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KALININGRAD IN THE TWENTY-FIRST CENTURY—INDEPENDENCE, SEMI-AUTONOMY, OR CONTINUED SECOND-CLASS CITIZENSHIP?

Königsberg, East Prussia—April 9, 1945. One hundred ten thousand Nazi and Soviet soldiers have perished in the struggle for the city and the surrounding region;¹ thirty to thirty-five thousand Nazi soldiers surrender to the Soviet Red Army after a months-long siege;² the foundation is laid for an ongoing international question spanning more than half a century.³ Following World War II, the victorious Allies agreed at the Potsdam Conference to “the proposal of the Soviet Government concerning the ultimate transfer to the Soviet Union of the city of Königsberg and the area adjacent to it. . . . subject to expert examination of the actual frontier.”⁴

1. See ISABEL DENNY, *THE FALL OF HITLER’S FORTRESS CITY: THE BATTLE FOR KÖNIGSBERG, 1945*, at 226–27 (2007).

2. *Id.* at 15.

3. The surrender of Kaliningrad to Soviet forces set into motion a conflict over the identity and political and economic policies of the region that continues to the present day. Policy Memorandum No. 172, Alexander Sergounin, Nizhny Novgorod Linguistic University, for the Program on New Approaches to Research and Security in Eurasia, Russia and the European Union: The Case of Kaliningrad 1 (Oct. 2000), https://gushare.georgetown.edu/eurasianstrategy/Memos/2000/pm_0172.pdf.

The new geopolitical situation [the creation of the exclave after the fall of the Soviet Union] led to numerous problems in areas such as supplying the region with basic provisions, energy, raw materials and equipment, transport, communications, military transit, and travel. It was necessary to create a new customs, border-crossing and consular infrastructure in the region. Feelings of isolation from “mainland Russia” have become widespread in Kaliningrad.

Id.

4. Berlin (Potsdam) Conference, 1945, Protocol of Proceedings, U.S.-U.K.-U.S.S.R. part V, Aug. 2, 1945, 3 CHARLES I. BEVANS, *TREATIES AND OTHER INTERNATIONAL AGREEMENTS OF THE UNITED STATES OF AMERICA 1776–1949*, at 1207 [hereinafter *Potsdam Agreement*]. The final wording adopted at the Potsdam Conference read:

The Conference examined a proposal by the Soviet Government to the effect that pending the final determination of territorial questions at the peace settlement, the section of the western frontier of the Union of Soviet Socialist Republics which is adjacent to the Baltic Sea should pass from a point on the eastern shore of the Bay of Danzig to the east, north of Braunsberg-Goldap, to the meeting point of the frontiers of Lithuania, the Polish Republic and East Prussia.

The Conference has agreed in principle to the proposal of the Soviet Government concerning the ultimate transfer to the Soviet Union of the City of Königsberg and the area adjacent to it as described above subject to expert examination of the actual frontier.

The President of the United States and the British Prime Minister have declared that they will support the proposal of the Conference at the forthcoming peace settlement.

Id. The “forthcoming peace settlement” never occurred. Thus, the current U.S. position is that Russia only maintains de facto possession of Kaliningrad. See *infra* note 6.

The Soviets subsequently renamed the city and its surrounding region “Kaliningrad”⁵ and began remaking the area in the Soviet image.⁶

Three years after Potsdam, in 1948, the Soviet government removed twenty thousand German citizens from the region,⁷ the remnants of a 1945

5. RICHARD J. KRICKUS, *THE KALININGRAD QUESTION* 39 (2002).

On July 4 of the following year [1946], Königsberg was renamed Kaliningrad to honor the recently deceased Soviet President Mikhail Ivanovich Kalinin, who never visited the place. . . .

The Soviets consigned German name-places to the memory hole of history with Orwellian zeal and replaced them with Russian names and designations. Tilsit was renamed Sovietsk, Gumbinnen was called Gusevo, and so on. In Kaliningrad’s schools, little or no mention was made of the areas in the German past except in discussions of how it figured into the “Great Patriotic War,” and the Soviet Union’s successful campaign against Hitler’s forces in the area. Students were taught that East Prussia had been a Slavic homeland for centuries.

Id. This Note will refer to the region surrounding the town of Kaliningrad as the “Kaliningrad region,” “Kaliningrad Oblast” (post-World War II), or simply “Kaliningrad,” whereas the town will be referred to as “Kaliningrad city,” or “Kaliningrad town.”

6. See DENNY, *supra* note 1, at 235.

The Russianisation of Königsberg began even before the final surrender on 8 May 1945. Loudspeakers were installed on every corner which blared out Russian music. Within a few days of the fall of the city, direction signs and place names in German were torn down and replaced by new ones in Russian script. As Russians arrived in the town, those Germans who still had somewhere to live were turned out of their homes and forced to find shelter in bombed-out cellars without heating, lighting, or water.

Id.

However, Russia currently possesses only de facto control of the Kaliningrad Oblast because certain provisions of the Potsdam Conference have not been met. According to the Potsdam Conference, de jure control of the region will only pass to Russia once a peace treaty between the Allies and the Axis powers is signed (specifically the United Kingdom, France, the Soviet Union, the United States, and Germany). The official position of the United States is that Russia maintains only de facto control of the Kaliningrad region, but the United States has neglected to push the issue of de jure control. For a discussion of the U.S. position on de jure versus de facto control of Kaliningrad, see KRICKUS, *supra* note 5, at 2–4.

7. Evidence of post-war executions of German citizens by Russian forces is still being uncovered. As of January 2009, the most recent discovery was that of a mass grave of eighteen hundred German citizens near the East Prussian city of Marienburg (now the Polish city of Malbork). See *WWII-Era Mass Grave Believed to Contain 1,800 Germans*, FOX NEWS, Jan. 12, 2009, <http://www.foxnews.com/story/0,2933,479253,00.html>. See also DENNY, *supra* note 1, at 232–35.

