

Examining Small State Power in a European Environment: Slovenian Foreign Policy toward Croatia

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Abstract

Using selected issues, Slovenia's use of relational resources to advance its foreign policy interests is examined. Particular attention is given to the European Union (EU) and Slovenia's use of its EU status. The article finds evidence of the successful use of relational resources by Slovenia in its interactions with Croatia, although some of those successes were undermined by changes in the external environment.

Keywords: Slovenian foreign policy, Slovenian politics and government, European Union, Croatia

Introduction

Now approaching its fourth decade of independence, Slovenia has been a notable success among Europe's many post-socialist states. Since declaring its independence from the Socialist Federal Republic of Yugoslavia (SFRY) in June 1991, Slovenia has, with alacrity, overcome the challenges of democratic consolidation, state-building, accession to both NATO and the European Union (EU), as well as adoption of the euro and admission to the Schengen zone, and established a reputation as a reliable and competent member of both aforementioned organizations.¹

Upon embarking on the process of integrating itself into the global and European systems following independence, Slovenia attempted to shed its identity as a former Yugoslav republic and present the image of a normal Central European state. To that end, it reduced its dealings with states in the Western Balkans. In 1994, for example, Foreign Minister Peterle stated that Slovenia's foreign policy strategy "gives little notice to former Yugoslavia."² In 1996, it initially declined to participate in the US-sponsored Southeastern Europe Cooperative Initiative. It later reversed its position, but only after President Clinton sent Prime Minister Drnovšek a letter requesting that

¹ Note, for example, Slovenia's generally well-regarded term in the EU presidency during the first half of 2008. Slovenia was the first of the entrants from the 2004 enlargement to hold the presidency. ("Post-Summit Analysis: A Time to Heal," European Policy Centre, 23 June 2008. http://www.epc.eu/documents/uploads/pub_450_post-summit_analysis_-_23_june_2008.pdf).

² STA (Slovenska tiskovna agencija [Slovenian Press Agency], Ljubljana), 13 September 1994.

Slovenia reconsider its decision (Bučar and Šterbenc 2002: 113). In 1999, Slovenia agreed to participate in the EU's Stability Pact for Southeast Europe; however, participation was contingent upon Slovenia being designated as a donor state. When the organization held a summit in Croatia in 2000, Slovenia sent only a "representative."³ Over the five years preceding its admission to NATO and the EU (both events took place in 2004), Slovenia gradually began to cultivate relations with its Western Balkan neighbors. But re-engagement came on different terms. These efforts intensified following Slovenia's admission to NATO and the EU. With its new credentials, Slovenia approached the region more as a mentor and an actor capable of driving regional events rather than as a Yugoslav successor state.⁴

This article seeks to illustrate a major element of Slovenia's re-engagement in the Western Balkans through a case study of its changing relationship with Croatia, as perceived through selected issues (described below), beginning with the disintegration of the SFRY in 1991 and continuing through 2020. Slovenia's relations with Croatia represent a potentially fruitful case for examining the course of Slovenia's engagement with the Western Balkans region since the disintegration of Yugoslavia. The case illuminates the many dimensions of Slovenia's presence in the region. Croatia stands out as a known quantity for Slovenia, having been united with the territory for more than seventy years as part of various iterations of Yugoslavia. The relationship is further colored by their centuries-old presence in the Hapsburg Empire, and the political, economic, and social consequences of that experience. The Slovene leadership and diplomatic service would be well acquainted with its counterparts in Zagreb as well as Croatia's interests and capabilities. Engagement with Croatia would permit Slovenia to assume a role as an intermediary between Croatia and Western Europe and as a mentor to Croatia. Zagreb might look to Ljubljana as an outlet to Europe, particularly the EU, while various actors in the EU would view Slovenia as a useful partner for building a relationship with Croatia.

Several difficult issues faced the two countries as they emerged from the SFRY as sovereign states in 1991. For Slovenia, the pre-eminent concern was securing access to international waters from its ports. The shape of Slovenia's limited (just forty-two-km.) coastline required that Slovenian vessels pass through what was conventionally regarded as Croatian or Italian territory in order to reach international waters. Slovenia sought Croatia's assent to a re-interpretation of this condition that would permit its vessels unfettered access to international sea routes in the Adriatic (Sancin 2010: 107–108). A related concern for Slovenia was clarifying the countries' shared

³ HINA (Hrvatska izvještajna novinska agencija [Croatian Press Agency], Zagreb), 2 March 2020.

⁴ This is evident in Slovenia's efforts while holding the EU Presidency. See Bukowski (2009).

jurisdiction over the Bay of Piran. Slovenia maintained a claim over most of the bay's waters, while Croatia argued that the bay should be equally shared (Sancin 2010: 97). For its part, Croatia desired guarantees from Slovenia regarding the management of the Krško (Slovenia) nuclear power plant as well as access to the electricity it produced—a facility built partially with Croatian money and at times supplying as much as a quarter of Croatia's electricity.⁵ Other issues included areas where the international land border was ill-defined, the disposition of Croatian accounts in the Ljubljanska Banka (LB) that were opened prior to Yugoslavia's disintegration, and the property rights of Slovenians in Croatia (including a high tax rate on Slovenian held property).

This article will survey Slovenian-Croatian relations via the issues described above in the context of the changing foreign policy setting confronting Slovenia, with a focus on the environment created by the European Union. Three periods will be examined: the period prior to Slovenia's EU accession (1991–2003); the period following accession, during which Croatia became a candidate for EU membership (2004–13)⁶; and the period following Croatia's accession (2013–20). The article will conclude with an examination of Slovenia's changing relationship with Croatia, and of how those changes reflect Slovenia's attempts to manipulate the nature of its role in the Western Balkans. In addition, those changes will be understood in the context of the status of each state with respect to its own relationship with the EU, as both moved from an EU aspirant to an EU member.

Relations prior to Slovenia's EU Accession: 1991–2003

Using diplomatic recognition as a measure, the Republic of Croatia represents Slovenia's longest standing bilateral relationship. As they made their respective plans to withdraw from the SFRY, the two countries agreed in April 1991 on mutual recognition, which occurred on 26 June, making Croatia the first country to grant diplomatic recognition to Slovenia. The two republics also agreed to a mutual defense arrangement and to intelligence sharing, but those arrangements fell apart just prior to their respective 25 June declarations of independence (Silber and Little 1997: 149–50). Fallout from this event and the hostilities in the region that followed the two states' independence declarations, delayed the formal establishment of diplomatic relations between the two countries until 6 February 1992.

