



Rear Admiral Sinan Azmi Tosun, the Commander of the NATO's Counter Piracy Mission, Operation Ocean Shield (left), and his Chinese counterpart Rear Admiral Li Shihong meet at sea, in the Gulf of Aden, on the Turkish Frigate TCG Giresun.

Source: https://www.nato.int/cps/en/natolive/news_83585.htm?selectedLocale=en

Partnership, Not Pivot: NATO's Legal Answer to the China Question¹

by Lauren Brown²

The idea of innovation often conjures images of new capabilities, wrested from the realm of science fiction by dedicated visionaries and impressive advances in technology. However, such an understanding ignores one of innovation's most powerful potential for organizations: a critical agility in strategy and operations. Such innovation, or reinvention, in product, purpose, or strategy, is a common practice in the private sector, allowing brands and businesses to adjust to their evolving realities. Too often such

¹ The views expressed in this article are solely those of the author and may not necessarily represent the views of NATO, ACO or ACT.

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flexibility in strategy is absent in the realm of international organizations, however. Whether hindered by bureaucracy or constrained by their own founding charter's limited scope, international organizations may be slow to adjust their global strategies. The North Atlantic Treaty Organization (NATO) is guilty of the same unhelpful adherence to the way things were. As a result, the Organization is falling behind in addressing the multipolar reality that has defined the geopolitical landscape since the early twenty-first century. This multipolar world features as primary influencers the United States, the Russian Federation, and the People's Republic of China. And it requires NATO to undertake innovation in its strategy; in particular, to broaden its partnership initiatives formally to include China. Accepting the premise that partnership is preferable to an adversarial or ill-defined relationship, the question becomes twofold: First, can an organization established to "promote stability and well-being in the North Atlantic area"³ engage effectively, while operating within its own legal framework, with the issues posed by the evolving global reality? Second, what would be the most effective partnership model within this legal framework?

This essay addresses these questions, exploring both the written and practiced NATO legal framework, and proposing three possible approaches to NATO's relationship with China. The first section discusses the purpose of NATO as evinced through the historical context of its creation. This section traces the evolution of the purpose of NATO and the implications of this evolution for the scope of NATO operations and partnerships, as such activities and relationships are prescribed by the Organization's founding document, the North Atlantic Treaty. The second section examines the legal framework in which NATO undertakes partnerships. Examined are the different structural mechanisms through which NATO establishes, and maintains, regional and bilateral partnerships. The third section discusses five potential models for partnerships with China. Based on the NATO legal framework and NATO practice, the models include: maintaining the Alliance's existing relationship with China; inviting China to form a formal bilateral partnership as part of the Partners Across the Globe framework; forming an organizational partnership with the Shanghai Cooperation Organization (SCO); creating an East Asia Partnership Group; and pursuing a non-relationship. The essay's fourth section concludes that the text of the North Atlantic Treaty and NATO practice provide the flexible partnership legal

³ North Atlantic Treaty Preamble, Apr. 4, 1949, 63 Stat. 2241, 34 U.N.T.S. 243.

framework in which the strategic innovation of a formal partnership with China can occur. It further argues that regardless of the mechanism of partnership, a formal partnership with China is necessary for NATO to remain relevant in a changing global reality.

I. Historical Context

Before undertaking an analysis of the NATO partnership framework, it is helpful to briefly describe the historical geopolitical context in which NATO and its legal infrastructure arose, as well as the evolving reality in which they continue to operate today.

A. Cold War

NATO is often understood as the Western foil to the Soviet bloc, born as a military and political counterbalance to Soviet power. This characterization is partially correct; however, the Alliance's creation also served to facilitate continental peace by promoting European political integration and stifling potential returns to the nationalist militarism that had plagued, and, in two world wars ravaged, Europe.⁴ The North Atlantic Treaty was signed on 4 April of 1949, the same year the Soviet Union would become an atomic power.⁵ Soviet nuclear capabilities, along with the outbreak of the Korean War in 1950, instilled an urgency in the Alliance. Early NATO leaders, including General Dwight D. Eisenhower and Lord Hastings Lionel Ismay, implemented the consolidated military command structure that defines the Organization to this day.⁶ With the formation of the Warsaw Pact in 1955 and the construction of the Berlin Wall in 1961, NATO did, indeed, serve as the primary organizational antithesis to the Soviet Union and its expansionist ambitions. The Organization would remain in such a posture until, and arguably beyond, the fall of the Soviet Union in 1991.⁷

B. Post-Soviet Union

The collapse of the Soviet Union ushered in a new global reality. Similarly, NATO's purpose and function had to evolve in the wake of the apparent erasure of its greatest existential threat. Although the collapse of

