms-export>

Given that the EU started as a free trade agreement, this raises the contentious debate of whether the EU should have political control over its member states' actions to some degree, more specifically those selling arms to countries involved in conflict. Despite having international power, the EU recognizes that it is incapable of solving these conflicts. Member states are looked on to follow the UN stance in reaching peace; however, the EU's involvement in conflict-affected areas has many factors. All nations want to put an end to the conflicts to no longer jeopardize the safety of civilians, and yet member states have continued to bolster this aggression in the Middle East for several economic and political reasons. The EU must work to find a balance between economic sustainability, morality and ethics, and international politics in managing relationships with the EU's trading partners.

Timeline

January 1992: The United Nations Register of Conventional Arms is established, a voluntary arrangement which calls upon all member states to provide relevant data on imports and exports of conventional arms.²

June 1998: European Union Code of Conduct on Arms Exports is adopted by the Council.³

July 2002: The European Council adopted Joint Action on the European Union's contribution to combating the destabilizing accumulation and spread of small arms and light weapons.⁴

December 2003: The European Council adopts a strategy against the proliferation of weapons of mass destruction.⁵

December 2005: The European council adopts a strategy to combat the illegal accumulation of trafficking of Small Arms and Light Weapons (SALW) and their ammunition, which implies an increased common interest of EU Member States in a coordinated approach to the control of exports of military equipment and technology.⁶

December 2008: The EU adopts the Common Position; a judicially binding legislation governing the control of exports of military technology and equipment.⁷

December 2010: The start of the Arab Spring. The Arab Spring is a series of anti-government protests, uprisings and armed rebellions that spread across most of the Arab world in the early 2010s—beginning with the response to oppressive regimes as well as a low standard of living, starting with protests in Tunisia. The protests later spread to Libya, Egypt, Yemen, Syria and Bahrain, where major uprisings and social violence occurred, or leaders were deposed. Sustained street demonstrations soon took place in Morocco, Iraq, Algeria, Iranian Khuzestan, Lebanon,

² https://fas.org/asmp/resources/govern/DoS_UNArmsregister_factsheet2004.htm

³ <https://www.seesac.org/f/img/File/Res/EU-Documents/EU-Code-of-Conduct-on-Arms-Exports-512.pdf>

⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:31999E0034>

⁵ Ibid.

⁶ <https://data.consilium.europa.eu/doc/document/ST-13581-2018-INIT/en/pdf>

⁷ <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32008E0944>

Jordan, Kuwait, Oman, Sudan and the US. The Arab Spring is essentially a ripple effect resulting in major conflicts and wars in the Middle East.⁸

February 2011: UN sanctions imposed against Libya, including an open-ended embargo on the supply of arms and military equipment to and from the country.⁹

December 2014: The Arms Trade Treaty is in effect. This obliges governments to guarantee that their weapons exports will not be used to commit human rights abuses, terrorism, violations of international humanitarian law or for international criminal organizations.¹⁰

March 2015: Yemen Civil War officially starts on the 22nd. Three days later, Saudi airstrikes begin against the rebels in Yemen. Saudi and Egyptian forces lead a coalition to attack positions in Yemen again on the 27th.¹¹

February 2016: Resolution on the humanitarian situation in Yemen calls for an initiative to impose an EU-wide arms embargo against Saudi Arabia due to serious allegations referencing Saudi Arabia breaching international humanitarian law in Yemen. However, in many cases, EU member states continue to authorize arms sales to the Saudi Kingdom, especially with the conflict escalating. This violates the "Council Common Position on arms export controls."¹²

April 2017: EU initiative towards the Syrian War. The Council adopts the EU strategy on Syria, which is a part of the EU regional strategy for Syria and Iraq. The EU's strategic objectives in Syria are focusing on the six key areas of Syrian life and relations.¹³

October 2018: With an intensely growing Cholera outbreak coupled with continued aggression in Yemen, the United Nations deems Yemen's situation the "worst humanitarian crisis in the world at [the] time."¹⁴

June 2019: The Belgian State Council cancels eight licenses for transfers to Saudi Arabia due to failed consideration of the common exporting criteria, specifically regarding human rights. The Italian parliament approves a motion committing the government to adopt the necessary acts to 'suspend' the export of aircraft bombs, missiles and their components to Saudi Arabia and the UAE that may be used against civilians in Yemen.¹⁵

October 2019: EU countries agree to suspend arms exports to Turkey due to its insensitive involvement in the humanitarian crisis in Syria.¹⁶

⁸ <https://www.nationalgeographic.com/culture/topics/reference/arab-spring-cause/>

⁹ https://www.sipri.org/databases/embargoes/un_arms_embargoes/libya/libya_2011

¹⁰ https://www.armscontrol.org/factsheets/arms_trade_treaty

¹¹ <https://www.cfr.org/global-conflict-tracker/conflict/war-yemen>

¹² https://www.europarl.europa.eu/doceo/document/TA-8-2016-0066_EN.html

¹³ <https://www.consilium.europa.eu/en/policies/syria/>

¹⁴ <https://www.who.int/emergencies/crises/yem/en/>

¹⁵ <https://www.sipri.org/commentary/topical-background/2019/legal-challenges-eu-member-states-arms-exports-saudi-arabia-current-status-and-potential>

¹⁶ <https://www.politico.eu/article/turkey-kurds-assault-eu-to-suspend-arms-exports/>

December 2019: Germany announces to suspend arms exports to Saudi Arabia and the United Arab Emirates as to not fuel the Yemeni Crisis further, to clearly show that the nation is not breaching international humanitarian law. Several EU member states later decide to follow this initiative while others have already made similar efforts.¹⁷

Historical Analysis

Case Study 1: The Yemeni Civil Crisis

Beginning in March of 2015, the Yemen Civil War has been an ongoing conflict that has grasped international attention. Two factions: the Abdrabbuh Mansur Hadi-led Yemeni government and the Houthi armed rebel movement claim to "constitute the official government of Yemen."¹⁸ Failure to settle disputes and aggression has led to the crisis quickly rising on a global scale, involving various nations from outside the Gulf region.

Although all accusations have been denied, it is believed that the Houthi rebels are backed by the Iranian Government, who are allegedly supplying arms and support to fuel the conflict. Forces from this side are met with equal aggression from a Saudi Arabian led intervention, also known as the Arab coalition, which is made up of nine countries from West Asia and Africa.

Motivated by limiting Iran's growing influence in the region, international powers, including many European nations, have supported the Arab coalition. Additionally, as the world's largest importer of arms, Saudi Arabia is a crucial client for many EU countries, including France, Spain, Sweden, and the UK.¹⁹

Many European countries, including Finland, Denmark, and Norway, suspended arms exports to Saudi Arabia following devastating Saudi-led interventions in 2015. Germany followed with the suspension of its exports after the Jamal Khashoggi incident in 2019. The US, UK, France and Spain sharply criticized these decisions and have continued backing Saudi led efforts with supplying arms for airstrikes. The majority of EU member states have chosen not to get involved, watching from the sidelines to avoid disrupting their relations with Middle Eastern parties.²⁰ This has led to the EU being divided on the issue.

Sadly, the conflicts in Yemen have resulted in 80% of the Yemeni population, 24 million people, depending on humanitarian assistance. With two-thirds of Yemenis severely malnourished, 12 million children in constant danger, and the numbers in Yemeni deaths and extreme injuries escalating, the Yemen Civil War was declared a humanitarian crisis by the UN.²¹

In 2015, the humanitarian situation in Yemen was in need of an initiative imposing an EU-wide arms embargo against Saudi Arabia due to serious allegations referencing Saudi Arabia breaching international humanitarian law in Yemen. That being said, EU member states continued to

¹⁷ <https://www.hrw.org/news/2019/03/25/why-germany-shouldnt-yield-arms-sales-saudis>

¹⁸ <https://storymaps.arcgis.com/stories/5f550c47e90c4c0fa111325e32ffe01e>

¹⁹ <https://www.euronews.com/2019/03/11/seven-european-countries-make-the-top-10-of-world-s-major-arm-s-exporters>

²⁰ <https://www.washingtonpost.com/world/2018/11/22/denmark-joins-germany-halting-arms-sales-saudi-ara-bia>

²¹ <https://www.mercycorps.org/blog/quick-facts-yemen-crisis>

authorize arms sales to the Saudi Kingdom, in many instances, especially with the conflict escalating. This was in violation of the "Council Common Position on arms export controls."

The EU arms trade with Saudi Arabia is a divided topic of discussion. With Saudi Arabia being the world's largest arms importer, and many EU nations being some of the world's largest arms exporters, as well as Saudi-EU trade relations being strong and long-lasting with additional products such as oil, member states are extremely reluctant to impose an arms embargo on the powerful, resource-rich country. This debate raises many concerns since violating international humanitarian law is a serious and necessarily punishable act. Though an arms embargo is needful, it may ruin many ties with the country; this must be kept in mind when reaching resolutions.

Case Study 2: The Syrian War

As a part of the Arab Spring uprisings, peaceful protests broke out in Syria in March 2011. Syrian leader, Assad, was called on by organizers to undertake democratic reforms, however, his government responded with violence. Some protesters then teamed up with those who left the military to form their own troops called the Free Syrian Army. Their main goal: to overthrow the government. Aggression was met from both sides, and by 2012 the armed struggle developed into civil war.

The conflict grew rapidly, and hostility towards Assad and the Syrian government provoked foreign involvement. For decades, Syria has acted as Russia's foothold in the Middle East, and with long time relations with the country's leader, Russia flocked to Assad's government's aid. Another one of Assad's key allies is Iran, as it needs Syria to move weapons and proxy militias across the Middle East. So when Assad was threatened, Iran, along with Lebanon who shares similar needs, stepped in to support. The three countries provided a range of support, arms and troops.

However, that upset Iranian rivals in the region, including Turkey and Saudi Arabia, who quickly began sending arms and money to anti-Assad rebels, counting extremist militias. Meanwhile, Israel had been striking Syrian military bases and other facilities on its own terms. The US, previously reluctant to become entangled in the conflict, acted for two reasons. First, the Islamic State militant group gained a foothold in Syria in 2013, creating a breeding ground for extremist terrorist groups. The Islamic State, publically known as ISIS (Islamic State of Iraq and Syria) in the West, and Daesh in the Middle East, is a well-known terrorist group based on extremist Islamic beliefs, who have publicly claimed responsibility for countless devastating terrorist acts.²² ISIS is a militant group that split off from Al Qaeda, the terrorist group famous for devastating events such as 9/11.²³ Syria has been an active breeding ground for the growth of militant groups (groups who are "engaged in a war or war acts aggressively for their cause" - generally terrorist groups).²⁴ The United States launched airstrikes against ISIS, and eventually sent group troops in to fight. The second reason is that the US acted to punish the Assad government after using chemical weapons on civilians.

²² <https://www.history.com/topics/21st-century/isis>

²³ Ibid.

²⁴ Ibid.