While Slovenia maintained a dialogue with its neighbor during the first half of the 1990s, which encompassed regular diplomatic contacts

⁵ Yugoslav Telegraph Service (Belgrade), 4 December 1993.

⁶ Croatia signed an association agreement with the EU in 2001 and submitted a formal application for membership to the EU in 2003.

including ministerial-level meetings and occasional summits, on balance the effort did not receive the same level of attention as Slovenia's growing relationship with the EU and its Central European neighbors (Markotich 1995: 40). For example, in a long interview on foreign policy priorities with the Slovenian Press Agency in September 1994,⁷ Foreign Minister Peterle did not mention relations with Croatia. A year later Peterle's successor, Zoran Thaler, indicated that fundamental interests of Slovenia's foreign policy were not jeopardized by the lack of improvement in relations with Croatia.⁸

By the second half of the 1990s, Slovenia had made substantial progress in its efforts to establish a European identity. The most significant accomplishment was the signing of an association agreement with the EU in May 1996. This agreement allowed Slovenia to become a candidate for accession to the organization (although the EU had yet to make an official decision on enlargement plans). Slovenia's other major endeavor—becoming a member of NATO—did not enjoy the same level of success since it was not included in the alliance's first post-Cold War enlargement in July 1997. Slovenia responded to this disappointment in a largely positive fashion and embarked on an effort to strengthen its future candidacy (Šabič and Bukowski 2003). An important element of this effort entailed a modest re-engagement in Balkan affairs accompanied by an increased emphasis on relations with Croatia.

The first evidence of a policy change toward Croatia came shortly before the disappointing NATO enlargement decision. As Prime Minister Drnovšek began a new term in office in January 1997, he indicated that improved relations with Croatia would be a foreign policy priority.⁹ Two months later, Drnovšek reiterated this desire in an interview with Croatian television.¹⁰ In April, the two countries signed agreements on insurance and cross-border traffic. Following the unsuccessful NATO bid, Drnovšek appointed a new foreign minister, Boris Frlec, who appeared to give more attention to Croatia than did his predecessor. Agreements were signed in December on trade, protection and promotion of investments, and international transport. Unfortunately, no substantial progress was made on the most pressing issues dividing the countries: land and sea border disputes, the status of Croatian deposits in Ljubljanska Banka, the management of the Krško nuclear power plant, and Slovenian property rights in Croatia. Indeed, a regular feature of ministerial summits throughout the 1991–98 period were

⁷ STA, 13 September 1994.

⁸ STA, 20 December 1995.

⁹ Radio Slovenia, 8 January 1997.

¹⁰ Radio Slovenia, 7 March 1997.

declarations that progress would be made on these contentious issues in the near future, but results were never forthcoming.¹¹

Drnovšek opened 1998 by noting in an interview that little progress had been made in talks with Croatia on the critical issues separating the two countries.¹² Croatia's frustration was visible in June when an anticipated visit by President Tudjman to Slovenia was postponed. Croatia's foreign minister indicated that a summit would be held only after the two countries made progress on key issues.¹³ In July, a joint border commission established by the two countries in 1993 held only its fourth (and as it transpired, last) meeting. Although the commission had successfully settled all of the noncontroversial aspects of the Slovenia-Croatia border, it was unable to make progress on more contentious questions over the land border as well as maritime boundaries.¹⁴ The following year, the two sides did reach a final agreement on property issues¹⁵

In Croatia, the new millennium also brought a new government. A center-left coalition led by Ivica Račan took power in Zagreb ending a decade of nationalist rule by Tudjman's Croatian Democratic Union (Tudjman died in December 1999). The change in leadership perhaps encouraged the Slovene government to put aside the historical baggage that had accumulated during Tudjman's tenure and to make a new effort to settle outstanding issues.

Little apparent progress was made during 2000, but the following three years saw several initiatives, although not all culminated in concrete results. Potentially the most significant was a 20 July 2001 border agreement negotiated by the two countries' prime ministers, Drnovšek and Račan.¹⁶ The agreement was significant for Slovenia both because of the venue in which it was constructed and its content. Regarding the former, Slovenia (at the time) preferred to address the issue of its maritime border with Croatia through bilateral negotiations because the nature of its claim for access to open seas was arguably not well supported by international law. It was believed that any arbitration process that included appeals to international law would put Slovenia's claim at a disadvantage (Zornaczuk 2009: 2). The so-called Drnovšek-Račan Agreement seemed to confirm this conclusion since it

¹¹ For example, a Croatian report on a meeting involving the foreign and economic ministers from the two countries stated that various plans had been agreed on that would resolve the Ljubljanska Banka dispute, finalize the status of the Krško nuclear power plant, normalize property rights laws, and settle border disputes (HINA, 25 August 1998).

¹² Radio Slovenia, 23 January 1998.

¹³ HINA, 5 June 1998.

¹⁴ HINA, 21 July 1998.

¹⁵ STA, 14 December 1999.

¹⁶ HINA, 5 September 2001.

resulted in an arrangement that gave Slovenia direct access to international waters without the need for arbitration. The pact was generally well received in Slovenia, but quickly experienced opposition in the Croatian parliament. Račan subsequently sought to renegotiate the terms of the deal, but the Drnovšek government resolutely maintained the position that the original agreement represented the only terms upon which Slovenia would settle. In the end, Račan could not find support for the pact beyond his own party and Croatia officially abandoned it in September of the following year (Sancin 2010: 97). Nevertheless, the two countries did make progress in regularizing transit across their land border.¹⁷ Moreover, the Krško nuclear power plant issue was settled over an extended period beginning with the signing of an agreement providing for joint management of the plant in December 2001. The controversial nature of the agreement slowed the efforts of both countries' leaderships to win ratification of the settlement in their respective parliaments. Croatia's parliament ratified the agreement in July 2002, while Slovenia's parliament did not act until February 2003.¹⁸

The unresolved maritime border became the source of new turbulence in the Slovenia-Croatia relationship in August 2003 when the Croatian government indicated its intention to establish an exclusive economic zone (EEZ) in the Adriatic Sea. The Slovene government joined with its political opposition in opposing this move and even recalled its ambassador in Zagreb for two weeks.¹⁹ The initiative received little support from other countries in the region and was strongly opposed by Italy. Slovenia argued that any actions relating to the disputed maritime border should be made in conformance with the Drnovšek-Račan Agreement of 2001. It also suggested that such a declaration would not be supported in Brussels and would hinder Croatia's attempt to join the EU. (Croatia had formally requested EU membership in February 2003.) In October, Croatia partially backed away from its original intentions, and its parliament declared a "fishing and ecological zone" (a term not formally recognized in international negotiations and thus having undefined implications) that would not be enforced for at least twelve months.²⁰

¹⁷ HINA, 5 September 2001; Television Slovenia, 5 March 2002.