⁴ *A Short History of NATO*, NORTH ATLANTIC TREATY ORGANIZATION, available at https://www.nato.int/cps/en/natohq/declassified_139339.htm.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

the Soviet Union and the Warsaw Pact could have marked the end of NATO, there was no real indication within the Organization or amongst its Members that the experiment was over.⁸ The end of the Soviet Union did not mean the end of threats to North Atlantic interests, and the Alliance shifted its attention from a consolidated adversary to a broader range of threats. During the 1990s, NATO's objective was "to demonstrate that it could project to the East the type of stability and security which hitherto only NATO members in the West have been able to enjoy."⁹ This evolution in purpose and policy saw NATO engage with the post-Cold War world through expanded partnerships and out-of-area operations, including involvement with the conflict in the Balkans and Afghanistan.¹⁰

It is this more global-oriented NATO that must consider the question of a formal relationship with China. In recent years, China has drastically expanded its international influence. Indeed, some observers have even been prompted to forecast China's replacement of the United States as the world's dominant power.¹¹ From its Belt and Road Initiative¹² to its investment in foreign economies to its development of information technologies and cyber capabilities,¹³ China's global initiatives are ambitious but not without controversy.

In early 2019, in a move largely viewed to be in direct response to a significant increase in Chinese investment in European Union Member States, the European Parliament voted overwhelmingly to increase scrutiny of foreign investments.¹⁴ Additionally, security concerns surrounding Huawei, a telecommunications firm long suspected of having close ties to the Chinese government, and its bids to build several countries' 5G networks have led the United States to declare there is "no safe level" of interaction with the

⁸ Jamie Shea, *How did NATO Survive the Cold War? NATO's Transformation After the Cold War from 1989 to the Present*, NORTH ATLANTIC TREATY ORGANIZATION, Nov. 6, 2003, available at https://www.nato.int/cps/en/natohq/opinions_20526.htm?selectedLocale=en.

⁹ *Id.*

¹⁰ *Id.*

¹¹ G. John Ikenberry, *The Rise of China and the Future of the West*, FOREIGN AFFAIRS, Jan./Feb. 2008, available at <https://www.foreignaffairs.com/articles/asia/2008-01-01/rise-china-and-future-west>.

¹² Andreea Brinza, *Redefining the Belt and Road Initiative*, THE DIPLOMAT, Mar. 20, 2018, available at <https://thediplomat.com/2018/03/redefining-the-belt-and-road-initiative/>.

¹³ See Sarah Cook, *Tech Firms Are Boosting China's Cyber Power*, THE DIPLOMAT, Sept. 25, 2018, available at <https://thediplomat.com/2018/09/tech-firms-are-boosting-chinas-cyber-power/>.

¹⁴ *With Eyes on China, EU Lawmakers Back Investment Screening*, REUTERS, Feb. 14, 2019, available at <https://www.reuters.com/article/us-eu-china-investment/with-eyes-on-china-eu-lawmakers-back-investment-screening-idUSKCN1Q31JU>.

company and to warn of re-evaluations of intelligence sharing relationships with countries that do allow Huawei to implement their 5G networks.¹⁵ The controversy also resulted in the sacking of a British Cabinet Minister after he allegedly leaked information indicating the United Kingdom intended to work with Huawei on its telecommunication infrastructure.¹⁶

Accordingly, NATO's broader strategy of maintaining peace and security through a more expansive approach to global engagement is incomplete without a mechanism for addressing China. Such an initiative, including a potential formal partnership with China, is made possible through the proven flexibility of NATO's legal framework.

II. NATO's Legal Framework

Although partnerships with nations outside the North Atlantic Area are a well-established NATO practice, it is important to understand the legal framework underlying these initiatives. This discussion briefly surveys the basic legal framework in which partnerships occur, including the foundation in the North Atlantic Treaty and the specific partnership programs run by the Alliance.

A. The North Atlantic Treaty

In any examination of an international organization's legal framework, it is useful to begin with the group's founding documents, which indicate not only the principles on which the organization was founded but also provide insight into the envisioned legal scope and operational footprint of the organization. Accordingly, this analysis of the NATO legal framework opens with a brief discussion of the articles of the North Atlantic Treaty relevant to this essay's proposal to expand partnerships to include China.

1. Article 4

Article 4 of the North Atlantic Treaty grants NATO significant flexibility in its structure and operations. The relatively brief text states: "The Parties will consult together whenever, in the opinion of any of them, the territorial integrity, political independence or security of any of the Parties is

¹⁵ *Huawei: US Official Warns 'No Safe Level' of Involvement with Tech Giant*, BBC NEWS, Apr. 29, 2019, available at <https://www.bbc.com/news/uk-48098362>.

