Wrestling referees? The EU's place in governing the global digital economy[1]

Alasdair R. Young

Sam Nunn School of International Affairs, Georgia Institute of Technology
Alasdair.young@gatech.edu

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As part of their great power rivalry, the United States and China have recently begun to engage in technological competition. The European Union is caught in the middle. As part of this competition, they have begun to take a greater interest in the international regulation of the digital economy, an arena that until recently the EU had largely to itself. Moreover, the EU views its ability to shape global technology rules as central to its "digital sovereignty." As a consequence, it is more important than ever to understand the EU's regulatory influence. Unfortunately, the dominant explanation of the EU's global regulatory influence – Anu Bradford's "Brussels effect" – is ill-suited to explaining the EU influence across the breadth of the digital economy. Drawing on theories of policy diffusion and international regulatory cooperation, this paper develops an analytical toolkit for analyzing the EU's ability to influence the governance of the digital economy beyond its borders.

In the past few years there has been an explosion of interest – academic and practitioner – in the international politics of technology. The main reason for this new interest is the geopolitical competition between the United States and China for technological primacy if not supremacy. There are two dimensions to this competition. One is about innovation and its implications for competitiveness and security. The other is how this geopolitical rivalry will affect the global regulation of technology. The geopolitical turn in the global regulation of technology has

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prompted questions about the European Union's ability to continue to exert regulatory influence beyond its borders in the digital economy.

This paper argues that the dominant analytical approach to the EU's global regulatory influence – Anu Bradford's (2012; 2020a) "Brussels effect" – explains only some aspects of the EU's regulatory influence well. The common practice of assuming that the Brussels effect applies across the myriad domains of digital technology governance misstates the EU's influence – overstating it in many instances while ignoring it in others. This paper argues that different power resources matter for different governance problems and seeks to develop an analytical toolkit based on the International Political Economy literature on regulatory competition and cooperation to better explain the EU's influence in different regulatory domains.

This paper begins by introducing the geopolitical turn in technology regulation. The paper then examines what the Brussels effect explains well and poorly about the EU's influence in the digital realm and highlights that much of the literature overstates the EU's influence. The paper then turns to the broader literature on regulatory competition and cooperation for tools to explain the EU's influence across the spectrum of digital governance. The paper concludes by arguing for the adoption of an analytical tool kit for analyzing the EU's place in global technology governance.

The geopolitical turn in technology regulation

There is a perception that as part of great power competition, China is seeking aggressively to overcome the US's technological advantage (Ghiretti 2021: 1; NIC 2021: 64; Pannier 2021: 1; Sahin and Barker 2021: 5; USCE&SRC 2020: 1). This competition has implications for both

economic competitiveness and national security. Europe is caught in the middle of this competition.

This sense of being caught in the middle of US-China technology rivalry has fueled calls for the EU to enhance its strategic autonomy (Pannier 2021: 1; Sinkkonen and Sinkkonen 2021: 47). European Commission President Ursula von der Leyen (2020a; 2020b) made ensuring Europe's "digital sovereignty" a centerpiece of her Commission. For von der Leyen (2020a) digital sovereignty "describes the capability that Europe must have to make its own choices, based on its own values, respecting its own rules." Internal Market Commissioner Thierry Bretton (2020), stated: "Faced with the 'technological war' being waged by the United States and China, Europe must now lay the foundations of its sovereignty for the next 20 years."

For many, achieving digital sovereignty means that that the EU needs more strong, innovative technology firms of its own so that it need not be so reliant on foreign technology firms (Bauer and Erixon 2020: 3; Brattberg et al 2020: 1; Burwell and Propp 2020: 6; Christakis 2021: 36-7; EPSC 2019:7; Hobbs 2020; Torreblanca 2021; Wolff 2020). This position is often articulated as a counter to the EU's pride in being able to shape the rules of the digital economy. It is most aptly captured by the barb that "referees don't win" (Christakis 2021: 36-7; Torreblanca 2021; Wolff 2020).[2]

Nonetheless, shaping the rules governing the digital economy remains a central part of the EU's efforts to assert its "digital sovereignty" (Baurer and Erixon 2020: 6; Burwell 2020: 49; Commission 2020-67: 13; 2021-66: 15; Commission 2022-31: 1; Commission and High

[2] The Economist's Charlemagne made the same point but did not use the metaphor ("The parable of the plug," The *Economist*, 6 February 2020). Alan Beatie (2020) observed that setting "a data privacy benchmark for much of the world … hasn't done much for Europe's sadly undersized tech sector."

Representative 2021: 5-6; EPSC 2019: 16; European Council 2020).[3] Arguably, "[t]he EU's clearest opportunity to retain digital sovereignty is to exercise its regulatory power to shape the international environment on digital issues" (Shapiro 2020: 12).[4]

Until very recently, the EU had the field of technology regulation largely to itself (Barker 2020; Bradford 2020a: 101 and 167; Burwell and Propp 2020: 2; Christakis 2020: i; Commission 2021-66: 15; Kang 2022; Pannier 2021: 1; Pfeiffer and Carr 2021; Schaake 2020). It was and it was the sole active regulator of the social aspects of technology – privacy, competition, taxation (Barker 2020; Bradford 2020b; Burwell and Propp 2020: 2; Christakis 2020: i; Commission 2021-66: 15; Pannier 2021: 1; Pfeiffer and Carr 2021; Schaake 2020).[5] It was also by far the most influential actor in international standard setting bodies (Büthe and Mattli 2011). That has now changed with both China and the US more actively seeking to shape the rules that govern the digital economy (Bauer and Erixon 2020: 8; Christakis 2020: 38; EPSC 2019: 7; Garcia Bercero and Nicolaidis 2021: 5; Sandbu 2020; Schaake 2020; Torreblanca 2021), although the US's domestic efforts have not made much progress (Kang 2022). The EU's regulatory primacy is now challenged.

In this more contested context, it is even more important to understand the EU's ability to influence global regulation. Unfortunately, the dominant approach to understanding the EU's place in the regulation of the global digital economy -- Anu Bradford's (2012; 2020a) "Brussels

[3] Remarks by Bengt Holmströms, "Is Europe Falling Behind in the Global Digital Economy?" The State of the Union 2021 - Europe in a Changing World, European University Institute, 7 May 2021.

[4] A survey of experts working on European technology and digital policy in government, industry, think tanks, academia, parliaments, and civil society conducted in early 2021 overwhelmingly emphasized the EU's effectiveness in shaping rules – through controlling market access (67.8%); being able to "pull" others around to its own values (57.8%) and influence in global standard-setting bodies (49.6%) – as helping the EU to advance its global technology objectives (Sahin and Barker 2021: 18). These were the top three answers compared to leadership in emerging technology sectors (24.4%), which was the tenth of ten options. 2,500 "key experts" were invited to participate. The number of responses was not reported.