¹⁸ The agreement did not resolve all outstanding issues related to the plant. Rather, it set in place a mechanism for managing the plant as well as a process for addressing disputes that had emerged since the SFRY dissolved. An important issue for Croatia in this regard was compensation for Slovenia's failure to deliver electricity while the two countries quarreled over whether and how much Croatia owed Slovenia for electricity that had been supplied in the past (Croatian Radio, 3 October 2003).

¹⁹ STA, 12 September 2003.

²⁰ *Delo* (Ljubljana), 15 October 2003. Croatia choose to refrain from making this controversial move until after its November 2003 parliamentary elections and a

Relations following Slovenia's EU Accession: 2004–2013

In 2004, Slovenia accomplished the two principal foreign policy goals it had set for itself upon becoming an independent state thirteen years earlier. On 29 March, it became a member of NATO—finally overcoming the great disappointment of not being included in NATO's 1999 enlargement. Next, formal accession to the European Union took place on 1 May. As noted above, in order to gain membership to these organizations, Slovenia was obliged to amend some elements of its foreign policy in ways it may not have found desirable. Certainly, Slovenia understood that making a visible effort to find common ground with Croatia was necessary in order to be a successful candidate for membership in both NATO and the EU. Now that it was inside these organizations, the possibility of altering the nature of its negotiating relationship with Croatia emerged.

Nevertheless, it was prior to EU accession that Slovenia's approach to its border dispute with Croatia appeared to shift. Although Croatia abandoned the Drnovšek-Račan agreement in 2002, Slovenia continued to hold the view that the agreement represented the only viable means of addressing the issue. But in April 2004, talks between the two countries' foreign ministers resulted in an announcement that they would undertake negotiations on the parameters of an arbitration process that could be used to address the issue of their common border.²¹

The new environment resulting from Slovenia's EU accession displayed its initial impact in June 2004 when Croatia indicated that it intended to enforce its fishing and ecological zone in October, but that these enforcement measures would not apply to EU members (i.e., Slovenia and Italy).²² This action came less than two weeks before the EU Council of Ministers was scheduled to make a recommendation on whether the EU should formally open membership negotiations with Croatia—a decision Italy or Slovenia could have vetoed.²³ Slovenia's Foreign Minister, Dimitrij Rupel, stated that Slovenia was pleased with the decision, but characterized it as "insufficient" while calling the decision a "unilateral move" that was "not exactly a model European solution."²⁴ Nevertheless, Croatia's decision apparently was sufficient to avoid triggering a Slovene (or Italian) veto of its candidacy recommendation, with the EU Council of Ministers voting to declare Croatia a candidate country on 18 June.²⁵

European Commission evaluation of its candidacy for EU accession that was expected in the spring of 2004.

²¹ STA, 15 April 2004.

²² STA, 4 June 2004.

²³ HINA, 2 June 2004.

²⁴ HINA, 12 December 2004.

²⁵ STA, 18 June 2004.

Late September saw relations between the two countries experience a brief and tumultuous collision with Slovene electoral politics when several Slovenes, including a member of an opposition party in Slovenia's parliament, were taken into custody by Croatian border police in an area near Piran where the border was disputed. The Slovenes, claiming to be in Slovene territory, refused to comply with a Croatian police demand that they show identity cards. The incident, which took place less than two weeks before Slovenia's parliamentary elections, was recorded by a television news crew and appeared on Slovenian television the same day. The next day, Slovene Prime Minister Anton Rop told Radio Slovenia that, at the current time, Slovenia could no longer support Croatia's EU candidacy.²⁶ Later in the day, Slovenia's new Foreign Minister, Ivo Vajgl, indicated support for Rop's remark, but added that the statement should not "be seen as a threat or something that is not in line with EU conduct."²⁷ The next week, during a meeting in Ljubljana with Javier Solana, the EU High Representative for Common Foreign and Security Policy, Rop seemed to back away from his initial stand. He stated that "Croatia's accession to the EU is in Slovenia's long-term interest, but that Slovenia is of the opinion that Croatia must meet the criteria just like all the other countries."²⁸ Just a few days later, Rop's center-left coalition was defeated in parliamentary elections by a center-right coalition led by Janez Janša.

Slovenia's new center-right government took power in November 2004. Its foreign policy platform included support for Croatia's EU candidacy, while noting that accession obliges Croatia to meet many requirements "including the European understanding of consensual, rather than unilateral, approaches to unresolved issues."²⁹ The statement did not address whether the Janša government would support the previous government's April agreement with Croatia to take the border dispute to arbitration. The new government's foreign minister, Dimitrij Rupel (having switched his affiliation to Janša's Slovenian Democratic Party), argued that Croatia's candidacy would require it to negotiate outstanding issues within the EU context and would not permit unilateral actions (i.e. Croatia's declaration of a fishing and ecological zone) that suggest a "lack of credibility."³⁰

During the winter and spring of 2005, the Janša government signaled at interest in improving relations with Croatia. Janša met twice with his Croatian counterpart, Ivo Sanader (once secretly). In March 2005, the Janša government joined a minority of EU members in supporting a spring

²⁶ 23 September 2004 (1000 GMT).

²⁷ Radio Slovenia, 23 September 2004 (1330 GMT).

²⁸ Television Slovenia, 28 September 2004.

²⁹ STA, 24 November 2004.