Soldiers captured by the Red Army and the civilians of Königsberg who were considered fit were rounded up to be sent to labour camps in Russia. The transportation of East Prussian people to the USSR had started in 1944 and by mid-February 1945, several weeks before the fall of Königsberg, more than 28,000 had already been sent into the Soviet Union in order to strengthen the severely depleted Russian labour force. Many were taken first to Insterburg or Georgenburg as both these towns were near the Russian border and were railheads. From there they were then sent to Siberia, beyond the Ural Mountains. The journey took over two weeks in open carts and survivors recall their hunger and the way they were packed together so tightly that at first no one could stand up. They were given no food and many died from hunger or from typhus. Those who survived the journey were mainly those who had managed to bring a little of their own food with them. For the survivors, their internment in labour camps, where they did heavy jobs, particularly tree felling, lasted for four or five years. The majority did not return. In addition to taking labour, the Russians also dismantled what little

population of more than one hundred thousand.⁸ For the next fifty years, until its collapse in the early 1990s, the Soviet Union followed the historical Russian pattern of “Russification” through immigration and education.⁹ By the time of the Soviet collapse, the population of Kaliningrad had been transformed from its almost exclusively German composition pre-World War II¹⁰ to one consisting of more than seventy-eight percent ethnic Russians.¹¹

After the fall of the Soviet Union, Kaliningrad, still under the de facto control of Russia, found itself surrounded by Poland and Lithuania with no terra firma link to the Russian Federation—Kaliningrad became an island. As a result, the past decade and a half have witnessed negotiations and policy plans between Kaliningrad and Lithuania, Poland, Germany, the European Union, and the Russian Federation.¹²

Immediately after the breakup of the Soviet Union in 1992, independence for Kaliningrad was, and is still, openly discussed,¹³ and rumors circulated that Russia might sell the region to Germany in exchange for debt forgiveness.¹⁴ As of 2002, however, Germany showed no interest in purchasing the region despite its strong historical and cultural ties and claims to the region.¹⁵ Further, because of its exclave status, Russia’s economic policies have often not served Kaliningrad’s

machinery and industrial plant remained intact. Farms in the surrounding countryside were plundered. The Russians seized stocks of cereals and potatoes and drove herds of cattle towards the Russian border.

Id. at 232–33 (footnote omitted).

8. MICHAEL WIECK, *A CHILDHOOD UNDER HITLER AND STALIN: MEMOIRS OF A “CERTIFIED JEW”* 161, Illustration No. 33 (Penny Milbouer trans., 2003).

9. *See supra* notes 5–7.

10. KRICKUS, *supra* note 5, at 37. The pre-war population of East Prussia was 2.47 million. *Id.* This increased to over 2.65 million after the German invasion of the Soviet Union, and shrank to 600,000 after April 1945 when the Soviet army invaded East Prussia. *Id.*

11. “The population is multinational, with representatives of 97 different nationalities and ethnic groups. Russians make up more than 78% of the population, Belarussians more than 8%, Ukrainians more than 7%, Lithuanians more than 2%, Germans 0.6%, Poles 0.5%, and other nationalities about 3%.” Kaliningrad Region: General Information, KOMMERSANT (Russ.), http://www.kommersant.com/t-43/r_5/n_386/Kaliningrad_Region (last visited Jan. 29, 2009) [hereinafter Kaliningrad Region]. *See also infra* notes 39 and 40.

12. The most relevant example of these policy plans is the Northern Dimension Action Plan, an inter-disciplinary revitalization plan devised by the EU and Russia. The plan’s projects affecting Kaliningrad include transportation infrastructure modernization, environmental protection, education, healthcare, trade and investment, increased crime fighting and border controls, and cross-border cooperation. *See* Sergounin, *supra* note 3, at 4–6.

13. Natalya Arkhangelskaya, *A Suitcase Without a Handle*, EXPERT MAG. (Russ.), Sept. 16, 2002, <http://eng.expert.ru/politics/34kalinin.htm>.

14. *Id.*

15. KRICKUS, *supra* note 5, at 1–2. In 1990, Germany “asserted that it no longer claimed East Prussia.” *Id.* at 2.

best economic interests, causing Kaliningraders to suffer.¹⁶ Will a resurgent Russia under President Dmitry Medvedev (with Vladimir Putin in the shadows) govern the economic playbook for the Kaliningrad Oblast, or will Russia grant it the opportunity to function as a semi-autonomous region in determining its economic future? The central question today is not who will rule the region in the coming years,¹⁷ but rather who will establish the region's economic rules for the foreseeable future.

This Note examines these two possibilities and argues that allowing Kaliningrad to determine its economic (and possibly, political) future is, as a whole, in the best interests of Kaliningrad, Russia, their immediate neighbors, and the European Union ("EU"). There are five categories of reasons in support of this argument: historical, socio-cultural, economic and legal, and Russian interests in granting Kaliningrad semi-autonomy or independence.

A semi-autonomous Kaliningrad Oblast could maintain some hard ties with Russia. For example, it might allow the Russian fleet to use the warm-water port facilities at Baltiysk, or provide Moscow with limited tax receipts, perhaps in the form of a lease payment such as that provided for by the agreement between the United Kingdom and China concerning Hong Kong.¹⁸ Local authorities, however, could be granted the authority to develop and implement economic policy for the region and to deal directly

16. *See infra* Part III.

17. *Id.* Further soft aggression by Russia in the form of cutting off gas deliveries to entire nations or regions, *see* Europe Shivers as Russia Cuts Gas Shipments, MSNBC, Jan. 7, 2009, <http://www.msnbc.msn.com/id/28515983>; *see also* Europe Cuts Ukraine Gas Supplies, BBC NEWS, Jan. 1, 2006, <http://news.bbc.co.uk/2/hi/europe/4572712.stm>, or hard aggression such as Russia's invasion of Georgia in August of 2008, *see* Russian Invasion of Georgia Shattered Old Assumptions, Prompts New Concerns, AMERICAN FORCES PRESS SERVICE, Mar. 25, 2009, <http://www.globalsecurity.org/military/library/news/2009/03/mil-090325-afps04.htm>, could possibly encourage U.S. leaders to pursue a harder line with Russia, but this is doubtful if the first eight months of President Barack Obama's foreign policy are an indication of the rest of his time in office. One example is the abandonment of a proposed land-based ballistic missile shield in Poland and the Czech Republic in exchange for nebulous promises from Russia for increased Russian diplomatic pressure on Iran's nuclear program. President Obama's administration argued that such a system was unnecessary and that its purpose could be fulfilled by ship-based interceptors. *See Q&A: US Missile Defense*, BBC NEWS, Sept. 20, 2009, <http://news.bbc.co.uk/2/hi/europe/6720153.stm>. This view is vigorously opposed by those who see the move as abandoning key Eastern European allies and rewarding Russia for its intransigence. *See Obama's Strategic Confusion*, WALL ST. J., Sept. 20, 2009, <http://online.wsj.com/article/SB10001424052970204518504574423822003473450.html>. *See also Lieberman: Obama's Missile Defense Cuts Weaken U.S., Allies*, NEWSMAX, Apr. 20, 2009, http://www.newsmax.com/headlines/lieberman_missile_defense/2009/04/07/200623.html. It is the author's opinion that, based upon the actions described above, an Obama State Department might even grant de jure recognition of Russia's control of the Kaliningrad Oblast in exchange for resolution of an EU-Russian crisis during President Obama's term in office.