[5] Commission and High Representative (2020: 7) were more modest "While we are still the most influential regulators, both the EU and the US face increasing standard competition from third country actors."

effect" (see, for instance, Beattie 2020; Brattberg et al 2020: 4; Christakis 2020: 14-21; Puddephatt 2020: 22; *Economist*, 24 Apr 2021; and numerous contributions in Hobbs 2020 (ed))[6] – is ill-suited to analyzing the EU's influence across the breadth of the digital economy.

Pernicious effects of the Brussels effect

The dominance of the Brussels effect in the existing literature on the EU's global regulatory influence has two pernicious effects. Both flow from Bradford's (2020a: ix) motivation to make the case that the extraterritorial reach of the EU's rules means that it is globally important.[7] First, this focus suggests that the EU's global regulatory influence is valuable in and of itself as it determines how and how much the EU matters in the world.[8] Much of the commentary about the challenge to the EU's preeminence in digital regulation echoes this view, presenting any regulation by others as a Bad Thing (Christakis 2020: 38; Schaake 2020; Torreblanca 2021).[9]

Second, if the EU's global importance is tied to its rules prevailing beyond its borders, then any other jurisdictions' rules are viewed as rivals vying for primacy. Any other jurisdiction beginning to regulate the market power of Big Tech or online content is a challenge to the EU's

[6] Remarks by Alexander Stubb, "Is Europe Falling Behind in the Global Digital Economy?" The State of the Union 2021 - Europe in a Changing World, European University Institute, 7 May 2021.

[7] Considering the EU's regulatory influence as central to it being a global actor is far from unique to the Brussels effect, see also Bretherton and Vogler (2006: 27); Damro (2012, 2015, 2021); Cooper (2012). See also Müller et al (2014: 1103).

[8] The pitch on the Project Syndicate's website for Anu Bradford's interview with Margrethe Vestager read in part "Can leading the world in tech governance help to establish Europe's place in the twenty-first century?" "Europe's Digital Future," *Project Syndicate*, 21 May 2021, https://www.project-syndicate.org/onpoint/eu-regulations-for-the-digital-economy-by-margrethe-vestager-and-anu-bradford-2021-05. With reference to the Brussel Effect, Alan Beatie (2020) expressed skepticism that "a that a potent foreign policy can be based on regulatory and trade superpower-dom." He notes, however that Commission officials "are continually preening themselves about EU trade policy and regulation acting as the basis for a foreign policy, exporting not just European rules but European values" and contended that there is "a slight element of cargo cult about the idea that geopolitical strength follows necessarily from even a cleverly designed trade and regulatory policy."

[9] Exceptions include Bauer and Erixon 2020: 8. The Commission, it should be noted, articulates responding to greater regulatory rivalry by specifying desirable regulatory goals to be preserved (Commission 2020-67: 13; 2021-66: 15; Commission and High Representative 2021: 5-6; EPSC 2019: 16; European Council 2020).

primacy. That is not obviously the case. Another jurisdiction's preferences may broadly align with those of the EU's rule (Lavanex et al 2021: 442). For instance, that multiple jurisdictions are moving to curb the market power of Big Tech should be seen as complementary to, rather than in tension with, the EU's own efforts, as such actions might have positive spillovers for the EU and would not impede the EU's own actions.[10] Newly active regulatory powers might, therefore, be "rule promoters" in the words of Lavanex et al (2021: 452). A focus on projecting global influence rather than realizing regulatory objectives, therefore, creates an unhelpfully us-or-them view of global digital governance.

The limited explanatory power of the Brussels effect

Moreover, the explanatory power of the Brussels effect is limited in scope, as Bradford acknowledges. It is good, when applied properly, at explaining why firms might follow EU rules throughout their global operations. The logic underpinning the Brussels effect is that the EU's market is too valuable to ignore. It also tends (at least in certain domains (see Wiener 2011)) to adopt the world's most stringent standards, which it is able to effectively enforce. Having gone to the trouble of developing a product or service to comply with the EU's requirements to access its valuable market, companies sell the same product or service worldwide as it will exceed the requirements of jurisdictions with less stringent rules. According to the Brussels effect, therefore, the EU's regulatory power is primarily wielded unilaterally, and those unilateral decisions are translated into global standards for companies by market forces (Bradford 2020a: xiii-xiv).

[10] Remarks by Cristina Caffarra, "Regulating the Global Digital Economy: What Role for International Cooperation?" The State of the Union 2021 - Europe in a Changing World, European University Institute, 6 May 2021.

Bradford, in line with many others (for a review see Young 2015a: 1240-1),[11] therefore, contends that the EU's regulatory power relies on the economic importance of its market, the stringency of its regulations, and its capacity to enforce them. In a recent contribution, Lavanex et al (2021: 446) argue that the institutional strength of the regulatory state is the key "conduit" through which market size translates into "leverage in global regulatory regimes" (see also Farrell and Newman 2014). Their institutional strength combines Cafaggi and Pistor's (2015) "capability, which is the ability to recognize one's interests and articulate regulations that advance those interests," and Bach and Newman's (2007) "capacity." Regulatory capability, therefore, is essential to rule stringency.[12] The "new interdependence" approach (Farrell and Newman 2014) stresses a particular feature of regulatory capability, which is that of being the first mover. There is thus a high degree of agreement in the literature on the roots of regulatory power.

A crucial specification associated with the Brussels effect is the issue of how feasible or costly it is for a company to differentiate a product or service for different jurisdictions, what Bradford (2020a: xv) calls "divisibility".[13] If the product or service is non-divisible, then a company will have a particularly strong incentive to adopt the EU's standards irrespective of where it plans to sell its product or service. Market size, rule stringency, regulatory capacity and target divisibility, therefore, are the key variables that affect the likelihood that any given EU rule will be adopted by a firm for its global operations.

[11] Recent additions to this literature that echo these factors includes Garcia Bercero and Nicolaidis (2021) and Jarlebring (2022).
[12] Farrell and Newman (2014: 536) including being able to define, monitor and defend market rules under regulatory capacity.
[13] Bradford (2020a: xiv-xv) also points to the importance of the product or service being "inelastic". As far as I can make out after multiple readings, inelasticity concerns how easy it is to shift to another jurisdiction. To my mind this is inseparable from the importance of the EU's market, not in an abstract sense, but in the sense of how important it is to the product or service in question.