³⁰ HINA, 12 December 2004.

start to accession talks with Croatia. Both Janša and Rupel stated that if accession talks with Croatia were overly delayed, the government in Zagreb could be destabilized.³¹ (These talks ultimately commenced in October.) In July, Rupel said that while the Drnovšek-Racan agreement of 2001 remained the “best solution” for addressing the Slovenia-Croatia border dispute, he did not rule out the option of arbitration.³² In the meantime, the two countries did sign an agreement in June designed to prevent border incidents.³³ Janša echoed his foreign minister’s views regarding arbitration in September. This statement came after all of Croatia’s parliamentary parties declared their support for arbitration.³⁴ Less than a month later, Foreign Minister Rupel rejected Croatia’s arbitration proposal on the ground that it only addressed the maritime border between the two countries. Rupel contended that Slovenia’s long standing goal was a comprehensive agreement that addressed land and maritime border issues; he added that Slovenia had already begun preparing documents for such a process.³⁵ In December, discussing Slovenia’s relations with Croatia, Rupel noted a “small problem” on Croatia’s part, a “lack of credibility.” He called on Croatia to take up the European Commission’s recent appeal that the country settle all of its border issues prior to becoming a part of the EU.³⁶ The Janša government’s arguably inconsistent approach in its first year in office suggests that it was attempting to walk a fine line separating the need for Slovenia to demonstrate to the EU that it could be a constructive member of the organization from its strong desire for a favorable and comprehensive solution to the border dispute.

With Croatia’s accession talks now underway, the EU’s enlargement commissioner worked to make it clear that the EU regarded border negotiations between Slovenia and Croatia as a bilateral issue.³⁷ In August 2007, Janša and Croatian Prime Minister Sanader agreed to refer all of the countries’ border issues to the International Court of Justice (ICJ) for arbitration. The agreement ostensibly addressed Slovenia’s objection to Croatia’s proposal from September 2005 to take only the maritime border to arbitration. However, it is notable that the terms of the agreement were vague and required considerable preparatory work on the part of both countries before any referral could take place.³⁸ In March 2008, representatives from

³¹ STA, 16 March 2005.

³² STA, 9 July 2005.

³³ Television Slovenia, 10 June 2005.

³⁴ Television Slovenia, 7 September 2005.

³⁵ STA, 4 October 2005.

³⁶ STA, 7 December 2005.

³⁷ Radio Slovenia, 10 February 2006; *Delo* (Ljubljana), 6 March 2007.

³⁸ STA, 26 August 2007. Among other things, the conditions under which the arbitrators would review the material presented by the two countries were far from settled. Slovenia considered this issue critical since it was widely believed that any arbitration based solely on principles of international law would likely

each country began the process of identifying the main points of their border dispute for submission to the Court.³⁹ However, a few weeks later, Janša said that Slovenia would consider exercising its veto of Croatian accession to the EU if progress was not made on their border concerns.⁴⁰ Foreign Minister Rupel echoed this view in various statements during the summer and revealed that Slovenia had blocked approval of two chapters of Croatia's accession negotiations.⁴¹ The change in tone may have been related to the approach of parliamentary elections in September.

These elections brought Slovenia a left-of-center government headed by Borut Pahor, who was quick to show support for the general tenor of the previous government's view,⁴² stating that "Slovenia will support Croatia's accession, if this accession does not hurt our national interests."⁴³ Pahor's principal concern was a perceived effort by Croatia to influence any forthcoming border arbitration process and an inability to reach an agreement with Croatia that would rectify this situation.⁴⁴ As a result, on 17 December, Pahor announced that he was blocking negotiations between the EU and Croatia in a number of areas (i.e., chapters).⁴⁵ The following day, the European Commission expressed regret over Pahor's announcement and reiterated its view that the border issues confronting Slovenia and Croatia were a bilateral issue that should not play a role in accession talks.⁴⁶ Despite this view, the Commission commenced a series of attempts to facilitate an end to the dispute.⁴⁷ Little progress was made on this issue over the winter,

result in Slovenia being denied free access to international waters in the Adriatic. Rather, Slovenia desired that the process include a consideration for its special circumstances as a part of the former SFRY and its vital interests as a state actor. Such criteria are permitted under international law and allow arbiters to craft a finding they consider fair even if it means the principles of international law relevant to the issue are not strictly followed (Sancin 2010: 107–108). The Janša-Sanader meeting also led to a pledge by the two countries to work on a bilateral basis toward a resolution of the disposition of Croatian assets in Ljubljanska Banka (STA, 26 August 2007).

³⁹ STA, 26 March 2008.

⁴⁰ STA, 8 April 2008.

⁴¹ HINA, 8 July 2008. Accession to the EU requires candidate countries to reach agreement with the European Commission on 35 categories (known as chapters) of issues.

⁴² HINA, 4 October 2008.

⁴³ STA, 2 December 2008.

⁴⁴ Slovenia argued that Croatia's submission of material to the EU as part of its accession process included documents as well as maps that mischaracterized the status of the border between the two countries.

⁴⁵ STA, 17 December 2008. It was Croatia's hope to open negotiations in ten chapters while closing five other chapters. Slovenia's actions permitted only one chapter to be opened for negotiations and three chapters to be closed.

⁴⁶ STA, 18 December 2008.

⁴⁷ STA, 23 January 2009.

and Slovenia again formally expressed reservations over Croatia's accession in February and July 2009.⁴⁸ It is notable that, at the same time, the Pahor government delayed giving its approval to Croatia's efforts to join NATO, only delivering notice of its ratification of Croatia's accession a few days before a NATO summit that—among other things—was intended to welcome Croatia as a new member.⁴⁹

Shortly after Slovenia's July actions blocking Croatia's accession process, Croatian Prime Minister Sanader abruptly resigned; he was succeeded by Jadranka Kosor.⁵⁰ Pahor met with Kosor in July and again in September. Following the second summit, the two sides reached a compromise in which the European Commission would facilitate the process of identifying a means of arbitration that would address the disputed borders. Croatia would issue a formal statement to the EU that none of the material it had submitted on behalf of its candidacy for membership should prejudice the settlement of the Croatian-Slovenian border, and Slovenia would lift its reservations to Croatia's candidacy.⁵¹ With assistance from the European Commission, an agreement was reached in November that led to the signing of a treaty calling for settlement of all border issues via the establishment of an Arbitral Tribunal.⁵² In January 2010, after a meeting of the two prime ministers, a joint commission was established to resolve the disputes remaining between the two countries.⁵³ The following month, the Pahor government announced it would withdraw its reservations on two of the three chapters it had blocked in December.⁵⁴ In April, it announced it had no reservations to any of the chapters submitted by Croatia—although three chapters remained to be opened.⁵⁵