Syria is also home to a significant number of Kurds, who are “members of mainly Islamic people living in parts of eastern Turkey, northern Iraq, western Iran, and eastern Syria.”²⁵ The Kurds are a key US ally. However, Turkey fears that the Kurds are aiming to establish a separate state, and has thus bombed Syrian cities under Kurdish control, bolstering the conflicts even further.

At present, many wars are being fought inside of Syria; the Syrian government and rebels are still at war; Israel is fighting Iranian-backed forces; the US is attempting to kill off the Islamic State, and Turkey is targeting the US-backed Kurds; meanwhile, Syrian civilians endure a major humanitarian crisis. It has remained alarming in the Northwest even with a ceasefire agreed in March of this year. With increasing economic hardship and only half of all health facilities functioning fully, the EU has continued to be the largest donor of humanitarian aid to Syrian civilians in need.²⁶

More recently, the EU has recognized the negative effects of their arms exports to countries involved in the conflict, more specifically to Saudi Arabia and Turkey. Understanding the EU’s responsibility of respecting and enforcing international humanitarian law, the EU and its member states have worked to find an initiative that can stop exports from further fueling the conflict. Nonetheless, it is difficult to cut off arms exports to Saudi Arabia because the Kingdom is so involved in so many conflicts. Entirely cutting off arms exports to the Saudis raises significant economic issues and puts strain on a major trade relationship. On the other hand, Turkey has less international influence and has clearly violated international humanitarian law through the use of arms imported from EU member states. In October 2019, it was agreed that sanctions would be placed on Turkey, halting arms sales to the country. Several European powers, including Sweden, Finland, France and Germany, imposed arms embargoes of their own soon after the agreement.

The Syrian conflict is still in full blaze with no sign of ending soon. Moving forward, certain EU member states will step up as international leaders to protect international humanitarian law and provide future relief for the crisis.

Case Study 3: Involvement in Libya

Libya, an oil-rich country in North Africa and considered part of the Middle East, has been in chaos following the Arab Spring movement and the Nato bombing campaign that toppled Libya’s government in 2011.²⁷ Many attempts to create a democratic state after the fall of their leader disintegrated into a civil war between rival governments as of 2014.²⁸ Armed groups, including the Islamic State and other extremists, have rapidly multiplied. The lawless nation has turned into a principal transit point for citizens across Africa hoping to reach Europe. Essentially, the Libyan government was in violation of many human rights, which provoked UN sanctions against Libya in February of 2011.²⁹ This included an open-ended embargo on the supply of arms and military equipment to and from the country.

²⁵ <https://www.dictionary.com/browse/kurds?s=t>

²⁶ https://ec.europa.eu/echo/where/middle-east/syria_en

²⁷ <https://www.telesurenglish.net/analysis/Libya-Before-and-After-Muammar-Gaddafi-20200115-0011.html>

²⁸ <https://www.britannica.com/place/Somalia/Civil-war>

²⁹ Ibid.

Since 2014, the fighting has been predominantly between rival countries of political power in East and West Libya.³⁰ That being said, there have been many cases in which EU member states have been indirectly bolstering the conflict. Furthermore, EU member states have found loopholes allowing them to continue economic transactions of their arms. By exporting to countries such as Egypt and the U.A.E, European nations have avoided breaking international humanitarian law, and they have not followed up on the arms' final destination. Therefore, European arms are still ending up in Libyan conflicts, helping to fuel the conflict indirectly.

Certain EU member states have been more public about direct involvement in the conflict. Turkey and Italy, and Russia and France are both openly backing opposing sides of the war. Foreign parties involved in the conflict have flooded Libya with weapons and drones, ignoring the UN arms embargo. Russia has sent mercenaries and Sudanese recruits to fight alongside the LNA (one side of the government in Libya), while Turkey has sent Syrian recruits as well as its own soldiers (to the opposing government).³¹ Turkey has planned to expand its air operations in the conflict; thus the LNA's foreign backers are likely going to step up their support to counter a string of Turkish successes. High profile peace talks this year in Berlin did not result in any lasting truce; the UN and EU firmly believe that a ceasefire is the only solution to the war.

Prior to the conflict, Libya had one of the highest standards of living in Africa. Now, costs are skyrocketing because of the wartime economy; there are widespread complications with power cuts and medicine shortages.³² Civilians face the risk of being caught in the unpredictable fighting, and kidnappings for ransom by militias are common. According to the UN, over 200,000 people are internally displaced as of May this year, and 1.3 million in need of humanitarian assistance. Casualty numbers are hard to verify and highly politicized, estimating a range from 2,500 to 25,000 during the 2011 uprising along.³³

The EU has been helping Libya return to peace and working towards a political transition to a secure and prosperous country through diplomatic action and bilateral support. As the biggest donor of humanitarian assistance, the EU tailors support through health, civil society, youth and education, mediation and stability. The EU's new air and naval mission is to operate in the Eastern Mediterranean, out of way from Libya's migrant-smuggling routes that have caused bitter divisions amongst member states. Though the states have yet to draft a legal text for the mission, after agreeing to it in principle in Belgium, the main objective is an EU wide arms embargo.

European Relations in the Middle East

While the defence ministry of the European Union has provided a broad view of EU policy toward the Middle East region, stating that the EU "seeks to encourage political and economic reform in each individual country,"³⁴ the EU lacks a unified strategy on how to deal with the Middle East. Policy is fragmented across initiatives like the European Neighborhood Policy (ENP), the EU's agreement with the Gulf Cooperation Council (GCC, 1988), and direct cooperation with the League

³⁰ Ibid.

³¹<https://www.reuters.com/article/us-libya-security-syria-russia-exclusivr/exclusive-russian-hiring-of-syrians-to-fight-in-libya-accelerated-in-may-idUSKBN23E06H>

³² <https://www.bbc.com/news/world-africa-51293355>

³³ <https://www.unhcr.org/globaltrends2018/>

³⁴https://eeas.europa.eu/regions/middle-east-north-africa-mena/336/middle-east-and-north-africa-mena_en

of Arab States.³⁵ Individual member states are left to develop their own policies and actions directly with Middle Eastern countries. Germany, France, and the majority of other member states have different opinions on how to approach the region, which has made a common policy a challenge. In regards to general European relations to the Middle East, there are many challenges across the extended region including the Iran nuclear deal, Palestinian/Israeli conflict, Turkey and its role in the Syrian conflict, the crisis in the GCC, and the ongoing conflict in Yemen, Syria and Libya as previously mentioned.

In Syria, the EU has limited influence and diplomatic relations thanks to ongoing criticism of President Assad. The EU does not want to see continued Syrian migration to Europe due to the conflict.³⁶ Yet, the EU is still the largest donor of humanitarian aid to Syrians in need. While no unified EU policy toward Syria exists, individual member states have attempted their own approaches.

In Libya, the EU is largely focused on bringing peace through diplomatic solutions to the ongoing conflict. Member states have made it clear that they want to avoid another migration crisis. Again, the EU is the largest donor of humanitarian relief and is an influential member of the Libya Quartet (a discussion group including the UN, the League of Arab States and the African Union).³⁷ While focused on diplomacy, the EU is increasingly concerned with Turkish and Russian military presence in the oil and gas-rich country and have made propositions, backed by Italy and Greece, to send military support to enforce a cease-fire.

In Yemen, the EU is united in their desire to see the country remain independent and to end the conflict with Saudi Arabia. Multiple European countries have strong historical relations dating back to the 1930s, including the UK, France, Germany, and the Netherlands. Italy was the first member state to open diplomatic relations while France has far-ranging economic ties. Bulgaria, France, Germany, Italy, the Netherlands, and Spain are among the member states represented in Yemen. The first official cooperation agreement with Yemen was signed in 1997, focusing on commercial, development and economic initiatives with commitments of more than €25 million per year.³⁸ The EU established complete diplomatic representation to the Republic of Yemen in December of 2009. The EU has assisted Yemen in implementing poverty reduction strategies and in strengthening democracy, civil society, human rights, and technical assistance for World Trade Organization negotiations.

European relations with Saudi Arabia, Bahrain, Kuwait, Oman, Qatar, and the U.A.E. are governed by a cooperation agreement signed in 1989 between the European Commission (EC) and the GCC. The EC relations with Iran, Iraq, and Yemen are bilateral, with member states directly, not a broad EU policy. In 1989, the European Commission and the GCC signed an agreement with the primary objective of strengthening stability and facilitating political and economic relations. It included a commitment to enter into negotiations on a Free Trade Agreement between the EU and GCC. In 1999, GCC announced their decision to create a customs union by March 2005. The European commission's cooperation with the GCC is focused on energy and economic issues.

³⁵ <https://www.mei.edu/publications/eu-and-middle-east-search-strategy>

³⁶ <https://www.bbc.com/news/world-europe-34131911>

³⁷ https://ec.europa.eu/echo/where/africa/libya_en

³⁸ http://www.eeas.europa.eu/archives/docs/yemen/csp/02_06_en.pdf

Past Action

Past EU and UN Action

Established in January of 1992, the United Nations Register of Conventional Arms (UNROCA) is a voluntary arrangement which calls upon all member states to provide relevant data on exports and imports of conventional arms.³⁹ The UN Member States are invited to report about their military holdings and purchases through national production and relevant policies. In the same resolution, the General Assembly declared its determination to prevent the excessive and destabilizing accumulation of arms in order to promote stability and strengthen international peace and security, taking into account the legitimate security needs of States and the principle of undiminished security at the lowest possible level of military weapons and equipment.

In 1998, the European Union Code of Conduct on Arms Exports was adopted by the EC, followed by the adoption of Joint Action on the European Union's contribution to combating the weakening accumulation and spread of small arms and light weapons in the summer of 2002.⁴⁰ The next year, a strategy against the rapid increase of weapons of mass destruction came into effect. In December 2005, they adopted a strategy to combat the illegal accumulation of trafficking of Small Arms and Light Weapons (SALW) and their ammunition.⁴¹ This implies an increased common interest of EU Member States in a coordinated approach to control exports of military equipment and technology; a step towards EU involvement goals in future conflict-affected areas.

Finally, in December of 2008, the EU adopted the Common Position; a judicially binding legislation governing the control of exports of military technology and equipment.⁴² The Common Position is still used by the EU and its member states today; therefore, it is one of the more important EU actions towards the topic of EU Arms Exports that this backgrounder is focusing on. The Common Position established that it was the responsibility of the member state to verify the final destination of arms exports, and confirm that the country importing the arms respected international humanitarian law. It includes the internal situation of the arms' destination country and ensures that the member states will not permit exports that provoke or prolong armed conflicts or worsen tensions of existing situations in the conflict-affected area. Virtually, the Common Position is one of the first effective initiatives holding member states accountable for where their arms end up, and if their arms exports are worsening conflicts.