¹⁶ *Larry Elliott, The Huawei Incident Points to a Deeper Lesson for Britain*, THE GUARDIAN, May 5, 2019, available at <https://www.theguardian.com/technology/2019/may/05/the-huawei-incident-points-to-a-deeper-lesson-for-great-britain>.

threatened.”¹⁷ Because all NATO decisions are made by consensus, the consultation described in Article 4 is a critical part of the Organization's decision-making process.¹⁸

Considering China's geopolitical role as one of the major powers within the existing global regime, its domestic policies often cited as contrary to Western democratic values, and its intricate economic interactions with NATO Allies, any decision to bring the nation into a formal partnership with the Alliance would likely come from Article 4 consultation. The breadth of the language of the Article likely would also address any concerns regarding NATO's strategic expansion beyond its prescribed geographic scope of the North Atlantic Area.¹⁹ As global realities change, Article 4 provides the Organization the flexibility to evolve and remain relevant while operating within its established legal framework.

2. Article 12

Article 12 of the North Atlantic Treaty serves the same underlying flexibility as discussed with Article 4. The Article states:

After the Treaty has been in force for ten years, or at any time thereafter, the Parties shall, if any of them so requests, consult together for the purpose of reviewing the Treaty, having regard for the factors then affecting peace and security in the North Atlantic area, including the development of universal as well as regional arrangements under the Charter of the United Nations for the maintenance of international peace and security.²⁰

This language indicates the importance of consultation amongst the Member States regarding, as stated in the article itself, “the factors then affecting peace and security in the North Atlantic area.”²¹ Indeed, at this point in time, well after the ten-year trigger point for Article 12, the only apparent limitation on the development of “universal” or “regional” arrangements²² by the Alliance is that such efforts must take place in accordance with the Charter of the United Nations and be “for the

¹⁷ North Atlantic Treaty art. 4, Apr. 4, 1949, 63 Stat. 2241, 34 U.N.T.S. 243.

¹⁸ *The Consultation Process and Article 4*, NORTH ATLANTIC TREATY ORGANIZATION, Mar. 17, 2016, available at https://www.nato.int/cps/en/natolive/topics_49187.htm.

¹⁹ North Atlantic Treaty art. 12, Apr. 4, 1949, 63 Stat. 2241, 34 U.N.T.S. 243.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

maintenance of international peace and security.”²³

As with Article 4, China’s complex and extensive interactions with institutions and states in the “North Atlantic area” – even within that narrowest definition of that problematic term²⁴ – likely allows consultations regarding Alliance policy and strategy in addressing China and its global influence. The language of Article 12 is arguably broader than that of Article 4 as it appears to contemplate factors outside the North Atlantic Treaty’s prescribed regional focus that have an impact within the North Atlantic Area. Accordingly, the drafters carefully crafted an Alliance in which the Member States could adapt the strategy and operations that are necessary to address an evolving geopolitical reality, including a potential formal partnership with China.



Source: <https://natolibguides.info/partnerships>

B. Partnership Models

Having established the articles in the North Atlantic Treaty that allow for formal partnerships with states outside the Alliance, it is important to understand the way in which current formal NATO partnerships programs function. NATO cooperates with more than forty countries through a combination of regional and bilateral partnerships.²⁵ The majority of these partnerships operate through a regional framework; however, as the international geopolitical landscape continues to shift and evolve, the Alliance does engage in formal and, at times, more informal bilateral partnerships. It is necessary to briefly discuss these partnership frameworks to

²³ *Id.*

²⁴ See *The North Atlantic Treaty Organization (NATO) In Transition*, ASSOCIATION OF THE UNITED STATES ARMY: AUSA BACKGROUND BRIEF, No. 60, Jan. 1994.

²⁵ *Partners*, NORTH ATLANTIC TREATY ORGANIZATION, Nov. 11, 2015, available at <https://www.nato.int/cps/en/natolive/51288.htm>.

better understand how China best could be brought into a formal partnership with the Alliance.