Although the Brussels effect is the dominant account of the EU's ability to regulate the global digital economy, it actually explains relatively little of the EU's influence on across spectrum of digital governance. Data privacy, particularly the EU's General Data Protection Regulation (GDPR), is far and away the most commonly cited example of the Brussels effect in the digital realm (see Bradford 2020a: 142; Brattberg et al 2020: 4; Burwell and Propp 2020: 2; Christakis 2020: 17; Commission 2020-67: 13; Garcia Bercero and Nicolaidis 2021: 12; Ghiretti 2021: 12; Jakobsson and Stolz 2021: 125; Shapiro 2020: 12; *Economist*, 24 April 2021). Some scholars also highlight how the Commission's voluntary Code of Conduct on Countering Illegal Hate Speech on Line has prompted digital companies to take steps to police content (Bradford 2020a: 131; Burwell and Propp 2020: 2; Christakis 2020: 19).[14] The EU is also widely seen as wanting to set the global rules for artificial intelligence through the Brussels effect (Brattberg et al 2020: 4; MacCarthy and Propp 2021; Wolff 2020; *Economist*, 24 April 2021), although it has not yet adopted those rules, so whether the dynamics of the Brussels effect will activate remains unclear.

Data privacy, however, is an easy case for the Brussels effect in terms of the importance of the EU's market, the relative stringency of its rules, its high capacity to enforce them and the indivisibility of the services, given how the requirements are structured.[15] As a result, it is dangerous to generalize about the EU's influence from the case of privacy, although many

[14] According to Margarethe Vestager, the Digital Services Act "is not about content; it's about the processes needed to ensure that digital services work in a way that supports decisions made in our democracies about what is legal or illegal. Different member states will make different decisions concerning hate speech." Quoted in "Europe's Digital Future," *Project Syndicate*, 21 May 2021, https://www.project-syndicate.org/onpoint/eu-regulations-for-the-digital-economy-by-margrethe-vestager-and-anu-bradford-2021-05. Differences in requirements among the EU's member states will mute the power of the Brussels effect because national markets are smaller than the EU's (it also won't be the "Brussels" effect).

[15] It is worth noting, however, that as EU regulators have moved to more rigorously enforce transatlantic data transfers in the wake of the overturning of the Privacy Shield, US companies are beginning to consider data localization – that is dividing their operations – particularly for data analysis (Manacourt and Kayali 2022).

commentators do precisely that (Christakis 2020; Ghiretti 2021: 12; Shapiro 2020: 12; Puddephatt 2020: 22).

The dangers of overgeneralizing from an easy case are evident in other domains of digital governance. Although the EU has been notably active in its efforts to curb the dominance of Big Tech (see, for example, Espinoza 2021), Bradford (2020a: 109) acknowledges that the Brussels effect only sometimes applies to the Commission's abuse of dominant position rulings. The Commission's rulings against Google (for bias in search results) and Microsoft (for bunding its Media Player into Windows), for instance did not affect their operations beyond the EU (Bradford 2020a: 112-13). This was because it was relatively easy for the firms to change their behavior in only the EU. The implications of rulings, therefore, were highly divisible. The EU's efforts to promotion of competition ex-ante in the Digital Markets Act, however, might be less divisible.

The EU has not been able to agree a tax on digital services. It thus lacks regulatory capability in this policy domain. Even if it were able to, is not clear that there would be an incentive for large technology companies to change their behavior outside the EU as a result. Digital services taxes are focused on collecting taxes based on where the revenues are generated, they are, therefore, by definition divisible and thus the Brussels effect would not have traction. Properly applied, therefore, the Brussels effect helps to explain the variance in the EU's ability to influence unilaterally the global behavior of firms (see Figure 1).

Figure 1 Variance in the Brussels effect across the domains of digital governance

High	Medium	Low
Privacy Content	Anti-trust	(Taxation)

The ability to affect firms' behavior, however, is not the only possible outcome of the EU's unilateral regulatory influence. Getting other jurisdictions to adopt rules that reflect the EU's is an undeniable source of influence. There is, in fact, an extensive literature that analyzes the EU's ability to get other countries to change their rules in line with the EU's interests (for overviews see Young 2015a: 1236 and Müller et al 2014: 1103). Such policy adoption is frequently viewed as an extension of the Brussels effect's impacts on firms, as having adopted the EU rules in their operations, they then pressure their home government to follow suit to reduce transaction costs or gain competitive advantage against domestic rivals (see Vogel 1995). David Vogel (1995) called this phenomenon "trading up." Bradford (2020a: 2) calls it the "de jure Brussels effect," but this is not the focus of her analysis, and she concedes that such rule alignment is due not only to this process. The Brussels effect, therefore, is ill equipped to do explain the export of EU rules to other jurisdictions.

Further, because the Brussels effect is unilateral and passive, it does not even try to explain cooperative efforts to regulate the digital economy, including standard setting. The EU's institutions consider such cooperation crucial to governing the global digital economy effectively (Commission 2020-67: 13-14; Commission 2021-66: 14-16; Commission 2022a; Commission and High Representative 2021: 5; European Council 2020). The inability to explain cooperation is another significant limitation to using the Brussels effect to analyze the EU's influence on the governance of the global digital economy.

Although several authors identify limitations to the Brussels effect (Bauer and Erixon 2020: 7; Christakis 2020: 29; Garcia Bercero and Nicolaidis 2021: 5) these are largely on its own terms, such as the EU's declining share of global GDP or losing its status as the sole regulator of the digital economy. None highlight its limited explanatory power across different domains of

digital governance: its fungibility.[16] Rather than using only one tool to explain the EU's influence in different policy domains, we need an analytical tool kit with a variety of tools.

An analytical tool kit for analyzing EU influence in global digital governance[17]

While the de facto Brussels effect, properly applied, does a pretty good job of explaining the variance in the EU's ability to influence the global behavior of firms, additional analytical tools are required to analyze the EU's influence across the breadth of digital governance. The literature on global regulation identifies two broad forms of regulatory interaction, which conveniently compensate for the limitations of the Brussels effect: [18]

- policy diffusion, in which convergence occurs through one state aligning its policies with another's, this includes the de jure Brussels effect, and
- regulatory cooperation, in which alignment comes about through a process of negotiation.

Within each of these broad categories are several different forms of interaction (see Table 1).

Table 1 Forms of regulatory interaction

Diffusion	Cooperation
Firm adaptation ("de facto Brussels effect")	Power-based bargaining
Competition ("de jure Brussels effect")	Rule-mediated negotiation
Coercion or inducement through conditionality or "regime vetting"	
Emulation	
Learning	

Source: modified from Young (2015a: 1240)

[16] Christakis's (2020) empirical discussion notes the variation in the effect of the Brussels effect across issue areas but does not make the explicit point about fungibility.
[17] This discussion builds from Young (2015a: 1239-1243).
[18] Simmons (2001: 598-9) and Bütte and Mattli (2011: 19) draw a similar distinction but use different labels. Koenig-Archibugi (2010: 408), Lazer (2006: 456) and Holzinger et al (2008: 556) draw tri-partite distinctions, but these include one cooperative mechanism and two policy diffusion mechanisms. Müller and Falkner (2014: 8) identify four mechanisms: 'bargaining' (cooperation) and three forms of diffusion.