While Croatia's accession process proceeded, the Pahor government shepherded the border arbitration agreement through various legislative and judicial hurdles, with final approval coming via a national referendum in June 2010.⁵⁶ In the meantime, Slovenia renewed its attention to the ongoing dispute over the resolution of Croatian deposits in the Slovenian bank, Ljubljanska Banka, by noting that the issue could represent an impediment to the closing of the chapter on the free movement of capital.⁵⁷ Progress, from

⁴⁸ STA, 25 February 2009; HINA, 24 July 2009.

⁴⁹ "Slovenia: Croatia May Enter NATO," *New York Times*, 28 March 2009.

⁵⁰ It is unlikely that Sanader's resignation was related to Croatia's relations with Slovenia.

⁵¹ HINA, 11 September 2009.

⁵² STA, 4 November 2009.

⁵³ STA, 13 January 2010.

⁵⁴ HINA, 12 February 2010.

⁵⁵ STA, 14 April 2010.

⁵⁶ STA, 6 June 2010. Croatia's parliament ratified the treaty just a few weeks after its initial signing in November 2009.

⁵⁷ STA, 14 April 2010.

Slovenia's perspective, was made on this issue in November when Croatia withdrew its longstanding contention that the dispute should be settled bilaterally and agreed that it could be resolved through the Bank for International Settlements (BIS).⁵⁸

With the border issue now on its way to arbitration and with Croatia's return to the BIS-sponsored settlement process, its EU candidacy progressed without significant interruption. Croatia completed negotiations with the EU on 30 June 2011. Following approval from the European Commission and the European Parliament, it signed an accession treaty on 9 December, allowing the twenty-seven EU members to begin the process of giving their respective approvals. As this effort progressed during 2012, Croatia, now governed by a center-left coalition (which took power in December 2011), appeared to back away from its 2010 pledge to participate in negotiations overseen by the BIS as a means to settle the Ljubljanska Banka dispute. This triggered a concern from the newly-installed center-right government of Slovenia that its approval of Croatia's EU membership bid would be difficult to provide unless Croatia returned to the BIS-led negotiations⁵⁹—effectively placing a block on Croatia's entry. As the disagreement carried into 2013, Slovenia became the only EU member to have not started the process of ratifying the Croatian accession treaty.⁶⁰ Although the new Slovene government faltered and eventually fell due to a corruption scandal, it continued to block Croatian accession. Finally, Croatia announced once again its intention to settle the Ljubljanska Banka dispute through negotiations overseen by the BIS as part of a Memorandum of Understanding (MOU) signed by the two countries' prime ministers in March.⁶¹ In return, Slovenia agreed to ratify the Croatian accession treaty

⁵⁸ STA, 14 October 2010. This development by no means resolved the issue. The dispute is part of a larger set of negotiations involving Bosnia-Herzegovina, Macedonia, and Serbia as well. Croatia's change in approach allowed the negotiations—facilitated by the BIS—to proceed for the first time since 2002. Slovenia has always viewed this dispute as a succession issue and that the Agreement on Succession Issues of Former Yugoslav States, which was completed in 2001 and entered into force in 2004, provides for settlement through the BIS (STA, 14 October 2010; Plut-Pregelj and Rogel 2007: 96).

⁵⁹ Reuters, 23 July 2012. <https://www.reuters.com/article/us-eu-croatia-slovenia/slovenia-threatens-to-block-croatia-eu-entry-over-bank-dispute-idUSBRE86M0GT20120723>.

⁶⁰ *Economist Intelligence Unit*. 12 March 2013. Nexis-Uni.

⁶¹ An important manifestation of this dispute involved lawsuits filed in Zagreb against the Nova Ljubljanska Banka relating to the reimbursement of deposits of Croats that were lost when LB failed in 1991. As part of a Memorandum of Understanding the two countries signed in March 2013, the Croatian government agreed to suspend all legal actions against NLB until the broader dispute could be settled.

within thirty days,⁶² which it did when its parliament approved the treaty on 2 April. Croatia officially entered the EU on 1 July 2013.

Relations following Croatia's Accession: 2013–20

Much to Slovenia's disappointment, Croatia's entry into the EU did not settle the Ljubljanska Banka dispute for long. In October 2013, the Croatian government chose not to block court proceedings in Zagreb against Nova Ljubljanska Banka. Slovenia viewed this action as a violation of the March MOU and made this view known in a meeting of the two countries' foreign ministers in November.⁶³

With the commencement of the arbitration process in December 2011, Slovenia's foreign policy apparatus gave noticeably less public attention to border issues. This situation changed drastically in July 2015 when a Zagreb newspaper published excerpts of a recorded phone conversation between a Foreign Ministry official who represented Slovenia in the arbitration court and Slovenia's representative on that panel. In the phone call, the two discussed the arbitration case. The arbitrator immediately resigned his position, and Slovenia appointed a replacement within a week. At the same time, Croatia, claiming that the arbitration procedure had been tainted, announced its intention to terminate the agreement, and its representative on the arbitration panel resigned.⁶⁴ Slovenia's representative on the panel resigned a week later. In August, the countries' prime ministers met briefly while attending a meeting in Vienna, but nothing was accomplished beyond an exchange of views.⁶⁵ Slovenia declined to appoint a replacement representative, opting to let the remaining members of the arbitration panel make the appointment (per the text of the arbitration agreement). Croatia's decision to end its participation in the process left its appointment vacant as well. The panel announced replacements for both vacancies in September and indicated that it would examine the arguments of the two parties relating to whether the arbitration process should proceed.⁶⁶ Slovenia's continued support for the process appeared to have been endorsed by the EU when European Commission President Jean-Claude Juncker, along with First Vice-President Frans Timmermans, sent letters to the Prime Ministers of Slovenia and Croatia in support of the arbitration process. While acknowledging that the issue was not part of the EU's responsibilities, the letter did emphasize the need for the two EU members to resolve their dispute

⁶² *Economist Intelligence Unit*. 12 March 2013. Nexis-Uni.