1. Partnership for Peace Programme

Begun in 1994, the Partnership for Peace Programme (PfP) works to develop bilateral relations between PfP participants and NATO. The partnership framework allows the individual relationships to consider issues and cooperation based on priorities unique to the particular bilateral reality.²⁶ Twenty-one countries belong to the PfP Programme, including Armenia, Austria, Azerbaijan, Belarus, Bosnia and Herzegovina, Finland, Georgia, Ireland, Kazakhstan, Kyrgyz Republic, Malta, Republic of Moldova, North Macedonia, Russia,²⁷ Serbia, Sweden, Switzerland, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.²⁸ In 2011, the Alliance opened “all PfP activities and exercises” to all NATO partners, regardless of the specific partnership regime under which the partner nation cooperates with NATO.²⁹

The Partnership for Peace: Framework Document, which established the PfP Programme, states that by entering into the partnership, the subscribing states and NATO Member States “recall that they are committed to the preservation of democratic societies, their freedom from coercion and intimidation, and the maintenance of the principles of international law.”³⁰ This language appears to indicate the underlying concept of shared ideals amongst NATO Member States and PfP participants. Such democratic ideology could place limits on any initiatives aimed at expanding the PfP Programme to include China, given that the practices of this state appear not to have embraced democratic values – the regime has loosened, but remains Communist.³¹ Accordingly, although PfP exercises have been opened to all partner nations, and although additional PfP membership seems possible upon invitation,³² the legal framework under which the PfP

²⁶ *Partnership for Peace Programme*, NORTH ATLANTIC TREATY ORGANIZATION, Jun. 7, 2017, available at https://www.nato.int/cps/en/natohq/topics_50349.htm.

²⁷ Relations with Russia through the PfP Programme have been suspended since 2014 in response to Russian actions in Ukraine. See *Relations with Russia*, NORTH ATLANTIC TREATY ORGANIZATION, Feb. 4, 2019, available at https://www.nato.int/cps/ra/natohq/topics_50090.htm.

²⁸ *Partners*, *supra* note 23.

²⁹ *Partnership for Peace Programme*, *supra* note 24.

³⁰ North Atlantic Treaty Organization, *Partnership for Peace: Framework Document*, 1994.

³¹ See Kenneth Rapoza, *Communist China is Now the Leader of the ‘Free Trade’ World*, FORBES, Jan. 24, 2017, available at <https://www.forbes.com/sites/kenrapoza/2017/01/24/communist-china-is-now-the-leader-of-the-free-trade-world/#4b2ed4c121e0>.

³² North Atlantic Treaty Organization, *Agreement Among the States Parties to the North Atlantic Treaty and the*

Programme was established, even if expanded, is unlikely to comfortably include China.

2. Euro-Atlantic Partnership Council

Established in 1997, the Euro-Atlantic Partnership Council (EAPC) operates as a “multilateral forum for dialogue and consultation on political and security-related issues among Allies and partner countries.”³³ The EAPC consists of all NATO Member States, plus the 21 partner countries under the PfP Programme.³⁴ The Council meets monthly at the ambassador level and annually at the ministerial level.³⁵

The EAPC facilitates cooperation on myriad matters through its Euro-Partnership Work Programme, including crisis-management and peace-support operations, arms control, international terrorism, and border security.³⁶ The Council is intended to provide the “overall political framework for NATO’s cooperation with partner countries in the Euro-Atlantic area, and for the bilateral relationships developed between NATO and individual partner countries under the Partnership for Peace (PfP) programme.”³⁷ Despite having members whose geography extends the EAPC well into Central Asia, the regional nature of the Council would likely make it a poor fit for any formal inclusion of China.

3. Mediterranean Dialogue

In 1994, the North Atlantic Council established the Mediterranean Dialogue.³⁸ Designed as a “forum for political consultations and practical cooperation,”³⁹ the Dialogue’s structure features both bilateral and multilateral components.⁴⁰ Currently, it includes Algeria, Egypt, Israel, Jordan,

Other States Participating in the Partnership for Peace Regarding the Status of Their Forces, art. 5(3), Jun. 19, 1995.

³³ *Euro-Atlantic Partnership Council*, NORTH ATLANTIC TREATY ORGANIZATION, Jun. 9, 2017, available at https://www.nato.int/cps/en/natohq/topics_49276.htm .

³⁴ *Partners*, *supra* note 23. North Macedonia is set to become the 30th NATO Member State upon formal ratification.

³⁵ *Euro-Atlantic Partnership Council*, *supra* note 31.

³⁶ *Id.*

³⁷ *Id.*

³⁸ *NATO Mediterranean Dialogue*, NORTH ATLANTIC TREATY ORGANIZATION, Feb. 13, 2015, available at https://www.nato.int/cps/en/natohq/topics_60021.htm .

³⁹ *Questions & Answers: NATO’s Mediterranean Dialogue & Istanbul Cooperation Initiative*, NORTH ATLANTIC TREATY ORGANIZATION, Feb. 9, 2012, available at https://www.nato.int/cps/en/natohq/topics_59419.htm .