In 2014, the Arms Trade Treaty (ATT) came into effect and is also still currently in use. This is a UN treaty affecting EU member states along with other international powers. It was initiated after a 2006 UN resolution seeking to provide common international standards for the transfer, import and export of standard weapons.⁴³ The ATT obliges governments to guarantee that their weapons exports will not be used to commit human rights abuses, terrorism, violations of international humanitarian law or for international criminal organizations. Member states must evaluate their shipments of arms to guarantee that these criteria are fulfilled. Interestingly, the treaty has a clause

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32008E0944>

⁴³ <https://legal.un.org/avl/ha/att/att.html>

relating to gender-based violence, introducing a very relevant perspective on gender. It obliges exporting nations to take into account whether the arms on the market will be used to commit or facilitate acts of gender violence such as violence against women and minors.

Direct EU Involvement

With specifics to the EU's involvement in Yemen, more recent Council Conclusions in which the EU expressed its support for UN Security Council Resolutions last year. The EU further endorses and supports a UN "Verification and Inspection Mechanism" that ensures that commercial goods, which are essential for the survival of millions of Yemenis, have the ability to flow into the country. In October of 2019, EU member states were called by the European Parliament to "suspend weapon sales to Saudi Arabia due to its [behaviour] in Yemen, [criticized] coalition war crimes, and called for sanctions against those responsible for [blocking] humanitarian assistance."⁴⁴ Additionally, since the start of the conflict in 2015, the EU has given almost €500 million in humanitarian aid to the crisis. And, in 2019 and 2020, support to humanitarian organizations working towards life-saving efforts was totalled at €159 million.⁴⁵ The EU has also made supporting efforts with the United Nations Humanitarian Air Services, which provide "reliable air and sea transportation to humanitarian aid workers."⁴⁶

The EU remains the largest donor of humanitarian aid to Syria and the region with over €17 billion in aid allocated by member states and the EU itself since the start of the conflict in 2011.⁴⁷ The European Council has adopted sanctions against those responsible for the violent repression of Syrians, and anyone associated with them. A series of EU sanctions against Syria that are currently still in place were decided in 2011. Additionally, the EU recognized that the growing presence of terrorist groups pose a serious threat to the country of Syria, the broader region and the international community as a whole. In 2014, the Council developed a comprehensive regional strategy for Syria, Iraq and ISIS threats, which was adopted in March of 2015. As part of its security response and fight against terrorism, the EU also implemented "UN Security Council sanctions freezing the funds of anyone associated with Usama bin Laden, Al-Qaida, the Taliban and ISIS."⁴⁸ In October 2016, the EU began an urgent humanitarian initiative aiming to allow humanitarian organizations to do their work and civilians to be rescued and protected, leading to an EU strategy on Syria which was adopted the following year.

United Nations sanctions on Libya came into place in February of 2011. Prior to the conflict, Libya and the EU had been negotiating a cooperation agreement, which has now been frozen. The EU has also worked to apply sanctions over the conflict, provide aid, and some member states have participated in military action. As well, an open-ended embargo on the supply of arms and military equipment to and from the country is still intact.

The UN has remained engaged with political groupings in Conflict-Affected Areas in attempts to promote peace and stability through negotiations and discussion in accordance with Security Council resolutions.

⁴⁴ <https://www.hrw.org/world-report/2019/country-chapters/yemen>

⁴⁵ https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1384

⁴⁶ <https://reliefweb.int/report/yemen/eu-allocates-over-70-million-help-most-vulnerable-population>

⁴⁷ Ibid.

⁴⁸ Ibid.

EU Member States' Arms Exports: The Yemeni Crisis

The member states of the European Union were among Saudi Arabia's, and thus the coalition's main suppliers, specifically with the UK and France being the 2nd and 3rd greatest ones from 2014 to 2018.⁴⁹ Arms exports from Europe have contributed to the modernization of Saudi Arabian land, air and naval forces. For instance, combat and tanker aircraft deliveries from the UK and Spain, have respectively increased the strike power and range of the Saudi Air Force. From 2014 to 2018, Austrian and French armoured vehicles, among others, were delivered to the Saudi Kingdom. Weapons made by France have been reported in the ongoing conflict. Since 2014, Saudi Arabia's Navy, which is involved in the naval blockade of Yemen, has ordered over 32 patrol boats from Germany (13 of which have been delivered to date), two patrol boats from France and five frigates from Spain.⁵⁰ Lastly, from 2015 to 2018, "Italy licensed arms exports to Saudi Arabia to the value of more than 700 million euros."⁵¹ All of these examples mask substantial differences in EU member policies on arms exports to the Saudi-led coalition.

Recognition concerns about violations of International Humanitarian Law (IHL) and human rights, several EU member states indicated that they would deny arms exports to coalition members. Firstly, the Netherlands established "a presumption of denial for transfers to Saudi Arabia and other members of the coalition that are party to the conflict in Yemen."⁵² It is implied that exports of military goods be denied unless irrevocable proof that the goods will have no involvement in the conflict is present. There have also been restrictions applied by the Belgian regions of Flanders and Wallonia. Eight licences for transfers to Saudi Arabia were suspended by the Belgian State Council in 2018. The State Council reported that the Walloon Government had failed to consider the common exporting criteria, specifically regarding human rights; the decision was later confirmed, and in June 2019, licences were cancelled. However, allegations that Belgian weapons may have been used in the conflict have more recently triggered a public debate in which Belgium should consider suspending exports to Saudi Arabia altogether.

Germany also significantly altered its export control policy to Saudi Arabia in 2018, with restrictions announced in January 2019 as part of the Government's coalition agreement. Following the gruesome events of the journalist Jamal Khashoggi's death in November, in which Saudi Arabia faced much international backlash, Germany established a temporary embargo on arms exports to Saudi Arabia, involving a halt of new licences and calls to not use existing ones. Human rights groups have welcomed Germany's decision, but it was criticized by France and the UK as well as German weapons maker Rheinmetall, which has threatened to sue the Government. Germany's arms export ban raised tension with its European neighbours, France and Great Britain, in particular, stating that it "threatens bilateral defence projects."⁵³ This means that previous economically beneficial projects between Germany and its neighbours were stopped only on

⁴⁹ https://www.un.org/sites/un2.un.org/files/wmr_2020.pdf

⁵⁰ <https://www.defensenews.com/global/europe/2020/02/07/spain-seen-joining-greece-france-italy-on-european-patrol-corvette-program/>

⁵¹ <https://www.sipri.org/commentary/topical-background/2019/legal-challenges-eu-member-states-arms-exports-saudi-arabia-current-status-and-potential>

⁵² <https://www.government.nl/documents/publications/2019/08/01/presumption-of-denial-for-countries-engaged-in-the-yemen-conflict>

⁵³ <https://www.dw.com/en/german-export-policies-threaten-european-defense-projects-french-ambassador/a-48060674>

Germany's side, and thus the bilateral projects cannot properly continue in other countries. Up until 2019, Germany had been 'unaware' of German-made technology and arms in the conflict. However, following an investigation by several news sources there is "Conclusive proof of German-made arms and technology in Yemen — in the air, at sea, and on land, despite German arms guidelines that expressly forbid exports to countries involved in armed conflicts, unless they are acting in self-defense."⁵⁴ Germany prides itself on having top restrictive arms export controls. Their buyers must sign an end-user agreement, meaning they pledge to not sell or pass the weapons to any other country or group. Further, in early 2018, German leaders signed an agreement that "explicitly forbids the approval of weapons exports to any country "directly" involved in the war in Yemen." Still, exports to both the U.A.E and Saudi Arabia continued to be approved; exports to Saudi Arabia worth €416 million were signed off in the first nine months of 2018, and Germany approved exports over €40 million to the Emirates from October to December 2018.

Many EU member states have followed through with similar efforts as to not fuel the conflict any further. Denmark announced it would suspend future approvals of weapons and military equipment exports to Saudi Arabia as a result of Khashoggi's killing. "With the continued deterioration of the already terrible situation in Yemen and the killing of Saudi journalist Jamal Khashoggi, we are now in a new situation,"⁵⁵ Foreign minister Anders Samuelsen said in November 2018. After the Khashoggi case, Austria advocated an EU-wide arms embargo against Saudi Arabia. However, since 2015 no new licenses for the supply of war materials to Saudi Arabia have been approved. The Netherlands House of Representatives passed a law in November last year to ban arms exports to Saudi Arabia. It mentions backing a ceasefire in Yemen and an arms embargo rather than specifically referring to the Khashoggi case. As well, Norway, Sweden, Greece and Austria have stopped exporting weapons to Saudi Arabia, discarding the sale of 300,000 artillery shells.⁵⁶ As the Khashoggi case was unfolding, Denmark and Finland announced the adoption of restrictions on their arms exports to Saudi Arabia.

In contrast, countries like the UK, France and Italy have been resisting public pressure to reconsider their arms export policies towards members of the coalition. In France, the value of licences issued for arms exports to Saudi Arabia increased by 50% during 2018, and the Saudi Arabian Government ordered patrol boats to the value of around one billion euros.⁵⁷ France is also a significant arms supplier to Saudi Arabia. It has supplied over 2 billion dollars, including armoured vehicles, air defence systems, and aircraft subsystems.⁵⁸ France has also supplied the UAE with arms, despite the UAE being implicated in war crimes and other serious violations; the country did not stop exports to Saudi Arabia. Despite French authorities denouncing Khashoggi's assassination, there was never a suggestion exports would be suspended or halted. In the last nine years, Riyadh has bought more than €11 billion of arms, making it France's second-biggest client.⁵⁹ The country is the third biggest exporter of weapons to Saudi Arabia, according to the Stockholm International Peace Research Institute. Amnesty International estimates it delivered more than €3

⁵⁴<https://www.dw.com/en/in-yemen-war-coalition-forces-rely-on-german-arms-and-technology/a-47684609>

⁵⁵<https://www.cnbc.com/2018/11/22/denmark-suspends-saudi-weapon-export-approvals-over-khashoggi-yemen-concerns.html>

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ Ibid.

billion worth of weapons between 2015 and 2017.⁶⁰ As previously mentioned, it has harshly criticized Germany for its decision to impose an embargo as the two countries have joint military projects leading to some French exports being blocked because some parts are manufactured in its eastern neighbour. The French ambassador to Berlin, Anne-Marie Descotes, wrote that the embargo "has serious consequences for our bilateral cooperation in the field of defence, and for the strengthening of European sovereignty."⁶¹

Spain decided against the suspension or ban of arms sales to the Middle Eastern Kingdom. Instead, it demanded, "that the circumstances of this crime be clarified."⁶² Spain's social Government stated that it was dismayed over Khashoggi's death, although it joined opposition forces to defeat a parliamentary motion calling on Madrid to halt selling arms to Saudi Arabia. According to the Spanish secretary of state for trade, "only 3% of Saudi imports originated from Spain in 2017 with the Saudi market accounted for 6% of Spanish sales that same year."⁶³ Amnesty International estimates "that Spain exported €932 million-worth of arms to Saudi Arabia between 2015 and 2017 and authorised licences worth €1.2 billion."