18. *See* Sergounin, *supra* note 3, at 3. *See also* Denny, *supra* note 1, at 20 (explaining that Moscow wants the region to become the Russian Hong Kong).

with Kaliningrad's neighbors, Lithuania, Poland, and the EU at-large, on visa, trade issues, etc. Semi-autonomy or full independence would be determined by the holding of a plebiscite at a date mutually determined by local authorities and the Russian government.

I. HISTORICAL REASONS FOR SEMI-AUTONOMY

The Kaliningrad region has a history of changing allegiances and governing structures that spans more than a century.¹⁹ Teutonic Knights ruled East Prussia from the thirteenth century until the mid-eighteenth century, during which time the city of Königsberg functioned as a Hanseatic regional trade center, the medieval equivalent to a modern-day Hong Kong.²⁰ In the eighteenth century, the region became part of Prussia, and during Napoleon's 1806 invasion, it replaced Berlin as the Prussian seat of power.²¹ Prussia served as the starting point from which Chancellor Otto von Bismarck built the German Empire in 1871.²² Following World War I, the Kaliningrad region, then known as East Prussia, was cut off from Weimar Germany in order to allow Poland access to the Baltic Sea,²³ and a northern portion of the province was obtained by Lithuania.²⁴ Though largely ethnically and culturally German, the province did not regain land ties with Germany until the conquest of Poland in 1939.²⁵ From 1939 to 1945, the SS and Gestapo "colonized" the area surrounding Kaliningrad in an attempt to reduce perceived Slavic control under Adolf Hitler's concept of *Lebensraum* for the German people.²⁶

19. Below is a timeline of Kaliningrad's history over the last century and a half.

1878—1919: Königsberg is the capital city of East Prussia, a state in the German Empire

1919—1939: East Prussia is separated from Weimar Germany by the Treaty of Versailles

1939—1945: East Prussia is connected to Nazi Germany

1946: Soviet Union annexes East Prussia and renames the region Kaliningrad

1946—1991: Kaliningrad is part of the Soviet Union

1991: Lithuania declares independence and Kaliningrad is once again an exclave, this time of the Russian Federation

DENNY, *supra* note 1, at 14–16, 236.

20. DENNY, *supra* note 1, at 13–14, 31. For an excellent, brief overview of Königsberg's medieval history, see KRICKUS, *supra* note 5, at 17–19. The Hanseatic League consisted of merchant traders that controlled most of the commodities traded in North Germany and the Eastern Baltic.

DENNY, *supra* note 1, at 241 n.14.

21. KRICKUS, *supra* note 5, at 20.

22. *See id.* at 21.

23. DENNY, *supra* note 1, at 38.

24. *See* KRICKUS, *supra* note 5, at 23–24.

25. *See id.*

26. For a discussion of Adolf Hitler's *Lebensraum* policies in Poland, see 2 NORMAN RICH, HITLER'S WAR AIMS: THE ESTABLISHMENT OF THE NEW ORDER 68–105 (1974). *Lebensraum*, German

Following the end of World War II, the Soviets ethnically cleansed the area²⁷ and developed it into “one of the most highly militarized areas in Europe.”²⁸ Even though it was not connected physically with Russia, the Kaliningrad Oblast was still considered part of Russia proper and not a piece of any Baltic or Eastern European satellite.²⁹

Thus, examination of Kaliningrad from a historical perspective reveals a pattern of geographical isolation that lends itself to semi-autonomous economic rule. The creation of the Polish Corridor during the 1920s and 1930s separated the Kaliningrad region geographically and economically from Weimar Germany.³⁰ Therefore, Kaliningrad functioned in many ways as a de facto semi-autonomous state for nearly twenty years simply due to its lack of a terra firma connection to the German Fatherland. Furthermore, the Kaliningrad region’s six-hundred-year existence as an independent state demonstrates that semi-autonomous rule would not be a new idea to press upon a region with artificially created boundaries. Indeed, the region’s troubled history offers precedent for the creation of a semi-autonomous region in the Kaliningrad Oblast with hard ties to Russia (i.e., stationing of Russia’s Baltic Fleet in Kaliningrad), but only soft economic ties.

II. SOCIO-CULTURAL REASONS FOR SEMI-AUTONOMY

As a result of the changes of the past one hundred years, the Kaliningrad Oblast has developed a unique sense of place on the European continent.³¹ Today the region contains a seventy-eight percent Russian

for “living space,” was the belief held by Hitler and the Nazis that Germany needed more space in order to survive. Accordingly, the Nazis embarked on an effort to gain areas of western Russia. Jeremy Noakes, *Hitler and ‘Lebensraum’ in the East*, BBC, May 11, 2004, http://www.bbc.co.uk/history/worldwars/wwtwo/hitler_lebensraum_01.shtml.

27. See *supra* notes 5 and 7.

28. Sergounin, *supra* note 3, at 1. In the Kaliningrad region, the Baltic Fleet maintained its only year-round warm water port, and the Soviet submarine fleet used Baltijsk as a rally point for missions into Western European waters. *Id.*

In fact, Baltijsk was the home port for the Soviet submarine whose defection to Sweden served as the factual basis for Tom Clancy’s novel, *The Hunt for Red October*. KRICKUS, *supra* note 5, at 42.

29. See DENNY, *supra* note 1, at 237. See also *id.* at 235–40 (detailing several first-hand accounts of the Sovietization of the Kaliningrad region in the years following World War II); *supra* notes 5 and 7.

30. See DENNY, *supra* note 1, at 38. The Polish Corridor, which ran from the northern part of the River Vistula to Danzig, was created by the makers of the Versailles Treaty to give Poland access to the Baltic. *Id.*

31. *Id.* at 30. For a social history of the Kaliningrad area prior to World War II, see *id.* One of Denny’s examples describes how from the sixteenth century until World War II, a wind band climbed to the top of a tower in the Königsberg castle and played a morning and evening greeting. *Id.* In

majority,³² but still has German cultural influences.³³ However, the region's leaders have vowed to rebuild its capital city of Kaliningrad in the pattern of a modern European city.³⁴ Such an attitude reflects Kaliningraders' lack of strong identification with either of the two nations that have controlled the area in the past century.³⁵

During the Soviet period, much of Kaliningrad's population consisted of military personnel and their dependents.³⁶ As a result, it failed to develop a new cultural identity after the expulsion of its native East Prussian occupants.³⁷ In fact, Soviet officers and their families often referred to the Kaliningrad Oblast as "the West" during their deployments to the region.³⁸ In other words, Soviet officers and civilians felt as if they were leaving Russia and going to a more European nation. Today, the population³⁹ is approximately eighty percent ethnically Russian, eight percent Belarusian, seven percent Ukrainian, two percent Lithuanian, less than one percent German,⁴⁰ and one-half percent Polish.⁴¹ These figures

addition, Denny includes several pre-WWII, post-WWII, and current photos of Kaliningrad for comparison. *Id.* at 97–113.