⁴⁰ *Id.*

Mauritania, Morocco, and Tunisia;⁴¹ however, it is formally open, as are most of NATO's regional partnership frameworks, to countries in the region or "directly involved" in regionally related processes.⁴² Similar to the EAPC, despite some geographic flexibility in the framework, the regional focus of the Mediterranean Dialogue likely makes it a less desirable option for Chinese partnership.

4. Istanbul Cooperation Initiative

Established in 2004 at the NATO Summit in Istanbul, the Istanbul Cooperation Initiative (ICI) seeks to "contribute to long-term global and regional security by offering countries of the broader Middle East region practical bilateral security cooperation with NATO."⁴³ The ICI is composed of four countries, including Bahrain, Kuwait, Qatar, and United Arab Emirates, with both Saudi Arabia and Oman having expressed interest in joining.⁴⁴ Membership in the Initiative is officially "open to all interested countries of the broader Middle East region who subscribe to its aims and content, including the fight against terrorism and the proliferation of weapons of mass destruction."⁴⁵ However, the North Atlantic Council evaluates applicants on a case-by-case basis, emphasizing the applicant nation's indicated interest in cooperation with NATO, particularly regarding fighting terrorism and the proliferation of weapons of mass destruction.⁴⁶

Although China has extensive interests in the Middle East,⁴⁷ the ICI's underlying purpose does not appear to best address shared points of interest between NATO and China.

5. Partners Across the Globe

Not all NATO partnerships operate within a regional framework. To address a complex, globalized world, the Alliance cooperates bilaterally with individual states designated as Partners Across the Globe.⁴⁸ These countries

⁴¹ *Partners*, *supra* note 16.

⁴² *Questions & Answers*, *supra* note 37.

⁴³ *Istanbul Cooperation Initiative (ICI)*, NORTH ATLANTIC TREATY ORGANIZATION, Nov. 18, 2011, available at https://www.nato.int/cps/en/natohq/topics_58787.htm .

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.* and *Questions & Answers*, *supra* note 37.

⁴⁷ See Nicholas Lyall, *China's Rise in the Middle East: Beyond Economics*, THE DIPLOMAT, Feb. 25, 2019, available at <https://thediplomat.com/2019/02/chinas-rise-in-the-middle-east-beyond-economics/> .

⁴⁸ *Relations with Partners Across the Globe*, NORTH ATLANTIC TREATY ORGANIZATION, May 19, 2017, available at https://www.nato.int/cps/en/natohq/topics_49188.htm .

include Afghanistan, Australia, Colombia, Iraq, Japan, the Republic of Korea, Mongolia, New Zealand, and Pakistan.⁴⁹ An emphasis on the importance of cooperation with nations around the world underlies the Partners Across the Globe effort.⁵⁰ The 2010 Strategic Concept reiterated this idea, and further pushed NATO to revise its partnership policy as a means to engage better with global partners.⁵¹ Global partners are able to participate in all NATO activities and operations open to partner states, and they can tailor their relationship with NATO through Individual Partnership Action Plans.⁵²

The two primary strengths of this model are the lack of geographic specificity and the flexibility to tailor the terms of the relationship. The framework allows such flexibility while also maintaining the formality of an actual bilateral commitment. Such a structure makes the Partners Across the Globe initiative among the more relevant existing frameworks for a potential formal Chinese partnership.

6. Individual Partnership Action Plans

Individual Partnership Action Plans (IPAPs) work “to bring together all the various cooperation mechanisms through which a partner country interacts with the Alliance, sharpening the focus of activities to better support their domestic reform efforts.”⁵³ The only real eligibility requirement to participate in an IPAP is that the non-Member country in question has “the political will and ability to deepen their relationship with NATO.”⁵⁴ The IPAP establishes objectives and priorities of the partnership, allowing NATO to provide more focused advice regarding “defence and security-related domestic reform and, when appropriate, on larger policy and institutional reform.”⁵⁵

Although a helpful tool in establishing a constructive partnership, the dynamics involved in practice—namely, the Alliance’s provision of advice and resources—do not seem to be relevant to China’s domestic military, political, and economic realities.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Individual Partnership Action Plans*, NORTH ATLANTIC TREATY ORGANIZATION, Jun. 9, 2017, available at https://www.nato.int/cps/en/natohq/topics_49290.htm.