⁶⁴

Finally, in Italy, the 2018 reported customs data shows that deliveries continued to be carried out. Near the end of 2018, the Italian Prime Minister mentioned that the Italian Government stated its opposition to the sale of weapons to Saudi Arabia considering its role in Yemen. However, the statement received no follow up in actions, and no changes were made in the country's export policy. Responses from non-governmental organizations (NGOs) and civil society organizations in Italy and the UK seek to challenge the lawfulness of their respective Government's export-licensing decisions in court. On 26 June 2019, the Italian Parliament approved a motion committing the Government to adopt the necessary acts to 'suspend' the export of aircraft bombs, missiles and their components to Saudi Arabia and the UAE that may be used against civilians in Yemen. Additionally, it is worth noting that the motion includes the commitment to consider initiatives that aim at establishing an EU wide arms embargo for Saudi Arabia and the UAE, as well as consult additional EU partners involved in trans-national defence production programmes. There is uncertainty on whether commitments will be implemented and how this will concretely affect the export-licensing process in Italy's near future.

Current Situation

Life in a Conflict-Affected Area

The consequences of conflict in affected areas extend far beyond a devastating death rate and increasing corruption in government. Armed conflict often results in forced migration, long-term refugee dilemmas, and mass destruction of basic infrastructure. Economic, political and social establishments can be permanently damaged. In all, the consequences of mass conflict, especially civil war, create the base for failing development. Conflicts leave civilians often deprived of basic necessities, such as food, shelter and water access. There is drastic growth in the number of displaced persons (people who must flee from their homes and are left unprotected), increasing

⁶⁰ <https://www.amnesty.org/en/latest/news/2019/08/killer-facts-2019-the-scale-of-the-global-arms-trade>

⁶¹ <https://www.amnesty.org/en/latest/news/2019/08/killer-facts-2019-the-scale-of-the-global-arms-trade/>

⁶² *ibid*

⁶³ <https://www.euronews.com/2019/04/02/jamal-khashoggi-eu-divided-over-arms-sales-to-saudi-arabia-six-months-after-murder>

⁶⁴ <https://www.amnesty.org/en/latest/news/2019/08/killer-facts-2019-the-scale-of-the-global-arms-trade/>

the international migrant crisis. Moreover, internal armed conflicts increase exposure to disease, immensely limit access to the supply of medical care, and destroy health infrastructure. An affected nation's infant mortality rate easily plummets, and the dent in numbers is extremely difficult to build back to a healthy normal. Additionally, the education system within affected countries is almost non-existent, leaving entire generations disadvantaged. Given that normal life is busied by political turmoil and instability, job loss and business closures become the new norm. Major industries are put on hold, slowly diminishing the country's economy, and restricting employment opportunities. As a result, the trade of goods becomes compromised as well. Therefore, future peaceful political transition's success will depend on the capacity of a future government to provide job opportunities and basic social services. Naturally, the ongoing crisis exacerbates the nation's reliance on international development assistance. Civilians become largely reliant on international support. Conflict evidently requires increased humanitarian assistance as well as ensuring development in intentionally chosen areas that make meaningful contributions to improve the standard of living, ease into discussion and reconciliation, and promote stability within the region. The international community's role, including the EU, will be imperative in supporting peacebuilding and economic recovery in conflict-affected areas.

The EU's Intent Moving Forward with Conflict-Affected Areas

The European Union stance on arms exports to conflict-affected areas is relatively straightforward in the sense that the EU, like the UN, has an end goal of reaching peace. Thus, they have continued to support projects aimed at developing a competitive, diversified and sustainable economic environment in countries in conflict. Moreover, the EU, along with the international community, continues to support the ongoing efforts undertaken in order to reinforce the institutional capacity of financial institutions, notably for supervisory tasks. Aims to support the transition to a stable economy, agricultural development and food security have been prompted through EU interventions on both a community and institutional level. The EU also plans to focus on providing basic services in food security and resilience, basic healthcare, ensuring that local communities are protected from disease and famine, building resilience during the crisis.⁶⁵ The EU tirelessly works to include the peace process by opening it to all parts of society, including women and youth, civil society, and supporting negotiation and reconciliation on local and regional levels. Commitments have been made to protect and recognize the human rights of civilians in conflict-affected areas, continuing to advocate for international law to be completely respected, including international humanitarian law. The EU will continue to develop arms export policies and will make further efforts to ensure that EU arms do not fuel conflicts and exacerbate humanitarian crises. They intend to continue following through with reports on the destination of EU arms. With an understanding of the economic value of trading arms, the EU is seeking the most strict agreements possible that still allow for economic growth to ensure that international humanitarian law is being respected and actively practiced.

Possible Solutions

These are only suggestions; alternative solutions which may be more fitting for your nation will come up during your research and committee session; multiple solutions may be present during resolution papers.

⁶⁵ https://ec.europa.eu/echo/files/aid/countries/factsheets/thematic/resilience_africa_en.pdf

EU Treaty Changes

The first solution requires making changes to the current EU treaties in place. This option promotes substantive efforts and effective change. Having a truly common arms export policy in the EU requires a supervisory body that is controlled by the European Commission. They would report member states' violations of the Common Position, the agreement regarding arms exports. Member states could be referred to the European Court of Justice by the European Commission if they refused to follow the rules. This solution allows for more strict and defined terms in which instances that abuse the International Humanitarian Law will be clear.

Research and Development of European Arms

The second solution recognizes that certain EU member states are resilient to imposing an EU-wide embargo on arms exports to countries in the coalition, likely for economic-related reasons. That being said, this option is one that addresses future conflicts and may benefit EU arms exports long term. The research and development of European Arms is an extremely plausible initiative that may be paired alongside other potential solutions. Investing EU resources in efforts to improve the effectiveness of European arms could help member states involved in conflicts to gauge and limit the impacts of weapons. For instance, with more developed airstrike weapons, the firing nations would have a clearer understanding of the area affected, and thus more control over who and what gets targeted. This enables the opportunity to take more caution with civilians, essentially putting less innocent lives at risk by creating less destruction.

Minor Initiatives

Finally, seeing as the EU is looking to make as much effective change as possible with recognition for sensitivities surrounding the EU economy and trade relations with Middle Eastern powers, there are less substantial initiatives that can be made without treaty changes being necessary. Firstly, specify what constitutes a 'clear risk' or 'serious violation' in the Common Position. It should be made explicit that existing licenses can be suspended or revoked, and reporting obligations more stringent. Secondly, help member-states implement stronger 'end-use' controls to ensure arms do not end up in unintended hands. Thirdly, clarify terms in the EU's regulation on 'dual-use' goods (those with both a civilian and military use such as cyber-surveillance technology), and encourage information exchange between member-states. Lastly, reach inter-governmental binding commitments to abide by the EU's toughened export criteria between some member-states, which would put greater pressure on laxer member-states. All of these options are examples of smaller refinements to EU policies regarding arms exports in foreign conflicts. There are many additional initiatives that may better suit individual nations, and in this case, the more of these minor efforts, the more effective the EU system becomes.

Bloc Positions

Much like the solutions, official blocs will be made during committee sessions. It is up to delegates to decide which countries have similar stances and seek the same outcome as them. The following are a guideline to help clarify your stance and provide a better understanding of sides of debate and MUN process.

Continuation of Arms Exports As They Are

Countries in this bloc, such as France, Spain, Bulgaria and Slovakia, have consistently demonstrated a strong stance supporting the continuation of EU arms exports to the Middle East.

Governments have made little to no efforts in changing their current export norms, despite publicly recognizing the Humanitarian Crisis in conflict-affected areas. With the perpetuation of the economic benefits of exports, violence continues to grow as these trades fuel it. A 'grey area' is present in export restrictions, causing nations in this bloc to be at constant risk of violating International Humanitarian Law. This bloc's stance has been highlighted by the disapproval of some member states' efforts to mandate restrictions and embargos throughout recent years. Thus, it can be assumed that these nations will face the greatest discomfort in working towards a resolution that the UN is satisfied with. Countries in this bloc support any minor initiatives and the research and development of European arms; more so, any solutions that will please the UN by helping the humanitarian crisis whilst still allowing arms exports to continue as normal.

Active Restrictions in Place

This bloc contains countries that have made significant efforts to work actively against fueling conflicts. Nations including Germany, the Netherlands, Denmark, and Finland, are among some members seeking to change past arms export policies and norms, with the Middle East in particular, for the betterment of civilians affected by conflict. Despite an understanding of balancing the economic effects of an arms embargo, these nations have already taken action by suspending their exports to those involved in some of the previously mentioned major conflicts. This bloc has clearly formed a stance on the topic at hand in which civilians' safety takes precedence over certain trade relations. These nations will act as leaders for those that may follow in prioritizing peace, even at the minor sacrifice of relations with some Middle Eastern powers. This bloc is strongly in favour of more drastic changes to late EU norms with regards to foreign conflict. Therefore, these nations would strongly support changes in the current EU treaty which may force member states from the previous bloc to comply with stricter export guidelines. That being said, they are in full support of all attempts of betterment for the conflict-affected areas and given that minor initiatives and the research and development of European arms may only benefit the situation, the bloc is in full support of all solutions working towards peace and clarity.

Sources Cited

Baron, Adam. "Mapping the Yemen Conflict." *Mapping the Yemen Conflict | European Council on Foreign Relations*, 2019, www.ecfr.eu/mena/yemen

Brussels. "EU-Libya Relations." *European Union External Action*, 25 Sept. 2019, [eeas.europa.eu/headquarters/headquarters-homepage_en/19163/EU-Libya relations](http://eeas.europa.eu/headquarters/headquarters-homepage_en/19163/EU-Libya%20relations).

Erickson, Amanda. "7 Basic Questions about the War in Syria." *The Washington Post*, WP Company, 3 Oct. 2019, www.washingtonpost.com/news/worldviews/wp/2018/04/12/syria-explained/.

"EU Code of Conduct for Arms Exports, 8 June 1998." *EU Code of Conduct for Arms Exports*, 1998, fas.org/asmp/campaigns/smallarms/EUcode.htm.

Explainer: The War in Yemen Explained in 3 Minutes, ALJ Azeera English, 3 July 2017, www.youtube.com/watch?v=nLRgdFP-s30.

Gibbons-Neff, Thomas. "How Iranian Weapons Are Ending up in Yemen." *The Washington Post*, WP Company, 30 Nov. 2016, www.washingtonpost.com/news/checkpoint/wp/2016/11/30/how-iranian-weapons-are-ending-up-in-yemen/.

"In Yemen War, Coalition Forces Rely on German Arms and Technology: DW: 26.02.2019." *DW.COM*, 2020, www.dw.com/en/in-yemen-war-coalition-forces-rely-on-german-arms-and-technology/a-47684609.

Kennedy, Rachael. "Why Haven't European Countries Halted Arm Exports to Saudi Arabia?" *Euronews*, 22 Oct. 2019, www.euronews.com/2019/10/19/european-countries-halted-arm-exports-to-turkey-but-why-haven-t-they-d-one-the-same-for-sau.