Influence through diffusion

Much of the EU-focused literature on policy diffusion focuses on regulatory competition in which rules align largely as the result of market forces, what Bradford (2020a: 2) calls the "de jure Brussels effect" (Müller et al 2014: 1103; Young 2015a: 1236). This literature is longer on identifying instances of the EU's rule being imported than on the conditions under which it is most likely to occur. The wider literature, however, suggests several factors that affect whether "trading up" occurs (Vogel 1995; Young 2003). These include the incentives for the externally oriented firm to lobby for change in its home market (the incompatibility of home and EU requirements; the domestic competitive advantage it might gain from a rule change); the presence of other actors that favor the rule change for other reasons; the strength of opposition to the rule changes; and how difficult it is to adopt change (the number of veto players). Thus, the key variables determining whether the de facto Brussels effect translates into de jure change are associated with the other jurisdiction.

The global regulation literature identifies several ways that policy diffusion can occur other than through competition (Dobbin et al 2007: 452; Koenig-Archibugi 2010; Lazer 2006: 456). There is an extensive literature on the EU's efforts to export its rules through conditionality, not least through the enlargement process and free trade agreements (Garcia 2013: 535; Garcia Bercero and Nicolaïdis 2021: 5; Lavenex 2014; Meunier and Nicolaïdis 2006: 907; Müller and Falkner 2014: 11-12; Sedelmeier 2020). This literature focuses on the EU leveraging access to its market to prompt changes across a broad policy spectrum, from having a competition policy to implementing multilateral environmental and labor agreements to fighting corruption to promoting democracy and respect for human rights. Association agreements and the enlargement process aside, however, the EU does not export its regulations through trade

agreements, rather it promotes the adoption of international standards (Young 2015b, 2022). Jarlebring (2022), however, coined the term "regime vetting" to capture the EU's practice of actively leveraging access to its market to punish jurisdictions with lax regulation, such as against money laundering ("coercive regime vetting") or to reward those that follow EU rules, such as in data privacy ("assertive regime vetting). Only in the latter case is the EU exporting its rules, as opposed to enforcing international standards.

The conditionality literature tends to stress the relative importance of the EU's market as the key determinant of whether EU rules are accepted, although several contributions stress the importance of domestic politics in the acceptance of conditionality (Lavanex 2014; Sedelmeier 2020; Young 2015b). Conditionality appears as an explanation of the EU's export of its digital regulations only in the context the Commission's adequacy determinations for data protection (see Christakis 2020: 23; Jarlebring 2022: 539), and here it takes the narrower form of "regime vetting." The political dynamics of conditionality, however, are very similar to those of competition described above. Where the conditionality is sector specific ("regime vetting") – as in the case of the data adequacy determinations -- conditionality just creates an added incentive for affected firms to lobby for domestic policy change. To the extent that regulatory alignment in particular sector is an element of an association agreement or accession process, conditionality mobilizes firms unaffected by the regulation in question to push for alignment. This broad type of conditionality changes the character of domestic political competition and increases the number of advocates of regulatory alignment in the partner country.

Even those who claim to be discussing the Brussels effect often actually refer to other forms of diffusion, particularly emulation, when discussing other governments adopting EU-like rules on the digital economy (see, for example, Bradford 2020a: 2; 115; Brattberg et al 2020: 4;

Christakis 2020: 23; Jakobsson and Stolz 2021: 109). Margarethe Vestager, for instance, while agreeing that the Brussels effect is real, contends that EU rules "inspire" other jurisdictions to adopt them because they reflect shared democratic values.[19] With respect to abuse of dominant position and content she states "I hope that Europe can inspire here, too. But I'm also humbled by the fact that others are following the same path not necessarily because ours is the best way of doing things, but because it reflects a fundamental impulse of democracy." In this account EU policies diffuse by demonstrating what is possible, a form of policy learning. [20] Clear examples of emulation, however, are rare in the literature.[21] It can also be hard to demonstrate that another jurisdiction's policy change was inspired by EU policy.

For competition and conditionality, therefore, the EU's market being important is a necessary, but not sufficient condition for an EU rule to be imported. Whether it is depends on the other jurisdiction's domestic politics. For emulation or learning to occur, it is the content/quality of the EU's rule that matters. Whether it is copied, however, depends on how well it serves the other jurisdiction's purpose.

Influence through cooperation

The Brussels effect captures only the EU's unilateral influence, but there are important international negotiations about how to govern important aspects of the digital economy,

[19] Almost 60 percent of the respondents to a survey of experts working on European technology and digital policy in government, industry, think tanks, academia, parliaments, and civil society conducted in early 2021 identified being able to "pull" others around to its own values as a source of the EU's regulatory effectiveness (Sahin and Barker 2021: 18).

[20] Quoted in "Europe's Digital Future," *Project Syndicate*, 21 May 2021, https://www.project-syndicate.org/onpoint/eu-regulations-for-the-digital-economy-by-margrethe-vestager-and-anu-bradford-2021-05.

[21] Lavenex and Shimmelfennig (2010:4), for instance, find that even in the accession process the lure of membership was the primary driver of domestic change and that social learning and lesson-drawing played only marginal roles. Much less attention has been paid in the literature to the EU's policy diffusion through learning (an exception is Lavanex 2014). I have not seen any accounts focusing on this mechanism with respect to the digital economy.

including cybersecurity, the internet and taxation. The Brussels effect, by definition, is silent on the EU's influence in these negotiations. There is, however, an extensive international political economy literature on regulatory cooperation.

The critical starting assumption in the literature on regulatory cooperation is that each jurisdiction would prefer its own rule to be adopted as the common one, as this brings the benefit of greater market access without the costs of adjustment (see Büthe and Mattli 2011: 12; Drezner 2007: 32). Certainly, where the EU has existing rules, which is usually the case, the EU is assumed to want regulatory cooperation to occur on its own terms (see Damro 2012: 686; Kelemen 2010: 341; Smith 2010: 937). Regulatory cooperation occurs through either power-based bargaining between states outside institutional frameworks or rule-mediated negotiations within international organizations (Büthe and Mattli 2011: 19; Simmons 2001: 598-9).