⁵⁴ *Id.*

⁵⁵ *Id.*

7. Other Partnership Tools

In addition to the previously discussed partnership frameworks, the 2010 Strategic Concept emphasized the importance of global engagement and partnership with nations and organizations, such as the African Union or European Union, across the globe.⁵⁶ Accordingly, NATO employs separate “policies, programs, action plans and other arrangements” as “partnership tools” in the Alliance’s renewed effort to improve its partnership outreach.⁵⁷ These initiatives focus primarily on issues of interoperability and capacity building, and on support for reforms in domestic defense and security sectors.⁵⁸ Additionally, some partnership tools provide for more in-depth bilateral cooperation in more limited areas of interest.⁵⁹ Complementary to the formal bilateral and regional programs, moreover, NATO informally cooperates with other non-Member States on issues of shared concern.⁶⁰ Such an arrangement currently defines NATO’s relationship with China.⁶¹

III. A China Partnership

Having established the NATO legal and partnership framework under which any formal partnership with China would be implemented, the discussion now turns to the most effective way in which the Alliance could undertake a formalized partnership with China based on existing frameworks and the global reality. These ways include maintaining the existing relationship, working with China under the Partners Across the Globe initiative, forming an organizational partnership with the Shanghai Cooperation Organization, creating the East Asia Partnership Group, or pursuing a non-relationship.

A. Maintain Existing Relationship

The first option is to maintain the status quo. Identifying the exact nature of the relationship between NATO and China could prove challenging,

⁵⁶ North Atlantic Treaty Organization, *Active Engagement, Modern Defence: Strategic Concept for the Defence and Security of the Members of the North Atlantic Treaty Organisation* adopted by Heads of State and Government in Lisbon, 2010.

⁵⁷ *Partnership Tools*, NORTH ATLANTIC TREATY ORGANIZATION, June. 24, 2016, available at https://www.nato.int/cps/en/natohq/topics_80925.htm .

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Relations with Partners Across the Globe*, *supra* note 46.

⁶¹ See Erik Brattberg, *Time for NATO to Talk About China*, CARNegie EUROPE, Mar. 26, 2019, available at <https://carnegieeurope.eu/strategieurope/78684> .

however. Since 2010, with the exception of a three-year hiatus between 2015 and 2018, NATO and China have engaged in an annual dialogue.⁶² The talks between NATO and Chinese military staffs underscore NATO's recognition that "the security situation in the Asia Pacific region cannot be separated from that of the Euro-Atlantic and NATO has an interest in understanding how these linkages work."⁶³ Aside from ticking proverbial boxes of global engagement, however, it is unclear exactly what practical fruit these dialogues have borne over the years. The staff talks in 2018 delivered an "action list" of potential issues on which there could be "practical cooperation" between China and the Alliance, including improved speed of naval communications and Chinese participation in NATO School courses and NATO participation at China's Defense University.⁶⁴ The final action point of the 2018 meeting was an agreement to hold a follow-up meeting in 2019.⁶⁵ At this writing, no such meeting appears to have been scheduled.

Meanwhile, in April 2019 and against the backdrop of the previously discussed Huawei controversy and European Parliament vote, NATO ministers held the first formal talks regarding China as a threat.⁶⁶ The discussion ranged from concerns about China's activities in the Arctic Circle to fears of hacking of NATO Member States' communication networks, particularly if China is involved in the installation of new 5G networks.⁶⁷ Despite strong U.S. support for a shift in focus and characterization of China as a potential threat both to NATO and to its Members,⁶⁸ the Alliance remains divided on the point.⁶⁹

Accordingly, it is unclear what exactly NATO considers its relationship with China to be at the moment. Maintaining this lack of clarity could have strategic advantages, however. If China is also unsure where it stands with NATO, this insecurity could encourage the country to engage in continued or even more in-depth discussions and exchanges, in an effort to better

⁶² *NATO and China Resume Military Staff to Staff Talks*, NORTH ATLANTIC TREATY ORGANIZATION, June. 5, 2018, available at https://www.nato.int/cps/en/natohq/news_155840.htm.

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ James Marson, *China Threat Rises to NATO's Agenda*, THE WALL STREET JOURNAL, Apr. 2, 2019, available at <https://www.wsj.com/articles/china-threat-rises-to-natos-agenda-11554225508>.

⁶⁷ *Id.* and Joel Gehrke, *NATO Turns a Wary Eye Toward China*, The Washington Examiner, Apr. 2, 2019, available at <https://www.washingtonexaminer.com/policy/defense-national-security/nato-turns-a-wary-eye-toward-china>.