32. *Supra* note 11; *infra* notes 39 and 40.

33. For example, the Königsberg Cathedral has now been restored to its former glory. DENNY, *supra* note 1, at 112. The Cathedral possesses not only religious significance for Germans, but it is also where William I of Prussia was crowned in 1861. *Infra* note 105. Perhaps of even more cultural significance, renowned philosopher Immanuel Kant is entombed in the Cathedral. KRICKUS, *supra* note 5, at 39. In the 1960s the West German government offered to rebuild the ancient Königsberg Castle at the center of Kaliningrad. *Id.* at 38. "Leonid Brezhnev refused the offer. Instead he ordered the remnants of the castle be removed and a new structure, the House of Soviets, be constructed on the site. Today visitors to the city marvel at that architectural monstrosity, which has never been occupied." *Id.*

34. Laura Sheeter, *Kaliningrad Erases Stains of Past*, BBC NEWS, Oct. 16, 2006, <http://news.bbc.co.uk/2/hi/europe/6048708.stm>. See also Arkhangelskaya, *supra* note 13.

35. Alexander Sergounin, a scholar at Nizhny Novgorod Linguistic University admits that "Kaliningrad now is perceived as the most pro-Western and cosmopolitan region in the country" and that "Kaliningrad exemplifies the most dramatic change in the economy, society, foreign policy and mentality of any region in post-Communist Russia." Sergounin, *supra* note 3, at 2.

Stephen Dewar, a member of Europe's Technical Aid to the Commonwealth of Independent States ("TACIS") commission, writes that Kaliningrad suffers from a "lingering identity crisis." Stephen Dewar, *Why Kaliningrad is "Unique" in the Russian Federation* (June 1998) (unpublished document adapted from the June 1998 TACIS report to Brussels, available in KRICKUS, *supra* note 5, at 118, 129).

36. KRICKUS, *supra* note 5, at 40–41.

37. *Id.*

38. *Id.* at 42.

39. The population of Kaliningrad is still less than it was before World War II. See Ingmar Oldberg, *Kaliningrad: Problems and Prospects*, in KALININGRAD: THE EUROPEAN AMBER REGION 1, 3 (Pertti Joenniemi & Jan Prawitz eds., 1998).

40. In addition to a small number of East Prussians moving back to their homeland, Volga Germans immigrated to Kaliningrad in the late 1980s from Kazakhstan and Central Asia. Oldberg, *supra* note 39, at 17. Estimates of the number of Volga Germans in Kaliningrad range from five thousand to as many as twenty thousand. *Id.* at 18. Even though foreign ethnic Germans are entitled to

are deceptive as to the cultural identity of Kaliningrad citizens because “an estimated 70 per cent have never been to Russia proper.”⁴² One scholar of the Kaliningrad issue asserts that the difficulties of traveling between Russia and Kaliningrad and the fact that more Kaliningraders have visited Europe than have visited Russia have contributed to an “island psychology.”⁴³ This identity crisis⁴⁴ has been sharpened by the expansion of the EU and its attendant visa issues.⁴⁵

While the Kaliningrad Oblast will retain an ethnically Russian majority for the foreseeable future,⁴⁶ this majority will be eroded by immigration⁴⁷ and other demographic trends.⁴⁸ As discussed, even though the population is ethnically Russian, it does not necessarily identify itself as culturally Russian. Kaliningrad’s residents often feel that Moscow treats them like second-class citizens.⁴⁹ Moscow’s treatment of the Kaliningrad Oblast will

citizenship under German federal law, in the 1990s the German government offered subsidies to Volga and Siberian Germans to encourage them to remain in Russia, chiefly due to the economic difficulties Germany encountered during the re-unification period. See Richard C. Morais & Andreas Wildhagen, *Home Sweet Volga: Catherine the Great Invited the Germans to Russia. Boris Yeltsin Intends to Keep Them There*, FORBES, Feb. 3, 1992, at 45. Thus, many of those Volga and Siberian Germans receiving subsidies chose to move to Kaliningrad, a historically German region. See Oldberg, *supra* note 39, at 17–18 (discussing this immigration movement and its effects). See also Anatoly Trynkov, *The Region’s Security: An Expert View from Moscow*, in KALININGRAD: THE EUROPEAN AMBER REGION 126–27 (Pertti Joenniemi & Jan Prawitz eds., 1998).

41. See *supra* note 11.

42. Zdzislaw Lachowski, *Whither Kaliningrad?*, STOCKHOLM INT’L PEACE RESEARCH INST., Sept. 23, 2004, at 3, <http://archives.sipri.org/contents/worldsec/kaliningrad.pdf>.

43. *Id.*; see also *supra* note 35.

44. See Lachowski, *supra* note 42, at 3. Lachowski discusses the visa issues between Russia and the EU as well as Kaliningrad’s socio-cultural identity crisis in the latter half of his essay. *Id.* at 3–4. He describes the socio-cultural trend of Kaliningraders as that of an “island psychology” as well as having “feelings of being neglected by Moscow.” *Id.* at 3.

45. *Id.* at 3–4. For further discussion of the visa issue and the enlargement of the Schengen Zone, see Alexey Ignatiev & Petr Shopin, *Kaliningrad in the Context of EU-Russia Relations*, RUSS. ANALYTICAL DIGEST, Feb. 20, 2007, at 16, available at <http://www.res.ethz.ch/analysis/rad/index.cfm> (follow “No. 15: Russia’s Relations to Poland and Belarus; The Issue of Kaliningrad” hyperlink).

46. Interestingly, Prime Minister Vladimir Putin’s mother-in-law is a resident of the region. KRICKUS, *supra* note 5, at 125.

47. See Sheeter, *supra* note 34. Economic Minister Felix Lapin stated, “We’re advertising all over the former Soviet Union, among the Russian diaspora in Kazakhstan and in the Caucasus.” *Id.*

48. Russia is experiencing the new phenomenon of hypermortality in which its “men are dying 3–5 times and Russian women two times higher than in countries with similar economic development.” Martin Walker, *Russia’s ‘Hypermortality’*, UNITED PRESS INT’L, May 27, 2008, http://www.upi.com/Emerging_Threats/2008/05/27/Walkers_World_Russias_hypermortality/UPI-16941211901890. By 2020, the working age population will fall by a million people annually.