⁶³ STA, 20 November 2013.

⁶⁴ Reuters, 29 July 2015. <https://www.reuters.com/article/uk-croatia-slovenia/croat-parliament-oks-withdrawal-from-slovenia-border-arbitration-id UKKCN0Q31MK20150729>.

⁶⁵ STA, 27 August 2015.

⁶⁶ STA, 27 August 2015.

promptly.⁶⁷ In July 2016, the Arbitration Court found that, while the actions of Slovenia's representative were a violation of the arbitration agreement, the violation was not serious enough to permit Croatia to terminate the agreement, and therefore the process would go forward.⁶⁸

Also, in mid-2016, Slovenia turned its attention to a related LB issue involving the Bank's effort to recover debt from loans its Zagreb branch made to Croatian firms before the SFRY disintegrated. During the 1990s, the bank attempted unsuccessfully to recover its debt through Croatian courts. A later effort to seek redress through the European Court of Human Rights (ECHR) was turned away by the Court for technical reasons. In September 2016, Slovenia filed an interstate suit against Croatia in the ECHR seeking compensation for the bank that it estimated at €360 million. Slovenia contended that Croatia's actions in blocking LB's efforts to receive compensation amounted to violations of the European Convention on Human Rights. Immediately following submission of the suit, the foreign ministers of Slovenia and Croatia separately noted that the legal action should not have a negative impact on relations between the two countries.⁶⁹

The border arbitration issue, at least from Slovenia's perspective, reached a climax on 29 June 2017 when the Arbitration Court issued its findings. The most anticipated part of the ruling involved the maritime boundary shared by the two countries. In this result, the Court ruled almost entirely in Slovenia's favor. The decision gave Slovenia control over most of the Bay of Piran (an area used by both the Slovenian and Croatian fishing industries) and granted Slovenia free access from its territorial waters in the bay to international waters in the Adriatic, largely at the expense of waters claimed by Croatia. The court gave the two parties six months to make the necessary preparations to implement the ruling.⁷⁰ Croatia immediately declared that it did not regard the ruling as legally binding, and that it had no intention of complying. Prime Minister Plenković stated that Croatia and Slovenia should approach the issue bilaterally—an approach it had insisted on prior to agreeing to arbitration in 2007. Slovenia just as quickly hailed the ruling, regarding it as “definitive and legally binding.”⁷¹ The following week, the European Commission announced that it expected both parties to implement the Court's decision. Slovenia sought to maintain the Commission's involvement in the arbitration issue over the next several weeks. This effort included a meeting between Commission Vice President

⁶⁷ STA, 1 October 2015.

⁶⁸ STA, 1 July 2016.

⁶⁹ STA, 6 September 2016.

⁷⁰ Permanent Court of Arbitration, press release. 29 June 2017. <https://pcacases.com/web/sendAttach/2173>.

⁷¹ Reuters, 29 June 2017. <https://www.reuters.com/article/us-international-court-croatia-slovenia-idUSKBN19K2K6>.

Timmermans and Prime Minister Cerar in which Timmermans called on Croatia to implement the Court's decision (Maurice 2017).

In 2018, with Croatia and Slovenia unable to make progress bilaterally on both border arbitration and Ljubljanska Banka issues, Slovenia began to raise its concerns in other EU-related fora. In April, it attempted to involve the European Commission, asking it to mediate the ongoing dispute with Croatia regarding the remaining LB deposits owed to Croatians who used its branch in Zagreb prior to 1991, but the Commission declined to become involved.⁷² Slovenia continued to pursue its complaint to the ECHR over Croatia's lack of cooperation with the LB's efforts to recover debts from Croatian companies, but in December 2020 the Court ruled that it lacked jurisdiction in the case, viewing the LB as a "non-governmental actor." This finding effectively closed off the ECHR as an avenue for addressing this issue. The government indicated that it would continue to pursue this claim "at the political level and with diplomatic talks."⁷³ In July 2018, Slovenia submitted a complaint in the European Court of Justice, which argued that, by refusing to implement the 2017 arbitration agreement, Croatia had failed to fulfill certain obligations as a member of the EU.⁷⁴ In January 2020, the Court ruled that it lacked jurisdiction over this issue.⁷⁵

In March 2020, a right-of-center government, headed by Janez Janša, assumed power in Slovenia just as the global pandemic struck the country. As the new government struggled to deal with the overwhelming challenges of the spread of the coronavirus, it has understandably given limited attention to its outstanding disputes with Croatia. The tenor of the new government's approach to these disputes appears subdued for the time

⁷² HINA, 6 July 2018.

⁷³ Government of the Republic of Slovenia, press release, 16 December 2020. <https://www.gov.si/en/news/2020-12-16-the-european-court-of-human-rights-has-no-jurisdiction-to-hear-the-inter-state-application-against-croatia/>

⁷⁴ Government of the Republic of Slovenia, press release, 19 June 2019. <https://www.gov.si/en/news/2019-06-27-two-years-after-the-entry-into-force-of-the-arbitral-award-on-the-border-with-croatia-slovenia-knows-that-its-position-is-correct-and-will-stand-firm-2/>

⁷⁵ Reuters, 31 January 2020. <https://www.reuters.com/article/us-croatia-slovenia-border-idUSKBN1ZU105>. A notable element of this complaint was that by permitting Croatian boats to fish in the Bay of Piran, Croatia failed to recognize Slovenia's control over the bay (which had been awarded to Slovenia by the Court of Arbitration). Slovenia argued that this practice was thus a violation of the EU's Common Fisheries Policy. A finding in Slovenia's favor could have resulted in significant financial penalties against Croatia via the Commission's Maritime and Fisheries Fund. ("Slovenia Ups Stakes in Adriatic Border Dispute," *Politico*, European edition, 19 February 2018. <https://www.politico.eu/article/slovenia-croatia-border-piran-ups-stakes-in-adriatic-fishing-dispute/>).