When regulatory cooperation takes place outside formal institutions, the form of cooperation is determined by bargaining power, not least because of the distributional implications of the choice of standard (Drezner 2007: 5; Krasner 1991: 336). Bargaining power reflects which party has the better alternative to negotiated agreement (BATNA), which in turn reflects the distribution of costs and benefits stemming from their interdependence (Keohane and Nye 2001: 9; Putnam 1988: 442). The distribution of costs and benefits reflects the same power resources as the regulatory competition literature: relative market size; rule stringency (regulatory capability); and regulatory capacity. Whether having a more stringent rule is an asset, however, depends on whether the jurisdiction with the more stringent standard can exclude goods or services that do not comply with that standard from its market (Lazer 2006: 460; Young and Wallace 2000: 24-5). Where exclusion is possible, the party with the more stringent rules has the superior BATNA, as foreign products or service providers are excluded from its market

and its firms are protected from competition. When exclusion is not possible, the party with the more stringent regulations tends to have a worse BATNA than its negotiating partner(s).

The EU's bargaining power, however, is a moot question in the two active power-based negotiations concerning the global digital governance: the UN's Open-ended Working Group (OEWG) on Developments in the Field of ICTs in the Context of International Security and the OECD's negotiations on taxation. The EU does not have common policies in either area and, although the EU is a party to both negotiations, it does not appear to have advanced substantive common positions.[22] A number of member states participated actively in the OWEG negotiations, but the EU made no interventions on the key topics of: existing threats; rules, norms and principles; or international law (Gavrilovic and Njegic 2021). In the OECD tax negotiations the Biden administration made the running,[23] and the EU's member states have responded individually to its proposals to allocate taxing rights based on sales generated in that jurisdiction and for a global minimum tax (Böcking, Hesse, Reiermann and Sauga 2021; Khan and Noonan 2021; Meyers 2021; Politi and Williams 2021). Thus, the EU, qua the EU, is struggling to assert itself in the major international negotiations on digital governance. In these areas it lacks regulatory capability.

The situation in the key international standard-setting bodies, however, is quite different. Technical expertise is the key currency of influence (Büthe 2010: 312). Regulatory capacity, in terms of being able to gather and generate information and aggregate preferences is particularly

[22] I need to check how the EU structured its participation in both negotiations. In December 2021, in the context of the OWEG, the EU proposed establishing a Program of Action to Advance Responsible State Behavior in Cyberspace that would provide a permanent infrastructure for regular institutional dialogue on common challenges ("EU Statement – United Nations Open-Ended Working Group on ICT: Institutional dialogue with the broad participation of States" 17 December 2021.) This is a procedural position rather than one on the substance of the rules.

[23] Remarks by Ioana Petrescu, Thomas Rixen, and Pascal Saint-Amans, "Global Tax Coordination: Is There Hope?" The State of the Union 2021 - Europe in a Changing World, European University Institute, 6 May 2021. Rixen argued that progress on taxation is possible only when the US supports it.

important in shaping negotiations in international standard setting bodies (Büthe and Mattli 2011: 12-13; King and Narlikar 2003). The EU's member states have national standard setting bodies that are coordinated by European standard setting bodies – CEN, CENELEC, and ETSI. As a result, they are able them to inject effectively their views into the standard-setting process (Büthe and Mattli 2011: 147). The US standard setting system, by contrast, is much more fragmented, and the American National Standards Institute (ANSI), which represents the US internationally, is regarded as a weak institution (Büthe and Mattli 2011: 148). China's standards system, while relatively new, is highly centralized. Its influence in international standard setting, however, has been limited to date because its top-down approach to standard setting is at odds with the bottom-up approach common elsewhere (Coopersmith et al 2021). The EU's capacity, therefore, is more appropriate to international standard setting than that of either China or the US. Nonetheless, the Commission is creating a High-Level Forum to bring together representatives of member states, European and national standardization bodies, industry, civil society and academia to coordinate more effective representation of European interests in international standardization bodies (Commission 2022b: 2).

In addition, the EU, through it national standard setting bodies, has considerable institutional power in international standard setting. For instance, four of the seven automatic members of the International Electrotechnical Commission's (IEC) Standardization Management Board are from member states of CENELEC.[24] In 2022, four of the eight elected members are also from CENELEC member states.[25] Thus European standards bodies has eight of the 15 seats compared to one each for China and the US. Moreover, CENELEC's 34 members are all

[24] France, Germany, Italy and the UK. The other four are China, Japan, and the US.
[25] Austria, the Netherlands, Sweden, and Spain. The other four are Australia, Canada, India, and Korea.

members of the IEC,[26] giving the EU much greater voting weight than either China or the US. Further, CENELEC and the IEC have formalized their cooperation in joint standard setting.[27] The EU, therefore, has several considerable advantages in shaping international standards. Nonetheless, the EU's new standards strategy calls for closer coordination with other jurisdictions that share the EU's values, including the US, to counter China's more "assertive" approach to international standard setting (Commission 2022b: 6).[28] All international standards are voluntary, however, and firms will adopt and governments refer to them only if they find them useful.

The international regulation literature underlines that different sources of influence matter in different settings across the spectrum of governing the digital economy (see Table 2). In most domains the EU has considerable power resources. The ability to translate those resources into influence, however, is contingent, and thus the EU's influence varies across the spectrum of global digital governance. Taken together this suggests an analytical tool kit in which different variables affect the EU's ability to shape global rules in different domains of policy making.

TABLE 2 ABOUT HERE

Conclusions

The EU is undoubtedly an important player in the governance of the global digital economy. It is not, however, as dominant as much of the commentary depicts. While the EU has a significant influence on the privacy policies of firms and even of some governments, it is largely on the

[26] The standards bodies of Iceland, Norway, North Macedonia, Serbia, Switzerland, Turkey, and the UK are also members of CENELEC.
[27] In 2016 the Frankfurt Agreement replaced the Dresden Agreement.
[28] The strategy document does not name China, but the meaning is clear.

sidelines of negotiations over taxation and cybersecurity. Moreover, it no longer has the field of digital governance to itself. China has made shaping global rules a national objective. The US has responded by taking international rule setting more seriously. In addition, both China and the US have started to take the societal implications of Big Tech more seriously and have begun to take steps to address them. To the extent that the EU's influence is what matters as a core source of its geopolitical importance, this new activism poses a challenge to the EU. If the principal concern is with realizing governance objectives, regulation by other jurisdictions may not pose a challenge. Whether it does will depend on the compatibility of the objectives and instruments. If the rules are compatible, which prevails is of commercial interest, not geopolitical concern.