49. After Russia’s economic crisis in 1998, Kaliningraders called for semi-autonomy in economic affairs. KRICKUS, *supra* note 5, at 100–02.

There were signs of growing disenchantment among the population at the grass roots but they were no different in nature nor magnitude than popular unrest in other areas of Russia and they were benign and restricted to rhetoric. Nonetheless, on September 7, trade union leaders wrote letters to both President Yeltsin and Governor Gorbenko demanding that they

be addressed in the next section on law and economics. Because of this disassociation, semi-autonomy or full independence would not drastically change Kaliningrad's cultural identity. Indeed, semi-autonomy or independence might be the best way to create a common Kaliningradian culture. The citizens would identify more closely with a government and nation that exists in their own backyard than with one thousands of kilometers away, across the borders of another nation. Thus, the people of Kaliningrad should have the opportunity to decide whether it is a more European nation or a more Russian one. A plebiscite on semi-autonomy would allow Kaliningraders to decide if they want to control their own fate, but still maintain some ties with Russia; if they want to completely sever those ties with Russia and achieve full independence; or if they wish to maintain the status quo as Russia's "redheaded step-child."

III. ECONOMIC AND LEGAL REASONS FOR SEMI-AUTONOMY

The Kaliningrad Oblast has experienced many legal structures since the early 1990s, all of which have had a direct impact on the area's economic well-being. This situation has deterred foreign investors from directing investment into the region.⁵⁰ As demonstrated by the People's Republic of China, foreign investment is crucial to a region's economic development, particularly when that region formerly functioned as a command economy.⁵¹ The Kaliningrad Oblast's economy has undergone three

resign from office and Kaliningrad given a new change in status. The latter reference was in keeping with demands from officials in the region that it be granted control over its own affairs.

Id. at 102 (footnotes omitted).

50. See Lachowski, *supra* note 42, at 1–2.

51. See Bin Xue Sang, *Pudong: Another Special Economic Zone in China?*, 14 NW. J. INT'L L. & BUS. 130–60 (1993) (describing in detail some of the policies enacted by the Chinese government in the early 1990s to encourage growth in the Pudong New Area).

The Pudong New Area is across the Huangpu River in Shanghai and means literally "east of the river." URBANANATOMY: SHANGHAI 2008, at 106 (Nick Land et al. eds., 1st ed. 2008). The area was once a vast collection of swampy farmland, but it was designated a Special Economic Zone in the 1990s by Deng Xiaopeng in the second wave of his economic reforms. *Id.* From 1990–2000, the Chinese government poured 130 million Renminbi (approximately \$17.3 million USD) into infrastructure projects within Pudong and the area is now a showcase for what China is striving to become—a glittering modern economic jewel. *Id.*

A few facts about Pudong highlight the success of this endeavor: (1) the world's highest hotel is located there; (2) Shanghai's new international airport is in Pudong, and it is now the sixth largest cargo handler in the world; (3) three of Asia's (and the world's) tallest buildings are located there; (4) the world's only Maglev train (designed by German engineers and, as experienced by the author, able to hit speeds in excess of 270 mph on its fifteen-minute trip into Shanghai) operates between the airport and a terminal in the city. *Id.* at 106, 108, 117. The Pudong New Area's English language government website, <http://english.pudong.gov.cn>, illustrates the vast amount of economic

changes to its economic structures since 1992.⁵² Initially, it was declared a Free Economic Zone,⁵³ but transitioned into a Special Economic Zone in 1996,⁵⁴ and then was modified again in 2006.⁵⁵ While each modification has included some improvements, the volatility of changes to Kaliningrad's economic legal structure has not been conducive to foreign investment.⁵⁶ Likewise, the last two changes to the Special Economic Zone have not enhanced Kaliningrad's ability to compete with its neighbors or other areas of the Russian Federation.⁵⁷ Currently, Kaliningrad is entering its fourth economic legal restructuring, as Russia's entrance into the World Trade Organization ("WTO") nullifies some of the provisions of Kaliningrad's 2006 Special Economic Zone status.⁵⁸

A. Customs, Tariffs, Visas, and Semi-autonomy

Russia's forthcoming accession to the WTO will end many of the preferential importation duties that Kaliningrad has enjoyed.⁵⁹ Since 1996, Kaliningrad has functioned as the point of entry for much of Russia's trade with the European Union.⁶⁰ As a result, Kaliningrad has been an attractive location for factories, which turn European raw materials and secondary

development still occurring in the area as well as the government incentives that help drive that growth.

52. Ignatiev & Shopin, *supra* note 45, at 1. For discussion of the first two economic plans implemented in Kaliningrad through 1998, see Gennady M. Fyodorov, *The Social and Economic Development of Kaliningrad*, in *KALININGRAD: THE EUROPEAN AMBER REGION* 32–56 (Pertti Joenniemi & Jan Prawitz eds., 1998).

53. Ignatiev & Shopin, *supra* note 45, at 1. "Free-trade status led to a sevenfold increase in the Kaliningrad region's foreign trade since 1992, reaching a total of \$1.3 billion in 1996." Fyodor I. Kushnirsky, *Post-Soviet Attempts to Establish Free Economic Zones*, 38 *POST-SOVIET GEOGRAPHY & ECON.* 144, 147 (1997) (citation omitted). See also KRICKUS, *supra* note 5, at 47–50.

54. Ignatiev & Shopin, *supra* note 45, at 14.

55. *Id.*

56. See Fyodorov, *supra* note 52, at 44–48. See also KRICKUS, *supra* note 5, at 94. "Kaliningrad's economic prospects have suffered from constant policy reversals. According to [former Kaliningrad Governor] Matochkin, 'In these past years . . . we have seen Moscow time and again present us with a decree with one hand and take it back with the other almost the following day.'" *Id.*

57. Because of favorable customs benefits under both the Free Economic Zone and the first Special Economic Zone, Kaliningrad served as the entry point for European goods into the Russian market and for Russian goods into the European market. These tariff privileges will be reduced upon Russia's entry into the World Trade Organization and the loss will drastically affect Kaliningrad's ability to compete with Lithuania, Poland, and Russia. See Ignatiev & Shopin, *supra* note 45, at 16. See also Alexey Ignatiev, *Kaliningrad Region: Economy Heading for the Future*, *BALTIC CLUB*, Summer 2007, at 8, available at http://www.kaliningradexpert.org/stuff/pubs/Kgd_Innovations_Article_eng.pdf.