Maletta, Giovanna. "Legal Challenges to EU Member States' Arms Exports to Saudi Arabia: Current Status and Potential Implications." *SIPRI*, 28 June 2019, www.sipri.org/commentary/topical-background/2019/legal-challenges-eu-member-states-arms-exports-saudi-arabia-current-status-and-potential.

Mielcarek, Romain. "Why Is Europe Still Fueling the War in Yemen?" *The Nation*, 3 Oct. 2019, www.thenation.com/article/archive/yemen-europe-weapons/.

Oppenheim, Beth. "Europe Is at War Over Arms Exports." *Foreign Policy*, Foreign Policy, 19 Sept. 2019, foreignpolicy.com/2019/09/18/europe-is-at-war-over-arms-exports/.

Pierini, Marc. "In Search of an EU Role in the Syrian War." *Carnegie Europe*, 18 Aug. 2016, carnegieeurope.eu/2016/08/18/in-search-of-eu-role-in-syrian-war-pub-64352.

"Progress Made in UN Talks to End Yemen War, Envoy Lauds 'Positive and Serious Spirit' | UN News." *United Nations*, United Nations, news.un.org/en/story/2018/12/1028161.

Smith, Andrew. "The Human Cost of European Arms Sales." *Green European Journal*, 28 Aug. 2018, www.greeneuropeanjournal.eu/the-human-cost-of-european-arms-sales/.

"Special Envoy Yemen | Department of Political and Peacebuilding Affairs." *United Nations*, United Nations, June 2012, dppa.un.org/en/mission/special-envoy-yemen.

“Syria.” *European Civil Protection and Humanitarian Aid Operations - European Commission*, 1 July 2020, ec.europa.eu/echo/where/middle-east/syria_en.

“Syria: Council Response to the Crisis.” *Consilium*, 16 June 2020, www.consilium.europa.eu/en/policies/syria/.

Taylor, Adam. “Why Iran Is Getting the Blame for an Attack on Saudi Arabia Claimed by Yemen's Houthis.” *The Washington Post*, WP Company, 16 Sept. 2019, www.washingtonpost.com/world/2019/09/16/why-iran-is-getting-blame-an-attack-saudi-arabia-claimed-by-yemens-houthis/.

“Texts Adopted - Humanitarian Situation in Yemen - Thursday, 25 February 2016.” *Europarl.europa.eu*, 25 Feb. 2016, www.europarl.europa.eu/doceo/document/TA-8-2016-0066_EN.html?redirect.

Tidey, Alice. “EU Divided over Saudi Arms Sales Six Months after Khashoggi Killing.” *Euronews*, 2 Apr. 2019, www.euronews.com/2019/04/02/jamal-khashoggi-eu-divided-over-arms-sales-to-saudi-arabia-six-months-after-murder.

“The Arms Trade and Armed Conflict. An Analysis of European Weapons Exports to Countries in Armed Conflict.” ECP, Oct. 2017.

“The Consequences of Internal Armed Conflict for Development (Part 1).” *SIPRI*, 20 Mar. 2015, www.sipri.org/commentary/blog/2015/consequences-internal-armed-conflict-development-part-1.

“United Nations Security Council.” *S/2019/914 - E - S/2019/914*, 9 Dec. 2019, undocs.org/S/2019/914.

“War in Yemen | Global Conflict Tracker.” *Council on Foreign Relations*, Council on Foreign Relations, 9 July 2020, www.cfr.org/global-conflict-tracker/conflict/war-yemen.

Weise, Zia, and Jacopo Barigazzi. “EU Countries Agree to Suspend Arms Exports to Turkey.” *POLITICO*, POLITICO, 15 Oct. 2019, www.politico.eu/article/turkey-kurds-assault-eu-to-suspend-arms-exports/.

“Who Is Arming the Yemen War? An Update.” *Reinventing Peace*, 30 Mar. 2019, sites.tufts.edu/reinventingpeace/2019/03/19/who-is-arming-the-yemen-war-an-update/.

“Why Are EU Countries Reluctant to Intervene in Yemen's War?: DW: 24.04.2018.” *DW.COM*, 2020, www.dw.com/en/why-are-eu-countries-reluctant-to-intervene-in-yemens-war/a-43513746.

“World Report 2019: Rights Trends in Yemen.” *Human Rights Watch*, 17 Jan. 2019, www.hrw.org/world-report/2019/country-chapters/yemen.

“Yemen Crisis: Why Is There a War?” *BBC News*, BBC, 19 June 2020, www.bbc.com/news/world-middle-east-29319423.

“Yemen.” *European Civil Protection and Humanitarian Aid Operations - European Commission*, 3 June 2020, ec.europa.eu/echo/where/middle-east/yemen_en.

“Yemen: Civil War and Regional Intervention.” Congressional Research Service, 23 Apr. 2020.

“Yemen: MEPs Renew Their Call for an EU Arms Embargo against Saudi Arabia: News: European Parliament.” *Yemen: MEPs Renew Their Call for an EU Arms Embargo against Saudi Arabia | News | European Parliament*, 30 Nov. 2017,

www.europarl.europa.eu/news/en/press-room/20171127IPR88940/yemen-meps-renew-their-call-for-an-eu-arms-embargo-against-saudi-arabia.

“Yemen: Parliament to Review EU's Role in Peace Efforts: 01-10-2018: News: European Parliament.” *Yemen: Parliament to Review EU's Role in Peace Efforts / 01-10-2018 / News / European Parliament*, 2018, www.europarl.europa.eu/news/en/agenda/briefing/2018-10-01/11/yemen-parliament-to-review-eu-s-role-in-peace-efforts.

Net Neutrality in Europe

Questions to Consider

1. How large of a role do Internet Service Providers and telecoms play in your country? How much influence do they have?
2. To what extent should net neutrality be enforced with the roll out of 5G? Is net neutrality the priority for your country, or do the opportunities of 5G take precedence?
3. Does the limitation of net neutrality pose risks to your country? How so?
4. Does your country's current net neutrality legislation have loopholes? How prominent have they been in the past and present actions of Internet Service Providers? How will loopholes affect legislation regarding 5G?

Overview

Over the past two decades, many controversial debates over net neutrality in various global regions have taken place. Net neutrality is the principle that Internet Service Providers (ISPs) must treat all internet communications equally, and not discriminate or charge differently. In simplest terms, European telecommunication (telecoms) companies, such as Deutsche Telekom, Vodafone, Telefónica, and Orange, can exercise their ability to throttle the bandwidth for specific services that they may favour. Net neutrality attempts to put all services on a level playing field, with the same access and ability to seek, receive and impart information as well as ideas from a plurality of sources. This means that with net neutrality, telecoms cannot select 'privileged' data channels, and thus cannot jeopardize the free and open accessibility of the web and its content.

The EU has made efforts to mandate net neutrality within its member states, so that telecoms must provide access to all sites, content and applications at the same speed, under the same conditions without preferencing or blocking any content. In 2015, the EU set a basic framework for net neutrality. However, the European Commission highlighted that it cannot effectively prevent network operators from degrading their customers' services. The current regulation has been widely criticized due to loopholes that it offers which undermines the regulations' effectiveness. Consequently, the European Commission proposed that a minimum quality of services requirements should be imposed, as well as an obligation of transparency that "would limit network operators' ability to set up restrictions on end-users choice of lawful content and applications."⁶⁶

Despite ongoing resistance from telecoms, and the impacts of the influence they hold over legislative progress, the EU has made clear intentions to move forward with a net neutral Europe. Each member state and telecom company has been affected differently throughout Europe's journey to net neutrality. That being said, with the exception of some net neutrality violations and loopholes in the legislation, the net neutrality debate in Europe died out around 2016. Following

⁶⁶https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwipx6Glqc_rAhVwJzQlHWVwB4cQFjACegQIARAB&url=http%3A%2F%2Fec.europa.eu%2Finformation_society%2Fnewsroom%2Fcf%2Fdocument.cfm%3Fdoc_id%3D837&usg=AOvVaw0DQ4spMe76v7JUqSniVn9c

effective legislation from the European Commission and Council, the EU and its member states have been relatively content with the current net neutrality system.

Throughout the past few years, the net neutrality debate has been re-opened. This began with the rise of 5G. In essence, 5G is a newer, faster and more effective version of the Internet, allowing consumers to access copious amounts of data in seconds. The more relevant and exciting piece is that 5G technology enables something called ‘network slicing’, the ability to have separate segments for different applications, services or purposes.⁶⁷ Network slicing opens up doors to innovative opportunities that are far beyond what previous technology could execute. With possibilities including self-driving cars, virtual medical procedures, big data analytics and more⁶⁸, 5G is inevitably the future of the world.

However, along with the incredible benefits of net slicing raises a new challenge for the EU and the world as a whole: how will the roll out of 5G affect net neutrality? With 5G, slices are separate from each other instead of being one Internet, allowing for the bandwidth of important slices to be increased.⁶⁹ For example, slicing for autonomous vehicles may need to be some of the highest quality to ensure the maximum safety of passengers, while slices used for more practical services such as email or TV require significantly less bandwidth to function. The ability to provide services of importance (like those in the health sector and autonomous driving) has excited Europe majorly, however, network slicing virtually gives telecoms the power to throttle the bandwidth of certain services and applications. With an already hefty history of telecoms manipulating loopholes in net neutrality laws, 5G promises countless non-net neutral opportunities for telecoms to take advantage of. With telecoms having the ability to improve and worsen the quality of networks for their own benefit, striking deals with big businesses and investors to improve specific services is expected. Thus lies the digital world’s hot new topic of debate: should net neutrality adapt around 5G, or should 5G adapt around net neutrality?