It is, nonetheless, important to be able to explain the EU's influence across the spectrum of the governance of the digital economy. The dominant explanation – the Brussels effect – is not well suited to the entire task. It explains well the EU's influence on firms' behavior, particularly if the analysis takes due account of the divisibility of the regulated activity. It does not, however, provide a good explanation of why governments might choose to mimic EU rules. It is also, by necessity, silent on cooperative efforts to govern the digital economy. This paper has argued for deploying an analytical tool kit drawn from the wider literature on international regulation in which the appropriate tool will depend on what is being analyzed (firm behavior or policy change) and in what setting (unilateral export, power-based bargaining or rule-bound decision-making).

References

ANSI [American National Standards Institute] (2020), "United States Standards Strategy" (New York, NY: American National Standards Institute).

Bach, D. and Newman, A. L. (2007), 'The European Regulatory State and Global Public Policy: Micro-Institutions, Macro-Influence,' *Journal of European Public Policy*, 14/6, 827-46.

Barker, T. (2020), "Europe Can't Win the Tech War It Just Started," *Foreign Policy*, 16 January.

Bauer, M. and Erixon, F. (2020), "Europe's Quest for Technology Sovereignty: Opportunities and Pitfalls," ECIPE OCCASIONAL PAPER 02/2020 (Brussels: European Centre for International Political Economy).

Beatie, A. (2020), "Does Trade Make the EU a Global Superpower?", *Financial Times* Trade Secrets, 27 January.

Böcking, D., Hesse, M., Reiermann, C. and Sauga. M. (2021), "Joe Biden declares war on tax havens – in Europe, too," *Der Spiegel*, 20 Apr.

Bradford, A. (2012), 'The Brussels effect', *Northwestern University Law Review* 107(1): 1–68.

Bradford, A. (2020a), *The Brussels effect: How the European Union Rules the World*, Oxford University Press.

Bradford, A. (2020b), "The Brussels effect Comes for Big Tech," *Project Syndicate,* 17 Dec.

Brattberg, E., Csernatoni, R. and Rugova, V. (2020), "Europe and AI: Leading, Lagging Behind or Carving Its Own Way?", Working Paper, Carnegie Endowment for International Peace, July.

Breton, T. (2020), "Europe: The Keys to Sovereignty," 11 September. Available at: https://ec.europa.eu/commission/commissioners/2019-2024/breton/announcements/europe-keys-sovereignty_en. Accessed 4 March 2021

Burwell, F. G. (2020), "US-EU relations: A post-covid transatlantic digital agenda" in C. Hobbs (ed.), *Europe's Digital Sovereignty: From Rulemaker to Superpower in the Age of US-China Rivalry*, European Council on Foreign Relations.

Burwell, F. G. and Propp, K. (2020), "The European Union and the Search for Digital Sovereignty: Building "Fortress Europe" or Preparing for a New World?" Atlantic Council Future Europe Initiative Issue Brief, June.

Büthe, T. (2010), "The Power of Norms; the Norms of Power: Who Governs International Electrical and Electronic Technology," in D. Avant, M. Finnemore, and S. K. Sell (eds), *Who Governs the Globe?*, Cambridge University Press: 292-

Büthe, T. and Mattli, W. (2011), *The New Global Rulers: The Privatization of Regulation in the World Economy* (Princeton University Press).

Cafaggi F, Pistor K (2015), "Regulatory Capabilities: A Normative Framework for Assessing the Distributional Effects of Regulation," *Regulation and Governance*, 9/2: 95–107.

Christakis, T. (2020), "'European Digital Sovereignty': Successfully Navigating Between the "Brussels effect" and Europe's Quest for Strategic Autonomy', Multidisciplinary Institute on Artificial Intelligence/Grenoble Alpes Data Institute, e-book, December 2020 (available at https://ssrn.com/abstract=3748098 & https://airegulation.com)

Colombo, M., Solfrini, F. and Varvelli, A. (2021), "Network Effects: Europe's Digital Soveriegnty in the Mediterranean," European Council on Foreign Relations Policy Brief 393, May.

Commission (2019), "Cybersecurity of 5G Networks," Commission Recommendation of 26 March 2019.

Commission (2020-66), "A European Strategy for Data," COM(2020) 66, 19 February.

Commission (2020-67), “Shaping Europe's digital future” COM(2020) 67, 19 February.
Commission (2020-825), “Proposal for a Regulation … on a Single Market for Digital Services (Digital Services Act) and Amending Directive 2000/31/EC,” COM(2020) 825 final. 15 December.
Commission (2020-842), “Proposal for a Regulation … on Contestable and Fair Markets in the Digital Sector (Digital Markets Act),” COM(2020) 842 final, 15 December
Commission (2021), “Trade Policy Review - An Open, Sustainable and Assertive Trade Policy,” COM(2021) 66 final, 18 February.
Commission (2021-206), “Proposal for a Regulation … Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act) and Amending Certain Union Legislative Acts,” COM(2021) 206 final, 21 April.
Commission (2022a), "New approach to enable global leadership of EU standards promoting values and a resilient, green and digital Single Market" Press Release, 2 February.
Commission (2022b), "An EU Strategy on Standardisation Setting global standards in support of a resilient, green and digital EU single market" COM(2022) 31 final, 2 February).
Commission and High Representative of the European Union for Foreign Affairs and Security Policy (2020), “Joint Communication…: A New EU-US Agenda for Global Change,” JOIN(2020) 22 final, 2 December.
Commission and High Representative of the European Union for Foreign Affairs and Security Policy (2021), “Joint Communication … on strengthening the EU’s contribution to rules-based multilateralism, JOIN(2021) 3 final, 17 February.
Cooper, R. (2012) ‘Hubris and false hopes’, *Policy Review*, 172, 30 March.
Coopersmith, J., Yates, J., & Murphy, C. (2021), *Let’s Thwart This Terrible Idea for Standards Setting.* IEEE Spectrum, 31 March. https://spectrum.ieee.org/tech-talk/geek-life/history/lets-thwart-this-terrible-idea-for-standards-setting
Council (2019a), "Future of a highly digitised Europe beyond 2020: Boosting digital and economic competitiveness across the Union and digital cohesion," 10102/19, 7 June.
Council (2019b), “The Significance of 5G to the European economy and the Need to Mitigate Security Risks Linked to 5G” Annex to the Conclusions of adopted by the Transport, Telecommunications and Energy Council at its meeting on 3 December 2019, 141517/19.
Damro, C. (2012) ‘Market power Europe’, *Journal of European Public Policy* 19(5): 682–99.
Damro, C. (2015) ‘Market power Europe: exploring a dynamic conceptual framework’, *Journal of European Public Policy*, doi: 10.1080/13501763.2015.1046903.
Damro, C. (2021), “The European Union as ‘Market Power Europe,’” in S. Gstöhl and S. Schunz (eds), *The External Action of the European Union: Concepts, Approaches, Theories* (Red Globe Press), 54-68.
Dobbin, F., Simmons, B. and Garret, G. (2007), ‘The Global Diffusion of Public Policies: Social Construction, Coercion, Competition or Learning?’ *Annual Review of Sociology*, 33, 449-72.
Drezner, D. W. (2007), *All Politics is Global: Explaining International Regulatory Regimes*, Princeton University Press.
Economist (2021), “The EU Wants to Become the World’s Super-Regulator in AI,” 24 April.
EPSC [European Political Strategy Centre] (2019), “Rethinking Strategic Autonomy in the Digital Age” EPSC Strategic Notes Issue 30, European Commission, July.
Espinoza, J. (2021), “Cheat Sheet: Brussels vs Big Tech,” *Financial Times*, Brussels Briefing, 11 March.