58. See Ignatiev, *infra* note 57, at 8.

59. *Id.*

60. *Id.* See also Ignatiev & Shopin, *supra* note 45, at 14.

goods into finished goods for the Russian market.⁶¹ The lowered customs duties on the raw materials from which products are made in Kaliningrad gives it a competitive advantage in the Russian market, outweighing additional transportation costs associated with producing something in Kaliningrad and then shipping it to Russia.⁶² Under the new WTO regime, the overall savings in transaction costs will be erased due to lowered customs duties throughout Russia, not just in the Kaliningrad exclave.⁶³ Additionally, because Kaliningrad is not a member of the EU, it does not enjoy open access to EU markets, putting it at a comparative disadvantage to its EU neighbors.⁶⁴ Thus, Kaliningrad will no longer be as economically attractive as it was under the pre-WTO Special Economic Zone economy, in contrast to the benefits that will accrue to both Russia and the EU.⁶⁵

If the Kaliningrad Oblast were semi-autonomous, it would be able to determine its own customs duties in order to best position itself as a competitor in the Russian and EU markets.⁶⁶ If semi-autonomous, Kaliningrad's government could lower or eliminate trade tariffs, thus opening Kaliningrad to the EU market and sparking increased industrial production through international trade. Under the current regime, however, Kaliningrad functions more as a "redheaded step-child" than it does as a valued state of either the EU or Russia.⁶⁷

61. For example, both BMW and Kia established factories in Kaliningrad during this period. Sergounin, *supra* note 3, at 2.

62. Ignatiev, *supra* note 57.

63. *Id.* at 8.

64. For a more detailed discussion of Kaliningrad's competitive disadvantage, see Ignatiev & Shopin, *supra* note 45, at 14. Scholars Alexey Ignatiev and Petr Shopin explain that because of Russia's entry into the EU, "Kaliningrad-based businesses are in a less favorable competitive position than companies from other Russian regions (due to increased transit costs) and companies within the adjacent EU border areas, which enjoy direct access to EU markets and substantial development aid from EU funds." *Id.*

65. *See id.* Ignatiev and Shopin argue that Kaliningrad is dually dependent on both Russia and the EU.

Owing to its unique geopolitical location—Russia's "island" in the midst of the EU—the region finds itself in a double dependency, relying simultaneously on decisions made by the Russian federal authorities and the European Union. In other words, conditions determining the region's socioeconomic development are regulated by Russian and EU legal acts.

Id.

66. Technical Aid to the Commonwealth of Independent States ("TACIS") commission member, Stephen Dewar, argues that if Kaliningrad were to develop a large-scale and efficient transportation hub and bring international trade to the city, it could become an international trading post, much like it was during its early Hanseatic history. "The third prong is to turn Kaliningrad into an international marketplace—to become the place which Russians and foreigners who do business together choose as their preferred location." KRICKUS, *supra* note 5, at 126 (quoting Stephan Dewar, Future for Kaliningrad 1 (May 1998) (unpublished paper)).

67. *See supra* note 35. Since the breakup of the Soviet Union, there have been numerous conflicts between local authorities in Kaliningrad and central authorities in Moscow. Local leaders

Additionally, semi-autonomy would allow Kaliningrad to determine its visa system with regards to the EU and Russia. Visa regulation is another area in which Kaliningrad's geographical location increases the transaction costs of doing business with Russia or the EU.⁶⁸ Under the current Schengen Treaty, Kaliningrad residents must obtain a thirty-five-euro Schengen visa to travel to Poland or Lithuania.⁶⁹ A semi-autonomous Kaliningrad could apply to become a member of the EU or the Schengen Zone (a group of more than twenty European nations that allow passport-free travel between countries),⁷⁰ a maneuver that would lower the transaction costs of cross-border business or pleasure travel by Kaliningrad citizens.⁷¹

B. International Investment and Semi-autonomy

The most persuasive justification for a semi-autonomous Kaliningrad region flows from the nexus of law and economics, specifically, the need for a stable and predictable property rights regime. If Kaliningrad is to experience sustained long-term growth, then its legal system must demonstrate to investors that their investments will not be made worthless by yet another change in economic policy by Moscow. The only way to achieve this in the near future is for a semi-autonomous (or independent, with some favorable concessions to Russia) Kaliningrad to emerge that

have often felt that, were they able to make economic decisions at the local level, the Kaliningrad economy would develop and grow much faster. Writing about the first Special Economic Zone legislation, Richard Krickus states:

[I]n regions like Kaliningrad, local authorities and business leaders argued that Moscow had withheld legislation that enabled their economies to function effectively. The absence of enabling legislation to make the special economic zone a viable mechanism for economic development was a subject of complaint by a wide cross-section of elites in the region.

KRICKUS, *supra* note 5, at 69.

Richard Krickus asserts the Moscow central authority's connections with the mob are also partly to blame for Kaliningrad's economic woes. Krickus believes that the first Free Economic Zone's failure was due to lobbying by members of the Russian Mafia when the cancellation of the Free Economic Zone was being considered. "Lobbyists in St. Petersburg—specifically the Mafia and its friends in government—also used their political influence in the Russian Duma to cancel Kaliningrad's FEZ." *Id.* at 49.

68. See Sergounin, *supra* note 3, at 2.

69. *Russia-EU Agreement to Ease Visa Regime Comes into Force on June 1*, KALININGRAD REGIONAL DEVELOPMENT AGENCY, May 28, 2007, http://kaliningrad-rda.org/en/news/5400.php?backurl=%2Fen%2Fnews%2Fnews.php%3FSHOWALL_1%3D1.

70. *Schengen Enlargement Ceremony Held in Estonia*, PEOPLE'S DAILY ONLINE, Dec. 2, 2007, <http://english.people.com.cn/90001/90777/90853/6325502.html>.

71. One argument raised in support of Kaliningrad's entry into the Schengen Zone is that "an estimated 70 per cent [of Kaliningrad's residents] have never been to Russia proper, while one-third of them have travelled to other parts of Europe." Lachowski, *supra* note 42, at 3.

can dictate legal and economic policy that is in the region's best interest. Every change issued from Moscow to the structure of Kaliningrad's economic status constitutes a taking of affected investors' investments. While it can be argued that any change in governmental policy is a taking on some level,⁷² the number of times that Russia's policy concerning Kaliningrad has changed and the unpredictability that accompanies such frequent changes has the potential to wipe out the value of a factory or business.