⁶⁸ *Id.*

⁶⁹ Marson, *supra* note 64.

understand or define the relationship. The drawbacks to maintaining this status quo, though, largely outweigh any such potential positives. Prolonged uncertainty and lack of cohesive direction in an organization like NATO could lead to inconsistent and ineffective policies and operations. Without a more defined relationship with China, the Alliance is left with no real or practical means of addressing China's growing influence in the North Atlantic region and within Member States and partner nations.



05 Jun. 2018 - NATO and China resume military staff to staff talks
Source: https://www.nato.int/cps/en/natohq/news_155840.htm

B. Include China in Partners Across the Globe

An alternative to the status quo would be to formalize the relationship with China, bringing it into NATO under the Partners Across the Globe initiative. As previously discussed, although China is eligible for membership in other regional partnership frameworks under their respective texts and stated purposes, the regional focus of the established frameworks renders them poor fits for an effective integration of China into the broader NATO partnership scheme. In contrast, inviting China to join as a Partner Across the Globe would allow flexibility in the focus and priorities of the relationship, while ensuring the interactions occurred within a formal legal context.

The bilateral relationship could be formed along models similar to those forged with other states with which there exist both shared interests and

shared skepticism, like Pakistan or Russia.⁷⁰ Such a partnership framework would allow the Alliance and China to identify shared interests and to develop a formal process through which dialogue can be maintained even during times of potential tensions. The bilateral facet to such a relationship would ensure the issues are specific to those concerns shared by China and NATO, without requiring consideration of other influences or priorities.

C. Form an Organizational Partnership

Another potential framework is an organizational partnership. Such an option would include a multilateral structure in cooperation with the Shanghai Cooperation Organization (SCO). Formed in 2001, the SCO is a regional organization focused on economic and political cooperation amongst its members, which include Kazakhstan, China, Kyrgyz Republic, Russia, Tajikistan, and Uzbekistan.⁷¹ The SCO is a logical potential partnership organization, as the majority of its members already have formal relationships with NATO.⁷² Such a framework, similar to NATO's relationship with the African Union or the European Union, could be a useful mechanism for Alliance engagement with China. The more multilateral features of a partnership with SCO could reduce pressure points of contention between the Alliance and China and facilitate broader and more significant cooperation. Such cooperative communication could take place in a forum similar to the EAPC or Mediterranean Dialogue and enable a focus on issues of shared impact between the two regional interests.

The option to form the partnership, on bilateral, multilateral, or hybrid terms, allows both NATO and China to tailor the terms and focus of their partnership in a manner that could not only best serve each party's interest immediately but could also evolve so that changing global realities are better addressed.

D. Creation of East Asia Partnership Group

An alternative to working within an existing partnership framework is to create a new program designed from conception to address issues specific to NATO's relationship with China. China is rapidly consolidating hegemonic

⁷⁰ *Relations with Pakistan*, NORTH ATLANTIC TREATY ORGANIZATION, Apr. 4, 2019, available at https://www.nato.int/cps/en/natohq/topics_50071.htm and *Relations with Russia*, *supra* note 25.

⁷¹ *About*, THE SHANGHAI COOPERATION ORGANISATION, Sept. 1, 2017, available at http://eng.sectsc.org/about_sco/.

⁷² *Id.* and *Partners*, *supra* note 23.

power in the East Asian region.⁷³ Accordingly, NATO's engagement with China should include considerations of Chinese influence and actions within this region, including as they do or could impact nations with which NATO has an existing formal partnership. The option most efficient and consistent with NATO partnership doctrine and practice is to create an East Asia Partnership Group.

Similar to the doctrinal parameters of the other regional partnership groups, the East Asia Partnership Group would be open to any nation that is either located in the region or "directly involved" in regionally related processes.⁷⁴ Despite the fact the latter parameter appears to remain undefined, the constructive ambiguity of the threshold regional involvement could help bring in potential partner states, like Thailand or India, located on the periphery of the geographic area more traditionally understood as East Asia. As with the Mediterranean Dialogue and the Istanbul Cooperation Initiative, membership in another partnership framework would not exclude membership in the East Asia Partnership Group.⁷⁵ Accordingly, Japan, the Republic of Korea, and Mongolia, all now part of the Partners Across the Globe program,⁷⁶ could join the East Asia Partnership Group. Like the other regional groups and EAPC forum model, the partnership framework would provide a platform for dialogue and cooperation between the regional actors and NATO. The multilateral nature of this alternative also ensures that the other, smaller regional actors have a voice in matters impacting East Asian interests, helping to ensure neither Chinese nor NATO action in the region has unintended geopolitical consequences.