being. Just prior to taking office, then foreign minister designate Anže Logar told a parliamentary committee that quiet diplomacy represented Slovenia's best alternative for dealing with its outstanding disputes with Croatia. He suggested that perhaps the appointment of a special envoy would be a useful step.⁷⁶ Shortly after taking office, Logar indicated that the government "intends to focus less on Slovenia's relations with Croatia." However, he also stated that it "does not intend to make any major changes...."⁷⁷

Conclusions

Slovenia's policies toward Croatia can be tracked from Slovenia's efforts to remake its image in the international system (particularly as an EU aspirant), to its status as a member of these two organizations (with Croatia on the outside), and finally to the current environment in which Croatia and Slovenia both hold EU membership. Each of these environments provided different challenges and opportunities for Slovenia in terms of creating and executing foreign policy. Where possible, Slovenia sought to use the environment to its advantage. As the smaller state in a bilateral relationship, Slovenia could not rely of superior material resources (in terms of implementing a foreign policy strategy) as an advantage. However, its successful efforts to enter the EU did provide it with relational resources that might assist in gaining favorable resolutions to its most pressing concerns.⁷⁸

Through 1995, Slovenia clearly placed a low priority on its relationship with Croatia and made no effort to hide this preference. Two different foreign ministers publicly acknowledged this choice. Rather, Slovenia focused on establishing an identity as a Central European state while seeking membership in the EU and NATO. During this period, the international environment provided little opportunity to seek a relational advantage in the pursuit of its foreign policy goals toward Croatia. That environment began to change in May 1996 when Slovenia signed an association agreement with the EU, thus becoming a candidate for membership. As an EU-candidate country, Slovenia gained the option of interacting with Croatia (and other states in the region) as a possible mentor and resource. The change in approach commenced after Prime Minister Drnovšek began a new term in January 1997. Slovenia's failed attempt to gain NATO membership in July gave it an incentive to engage Croatia. In order to strengthen its NATO and EU candidacies, Slovenia needed to show that it had good relations with its neighbors. Under these new conditions, the two countries reached agreements on several less contentious issues in 1997.

⁷⁶ STA, 6 June 2020.

⁷⁷ STA, 14 March 2020.

⁷⁸ The use of relational resources and their correspondence with an external environment in the implementation of a state's foreign policy strategy is discussed in Papadakis and Starr (1987).

The more controversial issue of the status of Slovenian property in Croatia was settled in 1999.

The installation of a new left-of-center government in Croatia in 2000 may have produced the opportunity for a change in the dynamics of Slovenian-Croatian relations, since Drnovšek's coalition was also left-of-center. In addition, Slovenia's historical experience with the Tudjman government, commencing with the failed cooperative arrangement in 1991 (and perhaps including the strong nationalist content of Tudjman's rhetoric and governing practices), may have created underlying apprehension in Ljubljana. With Tudjman's death and the defeat of his party in the subsequent parliamentary election, it was possible to imagine a more cooperative relationship between the two countries. The new relationship initially appeared to yield extraordinary results when the two governments reached an agreement on their land and sea borders in 2001. It is notable that, even though this agreement eventually fell apart, the two states still managed to resolve other issues. Especially significant is that groundwork was laid to eventually settle the ongoing dispute over the Krško nuclear power plant. But the two most contentious issues—the settlement of borders and the status of the Ljubljanska Banka deposits—remained unresolved. In these cases, Slovenia lacked a relational asset that could advance its interests.

The environment provided by accession to the EU in 2004 gave Slovenia the opportunity to utilize new relational assets as it crafted a foreign policy strategy toward Croatia. Interestingly, Slovenia signaled an important change in its approach to the border dispute just prior to its May 2004 EU accession when, in a meeting with the Croatian foreign minister, Dimitrij Rupel indicated that the two countries could proceed with discussions on using arbitration to settle their border dispute—although he did not entirely abandon Slovenia's preference for the Drnovšek-Racan agreement. Why Slovenia softened its stand at this point is not clear. Given that it had received little outside backing for its ongoing support of the Drnovšek-Racan agreement, Slovenia may have begun to acclimate itself to the alternative of arbitration—hoping that its new status as an EU member would allow it greater influence over the structure of any arbitration process. In addition, it is possible that the abovementioned lack of support was a demonstration of the displeasure of some EU members over Slovenia's attempt to use its advanced candidacy status as a tool to oblige Croatia to reconsider its stand. In this case, Slovenia may have wished to avoid an action that would lead to a hesitancy among EU members toward approving its accession.⁷⁹

⁷⁹ This displeasure lingered throughout the run-up to Croatia's accession. In 2009, one EU analyst described Slovenia's attempts to obstruct Croatia's candidacy in order to gain bilateral policy concessions as "rather Balkan [behavior] and not very 'European'" (Vucelja 2009).

In the aftermath of formal recognition of Croatia's EU candidacy, Slovenia made slow progress with Croatia toward an acceptable arbitration arrangement. It even joined with a minority of EU members in supporting an early start to formal accession talks with Croatia. The evidence suggests that the EU environment at this time did not yield significant relational advantages (for example, the insistence by the EU enlargement commissioner that the border dispute was a bilateral issue). Nevertheless, as parliamentary elections approached in 2008, both Prime Minister Janša and Foreign Minister Rupel indicated that if more progress was not made toward finalizing arbitration arrangements, Slovenia would block Croatia's accession process.

While the 2008 elections brought a left-of-center government to power, the new leadership did not propose any major changes in Slovenia's policy toward Croatia. However, Prime Minister Pahor was quick to test the utility of Slovenia's relational asset of membership when, in December 2008, his government placed a block on Croatia's accession negotiations. It followed with additional blocks in February and July 2009 in an effort to persuade Croatia to change its position in stalled negotiations over the terms of the arbitration process. While continuing to insist that the border dispute was a bilateral issue, the European Commission played an active role in attempting to settle it. In the end, it appeared Slovenia was successful in convincing Croatia to change its approach to the arbitration process. A different Slovene government used a similar method in 2012–13, when it successfully sought a change in Croatia's approach to the LB dispute.