Foreign investors have reason to distrust Russian actions.⁷³ Under Kaliningrad's initial post-Soviet legal structures, specifically the first Free Economic Zone and the Special Economic Zone status of 1996, foreigners were prohibited from buying land in Kaliningrad.⁷⁴ A flaring of tensions between Russia and the EU or China could encourage Russia to return to prohibitions on foreigners owning land in Kaliningrad, a less drastic choice than outright appropriation, but a serious action nonetheless.⁷⁵

IV. RUSSIAN INTERESTS REGARDING SEMI-AUTONOMY

Finally, Russia has an interest in declaring Kaliningrad a semi-autonomous or independent region. There is debate within the Russian government about how to handle Kaliningrad, with parties divided into roughly three camps.⁷⁶ One faction, to which the author believes Premier Vladimir Putin and President Dmitry Medvedev most likely ascribe, is

72. Critics might argue that American laws prohibiting gambling or abortions are takings under this definition, but to do so is to confuse a fundamental difference between the two types of legislative actions. Russia's changes to Kaliningrad's economic status have no "social" component, whereas it is the author's opinion that almost every piece of American legislation prohibiting some "industry" is done with the intention of protecting society from some form of moral evil. While a limited number of people would view ownership of a factory as a moral "evil," this view is not so prevalent as to invalidate the argument that laws (e.g. tax and custom duty structures) affecting the profitability of a factory have no moral or social component.

73. See *infra* note 91 and accompanying text.

74. KRICKUS, *supra* note 5, at 94. "Foreign investors have been denied the opportunity to own the land on which their enterprises are located." *Id.*

75. Even if Russia were only to prohibit further acquisitions of land, such an action would nonetheless encourage foreigners to divest themselves of their holdings for several reasons. First, businesses and industrial operations would not be able to expand in the Oblast. Second, such a change could indicate future changes that might result in outright appropriation. Russia has a particularly nasty habit of showing preference for foreigners who align ideologically with their current government. For example, in the 1920s, American industrialist Armand Hammer, of Arm & Hammer Toothpaste fame, was given special privileges in exchange for cooperating with the Soviet regime. As a result, he was able to amass a large art collection that was composed chiefly of works confiscated from White Russians. Stuart Gold, *Occidental Petroleum: Politics, Pollution and Profit*, MULTINAT'L MONITOR, July/Aug. 1989, at 43, 43, available at <http://multinationalmonitor.org/hyper/issues/1989/07/gold.html>.

76. For an analysis of the internal debate, see Sergounin, *supra* note 3, at 3.

determined to not see an inch of Russian soil lost to secessionist movements or to any other country.⁷⁷ The second would like to see Kaliningrad “become a Russian Hong-Kong, a ‘gateway region’ that could facilitate Russia’s gradual integration into European multilateral institutions.”⁷⁸ The third camp sees Kaliningrad achieving some sort of semi-autonomy and access to the EU.⁷⁹ While the first camp may currently be experiencing a resurgence, it would behoove the Russian government and President Medvedev to consider granting Kaliningrad semi-autonomy or even full independence before future strains on the Moscow-Kaliningrad relationship increase the region’s calls for independence.⁸⁰

In addition, Kaliningrad, unlike other remote regions of the Russian Federation,⁸¹ is not endowed with an abundance of natural resources.⁸² Apart from having ninety percent of the world’s amber supply,⁸³ the region has few other natural resources.⁸⁴ Nor does the region have large-scale electrical generating facilities,⁸⁵ almost all of its electrical power comes from Lithuania via high voltage transmission lines.⁸⁶ Therefore, should Russia grant Kaliningrad semi-autonomy, it would not lose any

77. *Id.*

78. *Id.*

79. *Id.* at 4.

80. *See generally* Lachowski, *supra* note 42.

81. Russia is the world’s largest exporter of natural gas by volume and the second largest exporter of oil by volume. Central Intelligence Agency, *Natural Gas—Russia*, WORLD FACT BOOK, <https://www.cia.gov/library/publications/the-world-factbook/rankorder/2183rank.html?countryName=Russia&countryCode=rs®ionCode=cas&rank=1#rs> (last visited Nov. 10, 2009); Central Intelligence Agency, *Oil—Russia*, WORLD FACT BOOK, <https://www.cia.gov/library/publications/the-world-factbook/rankorder/2176rank.html?countryName=Russia&countryCode=rs®ionCode=cas&rank=2#rs> (last visited Nov. 10, 2009). Roughly seventy percent of Russia’s oil and ninety percent of its natural gas flow from the West Siberian basin, a remote area of Russia. The region is also rich in timber, diamonds, gold, coal, fur, copper, and tin. Central Intelligence Agency, *Russia*, WORLD FACT BOOK, <https://www.cia.gov/library/publications/the-world-factbook/geos/rs.html#Issues> (last visited Jan. 29, 2009). *See also* ENERGY INFO. ADMIN., OIL AND GAS RESOURCES OF THE WEST SIBERIAN BASIN, RUSSIA 2 (1997), available at http://www.eia.doe.gov/pub/oil_gas/natural_gas/analysis_publications/oil_gas_resources_siberian_basin/pdf/rptx.pdf.

For a detailed description of the Russian Far East, specifically, Siberia, see Lisa Horner & Josh Wilson, *Eastern Siberia: Vast Potential*, SCHOOL OF RUSSIAN AND ASIAN STUDIES, http://www.sras.org/eastern_siberia (last visited Jan. 29, 2009).

82. Kaliningrad Region, *supra* note 11. “Natural resources include amber, oil, coal, rock salt, large peat and water reserves, mineral water, and therapeutic mud.” *Id.* Kaliningrad’s oil reserves are small compared to Russia’s vast reserves in the Far East. *See supra* note 81.

83. *Id.*

84. *See id.*

85. “As was the case during the Soviet era, Lithuania continues to play an important part in Kaliningrad’s day-to-day functioning as it still gets 80 percent of its electricity from Lithuania.” KRICKUS, *supra* note 5, at 80.

86. *Id.*

control over vital resources such as coal, uranium, iron ore, or crude oil as is found in its Far Eastern territories.⁸⁷

While the author believes that making concessions to Kaliningrad could increase the secessionist rhetoric from other such regions (such as Sakhalin),⁸⁸ the EU, and, consequently, the West, are much more concerned with Russia's treatment of territories directly in its sphere of influence and would not incite upheaval in those other districts. Furthermore, a semi-autonomous Kaliningrad would not negatively impact Russian strategic interests in the region either, because it would not become the territory of a resurgent Germany or a base of operations for any other NATO country.⁸⁹

The Russian Federation would lose little in granting the Kaliningrad Oblast semi-autonomous status, while gaining several tangible and intangible benefits. Russia would not lose access to valuable commodities or the ability to gain revenue from the sale of those assets, nor would it lose territory that could easily be defended in the event of a shooting war between Russia and Europe—from a national security standpoint, the region would be completely indefensible in the event of a Second Cold War or Euro-Russian conflict.⁹⁰ Instead, Russia would gain the goodwill of the European Union by demonstrating a willingness to integrate itself into the world economy as something other than a bully.⁹¹ While the

87. See *supra* note 81 and accompanying text.

88. Granting semi-autonomy to Kaliningrad might also flare Russian tensions with Estonia, where two farms have declared themselves an independent "Soviet Republic." Mindy Belz, *Russian Reprise*, WORLD, Sept. 20, 2008, at 11.