The creation of an East Asia Partnership Group would allow China to be secure in the representation of its own interests in a regional context within its formal relationship with NATO. The flexibility of a grouped partnership also helps to ensure that as emerging or evolving issues impact the region and its actors, the partnership framework can absorb and address such changes through open dialogue and cooperation. Such dialogue is critical in areas such as the South China Sea, where controversy and disagreement could potentially flare. NATO's established record with regional partnerships could help regional actors and the Alliance build stronger cooperative relationships

⁷³ Jennifer Lind, *Life in China's Asia: What Regional Hegemony Would Look Like*, FOREIGN AFFAIRS, Mar./Apr. 2018, available at <https://www.foreignaffairs.com/articles/china/2018-02-13/life-chinas-asia> .

⁷⁴ *Questions & Answers*, *supra* note 37.

⁷⁵ *Id.*

⁷⁶ *Partners*, *supra* note 23.

and navigate issues of geopolitical difficulty.

E. Non-Relationship

NATO's fourth option regarding China is to pursue a policy of a non-relationship with the country. Although seemingly against the foundational premise that partnership is preferred to an antagonistic or undefined relationship, this alternative does have some advantages. NATO is, according to some observers, at an existential crossroads.⁷⁷ Accordingly, there is a strong argument that the Alliance must define its own internal purpose, infrastructure, and missions before seeking to engage with new partners, particularly one requiring such varied and careful considerations as China.



NATO former Deputy Secretary General Rose Gottemoeller participates in the Xiangshan Forum, during a session on Artificial Intelligence and the Conduct of Warfare, in Beijing, China – 25 October 2018. © NATO

Source: <https://www.nato.int/docu/review/articles/2019/04/05/nato-at-70-an-opportunity-to-recalibrate/index.html>

Further, a non-relationship with China would not necessarily be characterized as adversarial or non-defined. A purposeful avoidance of meaningful engagement between the two entities could be as deliberate and practiced as any carefully crafted partnership. Additionally, the approach would not necessarily lead to instability or points of conflict. Allowing each entity to pursue its respective interests without any formal or

⁷⁷ See Emma Ashford, *NATO's Open Door Leads to an Identity Crisis*, WAR ON THE ROCKS, Jun. 23, 2016, available at <https://warontherocks.com/2016/06/natos-open-door-leads-to-an-identity-crisis/>.

informal cooperative framework could enable each to achieve their own objectives. These objectives should not be assumed to be contradictory to one another.

The lack of a formal or informal relationship between NATO and China could create unnecessary and untenable risks to international peace and security, however. As previously discussed, through its network of economic and political investments, China has established significant relationships with NATO Member States and partner nations. This direct contact coupled with regional controversies, including the South China Sea, indicates the likelihood that NATO and Chinese interests will interact with increasing frequency. This reality further indicates the importance of a formally defined and structured relationship between NATO and China to ensure dialogue and cooperation triumph over antagonism and conflict.

Conclusion

The world in which NATO operates has been evolving since the Alliance's conception. To remain relevant, NATO's strategy and operations must also evolve. Partnerships are some of the most powerful and important tools of the Alliance's global engagement strategy, and the Organization should expand its existing partnership infrastructure to include China.

The text of the North Atlantic Treaty and NATO practice provide the flexible legal framework within which such strategic innovation could occur. Additionally, the Alliance has four primary means through which it could undertake a relationship with China. The first is to maintain the status quo of the existing relationship. This option would allow continuity with no additional investment but could leave the Alliance with no defined way in which to address China's growing influence amongst its Members and partners. An alternative option is to include China under the Partners Across the Globe program. This bilateral approach would provide flexibility in the structure and ensure individualized interests are represented. Another potential framework would be an organizational partnership with the SCO. Such a relationship would help to ensure NATO, Chinese, and regional interests are effectively managed. NATO's fourth option is to create an East Asia Partnership Group. This choice would provide a regional context to the Alliance's relationship with China, allowing the partnership to address not only bilateral issues specific to the country but also to enable NATO's structured participation in regional issues. Finally, the fifth option for the Alliance is to pursue a policy of non-relationship. Although this arrangement would not necessarily be

undefined or antagonistic, the certainty of the two entities' interaction on the global stage coupled with the uncertainty of the parameters of such interaction, absent any formal relationship, could allow instances of conflict.

Forging and maintaining international partnerships can be challenging. But such relationships are critical for the survivability of an organization. In facing the changing global reality in which China features as a prominent player, NATO must do more to address the country and its growing global influence through undertaking a formal partnership with China. Regardless of the specific approach it ultimately chooses, NATO's future relevance is contingent upon its ability to directly and formally engage China in a meaningful cooperative partnership.