On balance, the 2004–13 period demonstrates Slovenia's generally successful use of the relational asset resulting from its EU membership. It used its EU status to block Croatia's accession to the EU in order to move negotiations with its neighbor in a favorable direction on two important issues. Slovenia, at the time, broke its impasse with Croatia over border arbitration and over choosing a venue for settling the LB dispute. It is notable that Slovenia's practice of using its relational asset was employed by multiple governments. However, Slovenia's use of its relational advantage was not without risks. As noted above (see footnote 79), many EU members, as well as the EU's leadership, were not supportive of an EU state using its veto power to short circuit EU policy initiatives (i.e., Croatian accession). It is likely that Slovenia was subject to pressure from inside the EU when it chose to block Croatian accession negotiations (Vuccheva 2009), and it faced the difficult challenge of not overusing its veto power. It should be recalled that an overarching goal of Slovenia following independence was to establish itself as a reliable and competent partner.⁸⁰ Such a reputation can help to enhance Slovenia's role in the EU—and perhaps in other venues as well.

⁸⁰ See footnote 1 above.

Conversely, Slovenia perceived itself as the recipient of similar pressure during the course of its own accession process.⁸¹

With Croatia's July 2013 entrance into the EU, Slovenia faced a different environment. The situation gained added complexity with unexpected developments that influenced both the border and Ljubljanska Banka issues. In early 2013, it appeared that Slovenia had been successful in using its EU status to persuade Croatia to compromise on these two issues. The breakdown in the arbitration process and Croatia's unwillingness to abide by the terms of the March 2013 MOU, as perceived by Slovenia, negated most of this apparent progress. Meanwhile, with Croatia's accession, Slovenia lost a critical relational advantage. Although Slovenia continued bilateral efforts to address these issues,⁸² it also sought venues within the EU that might provide it with a new relational advantage. These venues included the European Commission, the European Court of Justice, and the European Court of Human Rights. Slovenia could no longer block Croatia's EU candidacy, but the new environment permitted an attempt to use EU mechanisms and structures to further its policy goals. Unfortunately for Slovenia, it appears that these mechanisms and structures are not well-suited to the task. Neither the Commission nor the ECJ are willing to become involved in the border arbitration issue. Slovenia still has the option of using its veto to block Croatia's entry into the EU's Schengen Area (which permits the movement of people and goods without the need of border checks). Croatia was recommended by the European Commission for membership in the area in October 2019, but all Schengen states must approve this recommendation before Croatia can join. As with Slovenia's earlier attempts to block Croatia's EU accession, this move may not be well received in Brussels.⁸³ In the wake of its unsuccessful complaint to the ECHR, the status

⁸¹ The influential Slovene daily *Delo* made this argument, pointing out that EU members Italy and Austria successfully used Slovenia's candidate status to encourage concessions from Slovenia (STA, 25 September 2004).

⁸² In the six months following the Arbitration Court's ruling, the prime ministers of the two countries met nine times ("EU Hoped Balkan Border Deal Would Be Model for Peace. Then It Collapsed," *New York Times*, 30 December 2017).

⁸³ The Janša government's view of this option has been inconsistent. On 11 August 2020, Slovenia's state secretary for the Interior Ministry stated that Slovenia was in favor of Croatia's admission to the Schengen Area in order to strengthen the EU's ability to control external migration (STA, 11 August 2020). Interior Minister Hojs subsequently appeared to call into question Croatia's ability to control its borders, and, by implication, its level of preparation for entry into the Schengen Area (STA, 1 December 2020). It is notable that the saga of the Slovenia-Croatia border dispute did lead the EU to revise its enlargement strategy. The strategy, announced in February 2018, states that the EU will not accept as new members countries that have outstanding border disputes ("Brussels' New Balkan Strategy: Tough Love," *Politico* (European edition), 8

of Slovenia's attempts to use EU instruments to advance its interests in the Ljubljanska Banka dispute remains unclear. For now, Slovenia has little choice but to pursue the matter bilaterally.

The existence of two major issues that have yet to be solved after more than a quarter century of negotiations can give the casual observer the impression that Slovenia and Croatia lack a good relationship. Of course, this is not true. Slovenia and Croatia have maintained correct and often good relations since they each gained independence in 1991. They have cooperated and continue to cooperate on a wide variety of issues. As noted above, at times, Slovenia was a vocal advocate for advancing Croatia to EU candidacy. And since Croatia's accession, the two have regularly advocated for EU enlargement into the Western Balkans.⁸⁴

This paper demonstrates how a small state may advance its foreign policy goals even though its size precludes gaining any advantage based on material resources. Understanding its environment permits a small state like Slovenia to build relational advantages that, when wisely applied, may assist it in overcoming the disadvantages of its limited material resources. For Slovenia, material resources were initially focused on the goals of EU and NATO membership. Its early progress and eventual success in achieving these goals allowed Slovenia to enter a new environment that offered it alternative relational opportunities. Slovenia sought to utilize these relational opportunities, with mixed success. Slovenia and Croatia did manage to successfully address two of the four contentious issues they faced following their departure from the SFRY: Croatia's treatment of property owned by Slovenian citizens and management of the Krško power plant. For a time it appeared that the other two issues, the border dispute and the disposition of Croatian deposits in Ljubljana Banka, would be resolved, but both agreements fell apart and the disputes linger. At the moment, it appears no relational assets exist that Slovenia can make use of to settle these issues in a way it would regard as advantageous, or without jeopardizing its reputation in the EU. Slovenia must contend with these issues in an EU environment where it stands as an equal to Croatia and where its expectations must be tempered. Success in the current environment will require a well-executed foreign policy and steady political leadership—a difficult combination to assemble for any state.

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February 2018. <https://www.politico.eu/article/europe-balkan-membership-new-strategy-tough-love/>).

⁸⁴ STA, 5 June 2014; HINA, 2 March 2020.

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POVZETEK**PREUČEVANJE MOČI MALE DRŽAVE V EVROPSKEM
KONTEKSTU: SLOVENSKA ZUNANJA POLITIKA DO HRVAŠKE**

S pomočjo izbranih vprašanj preučimo uporabo relacijskih političnih sredstev v Sloveniji, ki so namenjeni za pospeševanje zunanjepolitičnih interesov. Posebno pozornost namenimo Evropski uniji (EU) in uporabi statusa kot evropske članice s strani Slovenije. Pokažemo na uspešnost uporabe relacijskih sredstev v interakcijah Slovenije s sosednjo Hrvaško, čeprav so nekatere od uspehov spodkopale spremembe v širšem zunanjem okolju.