Timeline

1999: Debate around net neutrality first emerges around the world, starting as a rhetorical case for strict internet regulations that lay out basic non-discrimination principles.⁷⁰

2002: The EU’s regulatory framework for electronic communications networks and services is introduced. It consists of five directives, referred to as “the Framework Directive and the Specific Directives.”⁷¹

2008: The ‘openness of the Internet’ is identified as one of the key principles related to the future of the Internet by European Commissioners. Commissioner Viviane Reding states that “Openness is

⁶⁷<https://www.zdnet.com/article/how-network-slicing-may-determine-the-success-or-failure-of-5g-wireless/>

⁶⁸<https://insights.roboglobal.com/5g-transforming-tomorrow>

⁶⁹<https://www.zdnet.com/article/how-network-slicing-may-determine-the-success-or-failure-of-5g-wireless/>

⁷⁰<https://www.manchesteropenhive.com/view/9781526105479/9781526105479.00021.xml#:~:text=net%20neutrality%20regulation-,US%20regulation%20of%20network%20neutrality%20has%20a%20history%20dating%20back,the%20Open%20Internet%20in%201999.>

⁷¹<https://www.legislation.gov.uk/eudr/2009/136/introduction/data.xht?view=snippet&wrap=true>

one of the key ingredients that made the Internet so successful as an innovation place, and we have to make sure that it is not compromised.”⁷²

2009: Net neutrality is regulated narrowly in Europe through a declaration and amendments to the 2002 Electronic Communications Package. However, the development of European legal implementation of network neutrality principles is slow. Throughout the year, Chinese multinational technology company, Huawei, (who designs, develops and sells telecom equipment and consumer electronics) starts to carry out 5G research. This is part of the beginning of 5G.⁷³

December 2009: The “Telecoms Package” comes into force. As claimed by the European Commission, the Telecoms Package’s new transparency requirements mean that “consumers will be informed—even before signing a contract—about the nature of the service to which they are subscribing, including traffic management techniques and their impact on service quality, as well as any other limitations (such as bandwidth caps or available connection speed).”⁷⁴

2011: In France, Belgium, and the Netherlands varying discussions and initiatives regarding net neutrality take place.⁷⁵

2012: The Body of European Regulators for Electronic Communications (BEREC) reported that “violations of Net Neutrality affected at least one in five users in Europe.” Their report also found that blocked or slowed connections to certain services and applications were common.⁷⁶

June 2012: The Netherlands becomes the first country in Europe and the second in the world, after Chile, to enact a network neutrality law.⁷⁷

August 2013: EU draft legislation is leaked, revealing that EU telecom regulations lack previously promised network neutrality provisions.⁷⁸

September 2013: The EU Commission advances a long-awaited proposal for a law on Net neutrality in the EU called the Telecoms Single Market Regulation (TSM). However, a flaw in this proposal allows for discriminatory treatment of internet traffic as well as the creation of slow and fast internet lanes, which is opposite to net neutrality.⁷⁹

⁷²https://ec.europa.eu/commission/presscorner/detail/en/SPEECH_09_231

⁷³<https://thenextweb.com/eu/2019/02/28/5g-is-a-threat-to-europes-absolute-net-neutrality/>

⁷⁴https://ec.europa.eu/commission/presscorner/detail/en/MEMO_09_491

⁷⁵https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwipx6Glqc_rAhVwJzQlHWVwB4cQFjACegQIARAB&url=http%3A%2F%2Fec.europa.eu%2Finformation_society%2Fnewsroom%2Fcf%2Fdocument.cfm%3Fdoc_id%3D837&usg=AOvVaw0DQ4spMe76v7JUqSniVn9c

⁷⁶<https://www.freepress.net/our-response/expert-analysis/explainers/net-neutrality-violations-brief-history>

⁷⁷<https://www.bbc.com/news/technology-13886440>

⁷⁸https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwipx6Glqc_rAhVwJzQlHWVwB4cQFjACegQIARAB&url=http%3A%2F%2Fec.europa.eu%2Finformation_society%2Fnewsroom%2Fcf%2Fdocument.cfm%3Fdoc_id%3D837&usg=AOvVaw0DQ4spMe76v7JUqSniVn9c

⁷⁹<https://www.accessnow.org/internet-wins-net-neutrality-solidified-across-eu/>

April 2014: The EU Parliament changes the TSM text, now including a binding definition of net neutrality and closing all loopholes that could enable network discrimination. Despite this, the rules of enforcement are loose.⁸⁰

May 2014: The adoption of the Digital Single Market Strategy by the Commission occurs. Additionally, Heads of State and Government agree on a need to strengthen the EU telecoms single market.⁸¹

April 2015: The EU member states adopt a version of the TSM, including even more loopholes than the European Commission's text, and aims to allow zero-rating.⁸²

June 2015: The European net neutrality legislation is enacted. The European Parliament, Council, and Commission agree on a final text defining net neutrality without technically using the word. It aims to protect user rights, does not have obvious loopholes, and has solid enforcement. However, it's vagueness could enable discrimination. This sets the basic framework that ensures net neutrality across the entire EU. The net neutrality policies prohibit any discriminatory uses of network management practices (like throttling or blocking lawful content) by Internet access service providers.⁸³

November 2015: The EU officially adopts the TSM.⁸⁴

Early 2016: Huawei sets up a 5G product line for 5G products, being the leading company in the total telecom equipment market share.⁸⁵

June - July 2016: BEREC holds a public consultation with over 500,000 responses on net neutrality.⁸⁶

August 2016: The publication and entry of the revised guidelines. BEREC addresses most concerns in the final version guidelines.⁸⁷

October 2018: Verizon (a US telecom) launches the first "5G" service in the world. This is still a bit of a technicality, however.⁸⁸

Early 2019: The number of 'alive' 5G networks increases significantly in Europe.

⁸⁰<https://www.accessnow.org/the-eu-parliament-adopts-ambiguous-net-neutrality-legislation/>

⁸¹https://ec.europa.eu/growth/single-market/strategy_en

⁸²<https://www.accessnow.org/internet-wins-net-neutrality-solidified-across-eu/>

⁸³<https://nymag.com/intelligencer/2017/11/what-happens-to-netflix-when-net-neutrality-is-gone.html>

⁸⁴<https://www.accessnow.org/internet-wins-net-neutrality-solidified-across-eu/>

⁸⁵<https://www.zdnet.com/article/5g-huawei-unveils-new-infrastructure-products-aimed-at-europe/>

⁸⁶<https://www.accessnow.org/eu-telecom-regulators-meet-analyse-500000-net-neutrality-consultation-responses/>

⁸⁷https://berec.europa.eu/eng/document_register/subject_matter/berec/regulatory_best_practices/guidelines/6160-berec-guidelines-on-the-implementation-by-national-regulators-of-european-net-neutrality-rules

⁸⁸<https://www.forbes.com/sites/jeanbaptiste/2019/04/04/verizon-launches-worlds-first-commercial-5g-smartphone-service/#30aa94221961>

July 2020: An online Global Symposium (conference) for Regulators takes place, having some discussion around the reopened net neutrality debate and 5G.⁸⁹

Historical Analysis

The internet is made up of a large number of interconnected networks. Each network is connected to other internet service providers (organizations that provide services for accessing, using, or participating in the Internet, known as ISPs, also referred to as telecom operators), which in turn are connected to other parts of the internet. All of these connected networks are collectively called the “internet.” Citizens access the internet through the telecom operators they are subscribed to, this means that ISPs can act as ‘gatekeepers’ towards their own customers, but not towards customers of other ISPs. Essentially, the reason that the internet is functional is that everything is interconnected, and thus no access providers can limit or block information or data. There is a common language and set of rules that enable devices and systems to communicate effectively.⁹⁰

To give some context, in Canada, citizens can access the internet through ISPs like Telus, Rogers, and Bell. Europe has its own set of telecom operators. Some of which include Vodafone, Deutsche Telekom, AT&T, and Telefonica. These ISPs are all connected through the internet, however, they have their own subscribers and customers, leading to competition between businesses.

Various EU member states made provisions to instigate more stringent net neutrality laws prior to the EU-wide passing of regulations for an ‘open internet.’ The first country to enshrine the net neutrality concept into national law was Chile, followed by the Netherlands and later Finland and Slovenia.⁹¹ The European company, GSMA, stated that the tighter laws will hinder the development of innovative services along with consumer choice.

Before the concept of Net Neutrality, ISPs had the freedom to tussle with the internet to benefit their clients and themselves as a business. This compromises the principle of equal access to the internet. The following are the number of ways in which ISPs do this:

Firstly, ‘blocking’ is where access providers block the transition of certain data over the network.⁹² They may block to eliminate competition. An example occurred in April 2009 when Deutsche Telekom AG announced that it was considering preventing customers from using Skype on the iPhone because Skype can be used to call other users for free, thus competing with their own cellular services. Blocking can also be used when the provider believes that the content may be illegitimate, lacks credibility is inappropriate or potentially dangerous (sexual abuse, terrorism, etc).

Secondly, degradation is the slowing down of transmission of certain content, which compromises the quality of the content that is received, making it less desirable so that it doesn’t compete with the service provider’s own content.⁹³ An example of this is degrading streamed video content so

⁸⁹<https://www.lightreading.com/5g/bidens-telecom-platform-hardens-around-net-neutrality-universal-broadband-5g-funding/d/d-id/762415>

⁹⁰https://bereg.europa.eu/eng/open_internet/

⁹¹<https://globalvoices.org/2010/09/04/chile-first-country-to-legislate-net-neutrality/>

⁹²<https://www.wired.com/story/guide-net-neutrality/>

⁹³https://www.fraserinstitute.org/sites/default/files/Policy_Analysis_of_Net_Neutrality.pdf

that the quality cannot compete with the service providers on viewing services. Imagine (a hypothetical situation) that customers of Telus were trying to watch Netflix, and Telus made Netflix's quality worse so that users would revert to a better quality Telus Optik TV instead. If all ISPs did this, this would be an unfair competitive situation for companies like Netflix. Another motivation for degradation can be bandwidth management to avoid high traffic demands on their network. This would mean that certain applications that take up large amounts of data would appear to have worse quality in comparison to those that take up less.

Thirdly, prioritization is the opposite of degradation, where some traffic receives better treatment than other traffic.⁹⁴ For a hypothetical example, Netflix may pay ISPs to increase the quality of Netflix shows, which is unfair for its competitors.

Fourthly, access-tiering is where access providers offer content providers different quality of service at different prices.⁹⁵ The incentives in a world of access tiering would be to auction to the highest bidder the quality of service necessary to support video service and leave the rest insufficient bandwidth to compete. That may benefit established companies such as Youtube who can pay this premium while making it hard for new innovators to compete. This being the norm would disincentivize any kind of new innovations that would have to compete.

Lastly, access providers impose unreasonable restrictions on running certain applications and connecting certain equipment. For example, in a hypothetical situation, Shaw clients could have easy access to ShawTV equipment, but there were restrictions on Apple TV. This gives Apple an unfair disadvantage.

When ISPs have the free ability to follow through with the above instances, companies that would be disadvantaged begin to quickly lose clients, giving ISPs unfairly large amounts of power over the internet. Smaller businesses face a number of challenges, and may slowly deplete. Meanwhile, there is no incentive for new innovations, and at the top of the market, telecom operators will have less of a reason for innovation as well. In all, the freedom to tangle with access to the internet leaves consumers around the world limited to the services that can afford to strike deals with network operators.

In December 2008, IPS, Tele2 Italia, faced a €90 000 administrative fine from the Italian Competition and Markets Authority, because the telecom operator had restricted access to specific websites and applications, without informing its customers.⁹⁶ The Authority's decision was based on the rules of unfair commercial practice, which stated that the filtering was considered deceptive since the consumers had no knowledge of it. According to the Authority, such information is required for consumers in order to make an informed decision on whether to use Tele2 Italia in the first place.