Espinoza, J. and Murgia, M. (2020), "The four problems with Europe's vision of AI," *Financial Times*, 25 Feb.
European Council (2020), Conclusions, EUCO 13/20, Brussels, 2 October.
Farrell, H. and Newman, A. L. (2014), "Domestic Institutions Beyond the Nation-State: Charting the New Interdependence Approach," *World Politics*, 66/2, 331-63.
García, M. (2013), 'From Idealism to Realism? EU Preferential Trade Agreement Policy,' *Journal of Contemporary European Research*, 9/4, 521-41.
Gavrilovic, A. and Njegic, J. (2021), "A new landmark in global cybersecurity negotiations: UN Cyber OEWG in numbers," Diplo Blog, 18 March. https://www.diplomacy.edu/blog/new-landmark-global-cybersecurity-negotiations-un-cyber-oewg-numbers
Ghiretti, F. (2021), "Technological Competition: Can the EU Compete with China," IAI Paper 21-15 (Rome: Instituto Affairi Internazionali). April.
Giolzetti, D. (2021), "China's Road to 'Cyber Superpower' Status," *World Politics Review*, 8 February. https://www.worldpoliticsreview.com/articles/29408/under-xi-china-aims-for-cyber-superpower-status. Accessed 13 May 2021.
Helwig, N. (2021a), "Key Findings of the Report," in N. Helwig (ed.), *Strategic Autonomy and the Transformation of the EU: New Agendas for Security, Diplomacy, Trade and Technology*, FIIA Report 67 (Finnish Institute of International Affairs), April.
Helwig, N. (2021b), "Introduction: The EU's Choices in Advancing Strategic Autonomy," in N. Helwig (ed.), *Strategic Autonomy and the Transformation of the EU: New Agendas for Security, Diplomacy, Trade and Technology*, FIIA Report 67 (Finnish Institute of International Affairs), April.
Hobbs, C. (2020), "Summary" in C. Hobbs (ed.), *Europe's Digital Sovereignty: From Rulemaker to Superpower in the Age of US-China Rivalry*, European Council on Foreign Relations.
Holzinger, K., Knill, C. and Sommerer, T. (2008), 'Environmental Policy Convergence: The Impact of International Harmonization, Transnational Communication and Regulatory Competition,' *International Organization*, 62 (fall), 553-87.
Ignatius, D. (2021), "How Russia and China are Attempting to Rewrite Cyberworld Order," *Washington Post*, 30 March.
Jakobsson, A. K. and Stolz, M. (2021), "Principled Big Tech: European Pursuit of Technological Sovereignty,´ in N. Helwig (ed.), *Strategic Autonomy and the Transformation of the EU: New Agendas for Security, Diplomacy, Trade and Technology*, FIIA Report 67 (Finnish Institute of International Affairs), April. 107-27.
Jarlebring, J. (2022), "'Regime Vetting': A Technique to Exercise EU Market Power," *Journal of European Public Policy*, 29/4: 530-549.
Kang, C. (2022), "As Europe Approves New Tech Laws, the U.S. Falls Further Behind," *New York Times*, 22 April.
Keohane, R. O. and Nye, J.S. (2001), *Power and Interdependence*, 3rd ed, Longman.
Khan, M. and Noonan, L. (2021), "Europe's low-tax nations braced for struggle over US corporate tax plan," *Financial Times*, 14 Apr.
King, D. and Narlikar, A. (2003), 'The New Risk Regulators? International Organisations and Globalisation,' *The Political Quarterly*, 74/3, 337-48.
Koenig-Archibugi, M. (2010), 'Global Regulation,' in R. Baldwin, M. Cave, D. Lodge (eds), *The Oxford Handbook of Regulation* (Oxford: Oxford University Press): 406-33.

Krasner, S. D. (1991), 'Global Communications and National Power: Life on the Pareto Frontier,' *World Politics*, 43/3, April, 336-66.
Kynge, J. and Liu, N. (2020), "From AI to Facial Recognition: How China is Setting the Rules in New Tech," *Financial Times*, 7 October.
Lavenex, S. (2014), 'The Power of Functionalist Extension: How EU Rules Travel,' *Journal of European Public Policy*, 21/6, 885-903.
Lavenex, S. and Schimmelfennig, F. (2010), 'EU Rules beyond EU Borders: Theorizing External Governance in European Politics,' in S. Lavenex and F. Schimmelfennig (eds), *EU External Governance: Projecting EU Rules beyond Membership*, Routledge, 1-22.
Lavenex, S., Serrano, O. and Büthe, T. (2021), "Power Transition and the Rise of the Regulatory State: Global Market Governance in Flux," *Regulation & Governance*, 15, 445-471.
Lazer, D. (2006), 'Global and Domestic Governance: Modes of Interdependence in Regulatory Policymaking,' *European Law Journal*, 12/4, 455-68.
MacCarthy, M. and Propp, K. (2021), "Machines Learn that Brussels Writes the Rules: The EU's New AI Regulation,´Brookings TechTank, 4 May.
Majority Staff Report (2020), "Investigation of Competition in Digital Markets," Subcommittee on Antitrust, Commercial and Administrative Law, the Committee on the Judiciary, US House of Representatives.
Manacourt, V. and Kayali, L. (2022), "US-EU Data Transfers on Life Support After French Google Decision," *POLITICO*, 10 February.
Mayers, Z. (2021), "The US proposals on digital services taxes and minimum tax rates: How the EU should respond,´ Centre for European Reform Insight, 15 Apr.
Meunier, S. and Nicolaïdis, K. (2006), 'The European Union as a Conflicted Trade Power,' *Journal of European Public Policy*, 13/6, 906-25.
Mozur, P., Kang, C., Satariano, A. and NcCabe, D. (2021), "A Global Tipping Point for Reining in Tech Has Arrived," *New York Times*, 20 April.
Müller, P. and Falkner, G. (2014), 'The EU as a policy exporter? The conceptual framework,' in G. Falkner and P. Müller (eds.), *EU Policies in a Global Perspective: Shaping or Taking International Regimes?* London: Routledge, 1-19.
Müller, P., Kudrna, Z. and Falkner, G. (2014), 'EU-Global Interactions: Policy Export, Import, Promotion and Protection,' *Journal of European Public Policy*, 21/8, 1102-19.
Murgia, M. and Gross, A. (2020), "Inside China's Controversial Mission to Reinvent the Internet," *Financial Times*, 27 March.
NIC (2021), "Global Trends 2040: A More Contested World," (Washington, DC: National Intelligence Council), March.
Pannier, A. (2021), "Europe in the Geopolitics of Technology: Connecting the Internal and External Dimensions," Briefings De L'IFRI, 9 April.
Pfeiffer, S. and Carr, R. (2021), "Error 404 – Trust Not Found" Munich Security Brief 2/2021, March.
Politi, J. and Williams, A. (2021), "US offers new plan in global corporate tax talks,´ *Financial Times*, 8 Apr.
Puddephatt, A. (2020), "Governing the Internet: The Makings of an EU Model" in C. Hobbs (ed.), *Europe's Digital Sovereignty: From Rulemaker to Superpower in the Age of US-China Rivalry*, European Council on Foreign Relations.
Putnam, R. D. (1988), 'Diplomacy and Domestic Politics: The Logic of Two-Level Games,' *International Organization*, 42/3.