Voice over Internet Protocol (VoIP) is technology that allows for phone calls made through the internet. These services are a competitive threat to ISPs because they enable practically free phone

⁹⁴<https://cdt.org/insights/paid-prioritization-we-have-solved-this-problem-before/>

⁹⁵https://www.fraserinstitute.org/sites/default/files/Policy_Analysis_of_Net_Neutrality.pdf

⁹⁶<https://www.dutchnews.nl/news/2019/12/dutch-markets-authority-fines-big-telcos-e13m-for-misleading-websites/>

calls to landlines at substantially reduced prices. In 2007, UK ISPs Vodafone and Orange removed the VoIP capability on all of their new cell phone models sold by them in the UK.⁹⁷

The above examples illustrate the fact that network operators can tend to interfere with the dataflow of the Internet for many reasons. They have the ability to use their power as gatekeepers over the internet for their own benefit, and so net neutrality is a reaction to the possible influence ISPs could exert on users.

Past Action

Key Initiatives and Regulations

In 2002, a regulator framework for electronic communications networks and services was crafted to consist of five directives surrounding internet access, authorization, universal service, framework, and a directive on privacy and electronic communications; these are referred to as “the Framework Directive and the Specific Directives.”⁹⁸ In November 2007, the European Commission consulted updating the Framework Directive and Specific Directives, examining the possible need for new laws mandating network neutrality to counter any potential damage caused by non-neutral broadband access (broadband access is high-speed internet access that is always on and fast).⁹⁹ According to the European Commission, prioritization is generally considered to benefit the market as long as users can choose to access the services that they want. Consequently, EU legislation has allowed operators to offer different services to different groups, without those in dominant positions being allowed to discriminate in an anti-competitive manner.

That being said, the European Commission also highlighted that the current European legal framework can not effectively prevent ISPs from degrading customer services. The Commission soon proposed that a minimum quality of service requirements should be imposed. Network operators were also obliged to be transparent when setting up restrictions on end-users in that same proposition. This paved the way for the “Telecoms Package” in December 2009, and member states were required to implement this directive by May 2011. As claimed by the European Commission, the Telecoms Package’s new transparency requirements mean that, even before signing a contract, consumers will be informed about the service they are subscribing to; this includes traffic management techniques, service quality, and any additional limitations (such as bandwidth caps or available connection speed).

The EU Commission’s 2013 proposal was quickly voted on, adopting a mandate to negotiate in March 2015 with the council. The Digital Single Market Strategy was adopted by the Commission on May 6. Following 18 months of negotiations, the European Commission, Council and Parliament reached agreements ending roaming charges and creating the first EU-wide rules on net neutrality by June 2015. This regulation sets the framework that ensures net neutrality for the entire European Union. That being said, the regulation’s text has been criticized to offer loopholes, undermining the regulation’s effectiveness.

⁹⁷https://ec.europa.eu/commission/presscorner/detail/en/MEMO_05_46

⁹⁸<https://www.consilium.europa.eu/media/23922/171011-telecom-cocuncil-mandate.pdf>

⁹⁹ <https://ec.europa.eu/digital-single-market/>

BEREC¹⁰⁰

The European Parliament and the European Council established the Body of European Regulators for Electronic Communications (BEREC) in January 2010. The main purpose of BEREC is to promote cooperation between national regulatory authorities (NRAs are those with the power to enforce regulations in Europe) to ensure a consistent application of the EU regulatory framework in regards to electronic communications. BEREC brings together all NRAs and has used their knowledge, experience, and technical expertise to come to agreements on net neutrality throughout the past two decades.

In order to consistently contribute to the application of the Open Internet Regulation (a rule enabling consumers the right to access and distribute content and services of their choice via the internet), BEREC is obliged to issue guidelines for implementing the NRAs obligations under the Regulation. This means that BEREC is responsible for supervising the ‘rule makers’ regarding net neutrality, making sure that they follow through with decisions in the interest of the EU’s priorities, and not be influenced in their decision-making.

Current Situation

Currently, the EU-wide ‘open internet’ has been effective, and most countries are content with the roll out of regulations. However, there are loopholes within the EU regulations that create a confusing patchwork of interpretations for member states over whether ‘zero-rating’ violates net neutrality. Zero-rating is a practice in which mobile networks do not charge for data used on certain applications or services. There are many different telecoms for each nation, and some that are spread all over Europe; France uses four, while the UK uses a selection of 50.¹⁰¹ The matter is that these telecom’s CEOs have serious weight in legislative issues, meaning that telecommunications will lobby lawmakers, and manipulate these loopholes to take advantage of the ‘grey area’ in regulations. In sum, telecom companies can be very powerful.

As of 2019, the European net neutrality debate was reopened, embracing a new challenge: how to deal with 5G. The argument is whether 5G will be treated the same as current 4G and additional internet services under net neutrality laws, or will this major technological advancement get special treatment.

What is 5G?

5G is the fifth generation mobile wireless communications which has the ability to move more data 10-20 times faster than 4G (4G LTE is what most of the world uses to go online on devices currently). It promises greater stability, increased system capacity, lower latency (slowness, delay), and the ability to connect to many more devices at once. Essentially, 5G is a better quality internet; it’s smarter, faster, and more efficient internet, promising data speeds up to 100 gigabits per second (a lot of data). 5G has the potential to “supercharge businesses,”¹⁰² as well people could download Netflix in a matter of seconds. Another major upgrade is that 5G towers are basically the size of a

¹⁰⁰https://berec.europa.eu/eng/news_and_publications/whats_new/3958-berec-launches-net-neutrality-guidelines

¹⁰¹ https://etno.eu/datas/ETNO%20Documents/Facts%20%20Figures_final.pdf

¹⁰²<https://www.google.com/url?q=https://thenextweb.com/eu/2019/02/28/5g-is-a-threat-to-europes-absolute-net-neutrality/&sa=D&ust=1600395455954000&usg=AFQjCNFJsEcGhjlwfl3pHMO5rpo-Bxd29Q>

mini-fridge (significantly smaller than current cell towers), so towers will be easy to infiltrate through urban areas.

This opens up an exciting door in the world of innovation, as 5G allows for increased quality in vital areas like medical procedures and self-driving cars. This is because 5G technology enables something called “‘network slicing’ which is the ability to segment radio waves into separate segments where each one has a different characteristic and separate from the rest.”¹⁰³ For instance, an autonomous (self-driving) car may use two slices, one for receiving reliable information allowing passengers a safe drive home, while the other can be used for en-route entertainment like watching Youtube while the car is driving. Having so much data being transmitted so incredibly fast would open up doors to innovation that could majorly advance society. Individuals could watch a sports game or concert *live* from the comfort of their home through Virtual Reality (VR) and feel like they are right there. Or, medical professionals could virtually perform a surgery on a hospital patient from their computer at home, because the 5G connection to the machines in the hospital room is instant. In all, 5G is, without a doubt, the future of the world.

5G and Net Neutrality

However, according to net neutrality laws, 5G ‘segmentation’ is being heavily debated, because slicing is contrary to “‘everyone being treated equally without differentiating traffic on the basis of speed, cost, latency etc.”¹⁰⁴ In order to sell separate slices, 5G would expectedly need to be classified as ‘specialized services’ under EU law, and these services are exempt from net neutrality. Basically, specialized services are ‘something other than the internet,’ often using the same protocols and infrastructure as internet-connected devices, although they are separate from the open internet. The overall issue over how the implementation of 5G will affect net neutrality laws. However, this doesn’t mean there won’t be a European-level battle to save net neutrality. Regulators have begun working to enforce net neutrality in regards to 5G and are hoping to have a draft set for implementation in March 2020. This year will be incredibly busy for net neutrality in Europe; the outcome of regulators’ decisions could have broad-reaching consequences on both sides of the debate.

Net neutrality prevents ISPs from blocking and slowing down specific online content or charging differently for specific uses. This means that net neutrality prevents the segmentation of the internet which protects its openness and global unity. As mentioned throughout this backgrounder, this is a very positive principle. However, given that one of 5G’s features is the ability to ‘slice’, net neutrality laws are capable of hindering innovations that use network slicing.

Opposing Arguments

Put simply, ISPs are wanting to exempt 5G from net neutrality. They are expected to argue for adjusting net neutrality laws and enforcement in order to fully utilize 5G’s network slicing. Telecoms are extremely eager about the possibilities of network slicing because it would allow them to sell more specialized packages rather than their current ‘one-size-fits-all sales models.’ This would mean that Telecoms could specify whether a customer could get extremely low latency or ultra-high-bandwidth communication. They will likely try to pressure EU regulators to treat 5G as specialized services during the review of the EU’s net neutrality law, arguing that this would benefit everyone while helping with the adoption of 5G; NGOs and activists will argue against this.

¹⁰³<https://thenextweb.com/eu/2019/02/28/5g-is-a-threat-to-europes-absolute-net-neutrality/#:~:text=The%20reason%20why%20people%20are,and%20separate%20from%20the%20rest.>

¹⁰⁴<https://www.ericsson.com/en/public-policy-and-government-affairs/net-neutrality>

Contrastingly, according to Thomas Lohninger, an executive digital rights activist, “the existing net neutrality laws can perfectly accommodate 5G and shouldn’t be changed to appease the telecom industry [...] specialized services is the biggest weak point [that Europe] has right now. Weakening that would allow 5G to basically circumvent net neutrality completely.”¹⁰⁵ Lohninger concludes that 5G is appearing to become the standard for all communication and browsing, which is “why it’s so important to adapt 5G to net neutrality, and not the other way around.” Activists argue that phones update on a yearly basis for the most part, and technological advancements are seen constantly; they regard 5G as no different.

For the European Union, the end goal is to define the most possible application of 5G network slicing while determining the approach of monitoring providing services via 5G network slicing to guarantee service quality and compliance with net neutrality laws.

BEREC

Earlier this year, special attention was paid to the role of national regulatory authorities in shaping the development of digital connectivity for all. This has been extremely relevant throughout the COVID-19 pandemic, as connectivity, and a globally open internet has played a pinnacle role in enabling people to work, shop and school from home during lockdown. BEREC also approved of the telecom industry’s ability to ensure sufficient coverage and capacity, keeping people connected. As well as proactive measures that some took in order to increase end-user data allowances, zero-rating, traffic to educational websites and working with clients to find financial solutions for those in difficulty.

BEREC continues to play a role in ensuring the consistent application of provisions of the New European Electronic Communications Code. This regulation comes into effect in December 2020, containing several pro-investment measures, encouraging investment in business opportunities. BEREC has been diligently working on how provisions should operate in practice; this will assist NRAs, providing regulatory certainty to industry players.

Possible Solutions

Network Segmentation Restrictions

One potential solution may be to place strict restrictions on network segmentation (slicing). This would allow for BEREC and the EU to select certain fields of study and aspects of society to reap the benefits of 5G slicing. Meanwhile, having very stringent restrictions in place would limit ISPs’ ability to manipulate loopholes in net neutrality laws, as there would only be a handful of subjects that could be segmented. For instance, member states may decide that areas such as the medical field could be given increased data quality slices to ensure the most efficient internet for essential areas of society, whereas the gaming industry may not be allowed slicing. Although this may stifle innovation in areas of less importance like video games or television, ISPs would have much less room to get away with net neutrality violations. This could easily become a challenging process deciding which services and industries should be considered ‘essential’ enough to be offered slices; should innovations like autonomous vehicles be considered worthy of segmentation; where is the line drawn?