Sacks, S. (2018), "Beijing Wants to Rewrite the Rules of the Internet," *The Atlantic*, 18 June.
Sahin, K. and Barker, T. (2021), "Europe's Capacity to Act in the Global Tech Race: Charting a Path for Europe in Times of Major Technological Disruption," DGAP Report 6, German Council on Foreign Relations, April.
Sandbu, M. (2020), "Globalisation need not mean deregulation", *Financial Times*, August 23.
Schaake, M. (2020), "EU risks being dethroned as world's lead digital regulator", *Financial Times*, August 23.
Seaman, J. (2020), "China and the New Geopolitics of Technical Standardization" Notes de I'Ifri (Paris: Ifri), January.
Sedelmeier, U. (2020), "Enlargement: Widening Memberhip, Transforming Would-be Members?" in H. Wallace, M.A. Pollack, C. Roederer-Rynning and A. R. Young (eds), *Policy-Making in the European Union*, 8th edn. Oxford University Press: 440-68.
Shapiro, J. (2020), "Introduction: Europe's digital sovereignty" in C. Hobbs (ed.), *Europe's Digital Sovereignty: From Rulemaker to Superpower in the Age of US-China Rivalry*, European Council on Foreign Relations.
Simmons, B. A. (2001), 'The International Politics of Harmonization: The Case of Capital Market Regulation,' International Organization, 55/3, 589-620.
Sinkkonen, E. and Sinkkonen, V. (2021), "A Multi-Dimensional View of US-China Great-Power Competition," in N. Helwig (ed.), *Strategic Autonomy and the Transformation of the EU: New Agendas for Security, Diplomacy, Trade and Technology*, FIIA Report 67 (Finnish Institute of International Affairs), April. 29-50.
Suzuki, K. (2021), "U.S.-China Technological Hegemony and Japan's Economic Security," Global Governance Program Policy Brief 2021/13, European University Institute, March.
Torreblanca, J. I. (2021), "Referees Don't Win Games: Europe and the Digital Great Game," European Council on Foreign Relations Commentary, 9 February. https://ecfr.eu/article/referees-dont-win-games-europe-and-the-digital-great-game/ Accessed 14 May 2021.
USCE&SRC (2020), "2020 Report to Congress of the U.S.-China Economic and Security Review Commission" December.
Vogel, D. (1995), *Trading Up: Consumer and Environmental Regulation in a Global Economy*, Harvard University Press.
von der Leyen, U. (2020a), "Shaping Europe's Digital Future," AC/20/260, available at: https://ec.europa.eu/commission/presscorner/detail/en/AC_20_260
von der Leyen, U. (2020b), "State of the Union 2020," 16 September.
Wang, M. (2021), "China's Techno-Authoritarianism Has Gone Global" *Foreign Affairs*, snapshot, 8 April. Available at: https://www.foreignaffairs.com/articles/china/2021-04-08/chinas-techno-authoritarianism-has-gone-global Accessed 14 April 2021.
Wiener, J. B. (2011), 'The Real Pattern of Precaution,' in J.B. Wiener, M. D. Rogers, J.K. Hammitt and P.H. Sand (eds), *The Reality of Precaution: Comparing Risk Regulation in the United States and Europe* (Washington, DC: RFF Press), 519-65.
Wilkinson, I. (2021), "Digital Standards are Key for Protecting Democracy," Chatham House Expert Comment, 17 May. https://www.chathamhouse.org/2021/05/digital-standards-are-key-protecting-democracy?mc_cid=c1e8dd7dc7&mc_eid=0ca51506cf
Wolff, G. (2020), "Europe may be the world's AI referee, but referees don't win," *POLITICO*, 17 February. (Bruegel director)

Young, A. R. (2003), "Political Transfer and "Trading Up": Transatlantic Trade in Genetically Modified Food and US Politics," *World Politics*, 55/4: 457-84.
Young, A. R. (2015a), "Europe's Influence on Foreign Rules: Conditions, Context and Comparison," *Journal of European Public Policy*. 22/9: 1233-52.
Young, A. R. (2015b), "Europe's Influence on Foreign Rules: Conditions, Context and Comparison," *Journal of European Public Policy.* 22/9: 1233-52
Young, A. R. (2022), "Product Regulations: You Can Drive My Car, Otherwise Let it Be" in J. Adriaensen and E. Postnikov (eds), *The Geo-Economic Turn in Trade Policy? EU Trade Agreements in the Asia-Pacific*, Palgrave Macmillan, 149-173.

Table 2 Varying sources of influence across the domains of digital governance

	Firm behavior *(de facto Brussels Effect)*	*Others' rules*				*Power-based negotiations*	*Rule-mediated negotiations*
		Competition *(de jure Brussels Effect)*	*Conditionality*	*Regime vetting*	*Emulation/ learning*		
Digital governance example(s)	Privacy Content Anti-trust	Privacy	Accession/ association	Privacy	???	Taxation Cybersecurity Internet	International standard-setting
EU power resources	Market size Regulatory capability (rule stringency) Regulatory capacity	Market size Regulatory capability (rule stringency) Regulatory capacity	Market size	Market size	Regulatory capability	Market size Regulatory capability (rule stringency Regulatory capacity	Regulatory capacity Institutional power
Other key factors	Target divisibility	Other's politics	Other's politics	Other's politics	Other's politics	Possibility of exclusion Regulatory capability (common position) Relative preferences	Relative preferences