ISP Supervision

¹⁰⁵<https://thenextweb.com/eu/2019/02/28/5g-is-a-threat-to-europes-absolute-net-neutrality/>

A second possible solution would be to increase ISP net neutrality violation supervision drastically. This would mean that the EU would have to work to create a system that effectively supervises each ISP and their actions, to ensure that net neutrality violations do not take place. This could look like a system that requires constant reports on every 'slice' offered on a weekly, bi-weekly, or monthly, etc basis (the time frame is up to the EU committee to decide what is reasonable). If increased supervision were to be implemented, the EU would have to decide upon who chooses supervisors (Will they be biased? Will there be enough? Who will supply supervisors?), or whether it would be a relatively fool-proof system that could measure and account for ISP slices. The objective of this solution is to essentially discourage ISPs from violating net neutrality laws and making segmentation deals because they're actions will have to be completely transparent and constantly monitored, and thus will result in proper consequences because violations will be caught.

Bloc Positions

Net Neutrality Takes Precedence

Countries like the Netherlands and Slovenia have shown consistent efforts in exceeding net neutrality goals starting in the early 2000s. Countries in this bloc have taken strides to strengthen net neutrality laws on a national level and firmly believe in the principle of net neutrality. Despite having little to no help from the European Commission, the efforts for a net neutral internet has not gone unnoticed. This bloc puts a lot of time and energy into ensuring that net neutrality is permanently important for the European Union. These countries are inclined to prioritize any solution that ensures the strict safety of net neutrality, and thus limits ISPs' ability to prioritize certain businesses over others. This bloc still recognizes the importance of using 5G slicing to advance society, however not at the cost of net neutrality values.

Promoting Network Segmentation

The second bloc allows for a lot of leniency network slicing restrictions. Countries in this bloc prioritize the benefits of 5G segmentation and give ISPs as much free reign as possible. This bloc typically may be built up of two different kinds of countries. The first country type may have resisted net neutrality laws in the past, and are still reluctant to pass any legislation that isn't required for the entirety of the European Union. The second, and the more common, are countries whose governments are heavily influenced by the ISPs in their nation. This means that the ISPs operating within the nation may have a lot of power, may have a history of lobbying national legislators, and may have major impacts on the country's economy. This bloc seeks solutions that keep the principle net neutrality while prioritizing network slicing to be accessible for all industries, resulting in very large and obvious loopholes to exist for ISPs to manipulate.

Sources Cited

“5G: Transforming Tomorrow with the Power of Data.” *RoboGlobal Insights*, 25 Mar. 2019, insights.roboglobal.com/5g-transforming-tomorrow.

Adams, Stan. “Paid Prioritization: We Have Solved This Problem Before.” *Center for Democracy and Technology*, 24 Apr. 2018, cdt.org/insights/paid-prioritization-we-have-solved-this-problem-before/.

“Agreement on EU Telecoms Reform Paves Way for Stronger Consumer Rights, an Open Internet, a Single European Telecoms Market and High-Speed Internet Connections for All Citizens.” *European Commission*, 5 Nov. 2009, ec.europa.eu/commission/presscorner/detail/en/MEMO_09_491.

“BEREC Office.” *BEREC*, 2015, berec.europa.eu/eng/about_berec/tasks/work_on_berec_guidelines_eecc/.

“BEREC Office.” *BEREC*, 2015, berec.europa.eu/eng/open_internet/.

“BEREC Office.” *BEREC*, 2016, berec.europa.eu/eng/document_register/subject_matter/berec/regulatory_best_practices/guidelines/6160-berec-guidelines-on-the-implementation-by-national-regulators-of-european-net-neutrality-rules.

“BEREC Office.” *BEREC*, 8 July 2020, berec.europa.eu/eng/news_and_publications/whats_new/7436-cooperation-between-stakeholders-the-key-principle-to-drive-the-development-of-the-digital-sphere-says-berec-chair-at-the-gsr-20-discussion.

Brandom, Russell. “New FCC Report Says AT&T and Verizon Zero-Rating Violates Net Neutrality.” *The Verge*, The Verge, 11 Jan. 2017, www.theverge.com/2017/1/11/14243196/fcc-zero-rating-report-net-neutrality-att-verizon-t-mobile.

Briglauer, Wolfgang. “Special Issue on ‘Recent Net Neutrality Policies in Europe and the US.’” *De Gruyter*, De Gruyter, 25 Sept. 2018, www.degruyter.com/view/journals/rne/17/3/article-p109.xml?language=en.

Dano, Mike. “Biden's Telecom Platform Hardens around Net Neutrality, Universal Broadband, 5G Funding.” *Light Reading*, 14 July 2020, www.lightreading.com/5g/bidens-telecom-platform-hardens-around-net-neutrality-universal-broadband-5g-funding/d/d-id/762415.

“Directive 2009/136/EC of the European Parliament and of the Council.” *Legislation.gov.uk*, 25 Nov. 2009, www.legislation.gov.uk/eudr/2009/136/introduction/data.xht?view=snippet.

“The European Commission's Approach to Voice over IP: Frequently Asked Questions.” *European Commission*, 11 Feb. 2005, ec.europa.eu/commission/presscorner/detail/en/MEMO_05_46.

Feldman, Brian. “Without Net Neutrality, What Happens to My Netflix?” *Intelligencer*, Intelligencer, 21 Nov. 2017, nymag.com/intelligencer/2017/11/what-happens-to-netflix-when-net-neutrality-is-gone.html.

Feldman, Brian. "Without Net Neutrality, What Happens to My Netflix?" *Intelligencer*, Intelligencer, 21 Nov. 2017, nymag.com/intelligencer/2017/11/what-happens-to-netflix-when-net-neutrality-is-gone.html.

Finley, Klint. "Net Neutrality: Here's Everything You Need To Know." *Wired*, Conde Nast, 5 May 2020, www.wired.com/story/guide-net-neutrality/.

Fulton, Scott. "How 'Network Slicing' May Determine the Success or Failure of 5G Wireless." *ZDNet*, ZDNet, 12 Aug. 2019, www.zdnet.com/article/how-network-slicing-may-determine-the-success-or-failure-of-5g-wireless/.

Gadringer, Stefan. "Network Neutrality in the European Union: A Communications Policy Process Analysis." *Taylor & Francis Online*, 9 Apr. 2020, www.tandfonline.com/doi/full/10.1080/24701475.2020.1749807?scroll=top.

Globerman, Steven. "A Policy Analysis of Net Neutrality." Fraser Institute, June 2008.

"GSMA An Introduction to Network Slicing." GSMA, 2017.

Karr, Timothy. "Net Neutrality Violations: A Brief History." *Free Press*, 24 Jan. 2018, www.freepress.net/our-response/expert-analysis/explainers/net-neutrality-violations-brief-history.

Koziol, Micheal. "Full Page Reload." *IEEE Spectrum: Technology, Engineering, and Science News*, 7 Dec. 2017, spectrum.ieee.org/tech-talk/telecom/internet/countries-around-the-world-tackled-net-neutrality-in-different-ways.

Leprince-Ringuet, Daphne. "5G: Huawei Unveils New Infrastructure Products Aimed at Europe." *ZDNet*, ZDNet, 20 Feb. 2020, www.zdnet.com/article/5g-huawei-unveils-new-infrastructure-products-aimed-at-europe/.

Marrs, Bernard. "What Is 5G Technology And How Must Businesses Prepare For It?" *Forbes*, Forbes Magazine, 25 Oct. 2019, www.forbes.com/sites/bernardmarr/2019/10/25/what-is-5g-technology-and-how-must-businesses-prepare-for-it/.

Marsden, Christopher T. "A Brief History of Net Neutrality Law." *Manchesteropenhive*, Manchester University Press, 23 Feb. 2017, www.manchesteropenhive.com/view/9781526105479/9781526105479.00021.xml.

Massé, Estelle. "Internet Wins! Net Neutrality Solidified across the EU." *Access Now*, 16 June 2020, www.accessnow.org/internet-wins-net-neutrality-solidified-across-eu/.

Massé, Estelle. "The EU Parliament Adopts Ambiguous Net Neutrality Legislation." *Access Now*, 28 Oct. 2016, www.accessnow.org/the-eu-parliament-adopts-ambiguous-net-neutrality-legislation/.

"More than Smartphones: White Paper Shows How 5G Will Transform EU Manufacturing, Health, Energy, Automotive, Media & Entertainment Sectors." *Shaping Europe's Digital Future - European Commission*, 22 Feb. 2016, ec.europa.eu/digital-single-market/en/news/more-smartphones-white-paper-shows-how-5g-will-transform-eu-manufacturing-health-energy.

"Net Neutrality for an Open and Non Discriminatory Internet." *Ericsson.com*, 23 Oct. 2019, www.ericsson.com/en/public-policy-and-government-affairs/net-neutrality.

“Net Neutrality Law Adopted by European Parliament.” *BBC News*, BBC, 3 Apr. 2014, www.bbc.com/news/technology-26865869.

“Netherlands Makes Net Neutrality a Law.” *BBC News*, BBC, 23 June 2011, www.bbc.com/news/technology-13886440.

“Network Virtualization.” *Network Virtualization - an Overview / ScienceDirect Topics*, Science Direct, 2020, www.sciencedirect.com/topics/computer-science/network-virtualization.

“Neutralité De L'internet Et Des Réseaux : Propositions Et Orientations.” ARCEP, Sept. 2010.

“Omission Declaration on Net Neutrality.” 2009.

Reding, Viviane. “Internet of the Future: What Policies to Make It Happen?” *European Commission*, 11 May 2009, ec.europa.eu/commission/presscorner/detail/en/SPEECH_09_231.

Ruiz, Claudio. “Chile: First Country to Legislate Net Neutrality · Global Voices.” *Global Voices*, 4 Sept. 2010, globalvoices.org/2010/09/04/chile-first-country-to-legislate-net-neutrality/.

Sanduir. “Open Internet.” *Shaping Europe's Digital Future - European Commission*, 13 July 2020, ec.europa.eu/digital-single-market/en/open-internet-net-neutrality.

“The Single Market Strategy.” *Internal Market, Industry, Entrepreneurship and SMEs - European Commission*, 30 Aug. 2017, ec.europa.eu/growth/single-market/strategy_en.

Sproul, Gillian. “Net Neutrality: Body of European Regulators for Electronic Communications Publishes Final Report and New Consultations on Net Neutrality.” *Lexology*, 7 June 2012, www.lexology.com/library/detail.aspx?g=08b9a3f5-b753-4ecb-b6eb-5ca8d1f89358.

Su, Jeb. “Verizon Launches World's First Commercial 5G Smartphone Service.” *Forbes*, Forbes Magazine, 7 July 2019, www.forbes.com/sites/jeanbaptiste/2019/04/04/verizon-launches-worlds-first-commercial-5g-smartphone-service/.