89. Russia's strategic interests with respect to Kaliningrad focus almost strictly upon the use of the region as a base from which a hostile nation or alliance (historically Germany, but now including NATO) could launch an assault on Russia proper. KRICKUS, *supra* note 5, at 58–61. Thus, Moscow has sought to use the area as a renewed buffer zone, much like the Soviet satellite state system of the Cold War. *Id.* at 58. While a fully independent Kaliningrad might one day seek entry into the EU or NATO, the issue is much too far in the future for Russia to consider at this time. Additionally, considering the ethnic background of Kaliningraders, it takes a fertile imagination to envision a country using Kaliningrad as a base from which to invade Russia.

World War II had demonstrated to Soviet defense planners that control of former East Prussia was a critical military asset for the Soviet Union. This was not a new idea since it had its origins in the policies of Peter the Great early in the eighteenth century, but it was in the twentieth century that Russian defense planners would truly recognize this fact. A military bastion in Kaliningrad would deny enemy forces a strategic base from which the Germans launched strikes against Leningrad and Moscow in 1941.

Id. at 58 (summarizing Russia's strategic interests in the Kaliningrad region).

90. Sergounin, *supra* note 3, at 1.

91. In the past two years Russia has acted as a bully to both its Eastern European and Caucasus neighbors as well as to the EU in general. See *Estonian President Warns Russia's President to Stop Bullying Its Neighbors*, RIA NOVOSTI, Apr. 3, 2009, <http://en.rian.ru/world/20090403/120910969.html>. Most recently, Russia cut off natural gas shipments to the EU through Ukraine. While Russia

Russian Baltic Fleet is headquartered in Kaliningrad, semi-autonomous status would not necessarily affect the Russian Navy's ability to use Kaliningrad's port facilities.⁹² The Russian Federation would still have access to a warm water port in the Baltic,⁹³ but it would not be responsible for maintaining a defensive force in a region that basic military strategy and tactics make utterly indefensible—i.e., the fact that it is surrounded by two NATO countries, lacks geographic features that make defense easy, and must be re-supplied by air (through enemy airspace) or convoys down

was motivated in part by legitimate price disputes, some view the shut-off as a power play by the Russian government to demonstrate its control over Eastern Europe's energy supplies. See Yuriy Humber & Halia Pavliva, *Russia Proposes EU Companies Share Transit Gas Costs*, BLOOMBERG NEWS, <http://www.bloomberg.com/apps/news?pid=20601110&sid=aNyQ5jScCZAg> (discussing the gas dispute as of January 16, 2009) (last visited Jan. 16, 2009). A July 2008 article outlining a maritime strategy for the United States in the coming decade in the U.S. Naval Institute's publication, *Proceedings*, identified Russia's "use of energy as an economic weapon." Vice Admiral Sandy Winnefeld, U.S. NAVY, *Maritime Strategy in an Age of Blood and Belief*, PROC., July 2008, at 20, 22.

Russia's leadership argues that Russia is not using energy as a weapon, but is merely attempting to bring oil and natural gas prices in line with market valuations. *Russia Does Not Use Oil and Gas As Political Weapons—Putin-1*, Feb. 1, 2007, RIA NOVOSTI, <http://en.rian.ru/russia/20070201/60044654.html>. In the future, Russia could use energy as a weapon to prevent military responses to further aggression in the Caucasus and even in the Baltic.

92. *Supra* notes 89 and 90. Russia would likely not agree to the creation of a semi-autonomous Kaliningrad without the right to use naval facilities in the region. Further, Russian control of Kaliningrad's naval facilities would be difficult in the event of a hot war (e.g., World War II) with the EU, NATO, or the United States. Kaliningrad would be in a similar situation as was the German naval outpost at Tsingtao (Qingdao) at the beginning of World War I. That outpost surrendered to Japanese forces after a short siege and spent the rest of the war under Japanese control. For a detailed account of the siege of Tsingtao and the similarity of the outpost's situation to Kaliningrad, see CHARLES BURDICK BURTON, *THE JAPANESE SIEGE OF TSINGTAO: WORLD WAR I IN ASIA* (1976). Burton's book is a compilation of German and Japanese sources and is the best work available on the subject. The work remains very readable thirty years after its publication.

The argument that a semi-autonomous or independent Kaliningrad would deprive Russia of a warm water Baltic naval base is a red herring. Russia could still maintain a force there in peacetime, but would be unable to do so during a hot war regardless of who had de jure control of Kaliningrad.

93. Many of Imperial Russia's expansionist aims can be explained through the lens of a desire for a warm water port. Due to Russia's geographical location, Russia-proper has no European port facilities that remain ice-free year round. GlobalSecurity.org, *The Russian Quest for Warm Water Ports*, <http://www.globalsecurity.org/military/world/russia/warm-water-port.htm> (last visited Nov. 15, 2009) [hereinafter *Russian Quest*].

Ice-free naval facilities are incredibly important for the maintenance of a naval fleet, as well as for the ability to effectively project military power overseas. *Id.* Alfred Thayer Mahan's *The Influence of Seapower Upon History 1660–1763*, published in 1890, is perhaps the most seminal work on the subject of the importance of projecting naval power abroad. Because it lacked a warm water port, Imperial Russia engaged in an expansionist policy to gain access either to a Baltic or Black Sea port. The Crimean War, for instance, was fought largely for port facilities on the Black Sea. *Russian Quest, supra*.

By the same token, Josef Stalin's decision to maintain the Kaliningrad region as Soviet territory and not to merge it with one of its satellite countries was motivated by a desire to maintain naval facilities at Baltijsk in the Baltic Sea. *Id.* The Baltijsk port facilities gave the Soviet Navy an ice-free port year round from which surveillance submarines could sortie and guided missile destroyers could watch over the Baltic Sea, which effectively became a Soviet lake during the Cold War. *Id.*

the narrow Baltic Sea past several potential enemy navies. The Russian Federation could also still benefit from tax receipts or lease payments if it required these benefits as conditions to conferring Kaliningrad's semi-autonomous status.

Granting Kaliningrad semi-autonomy or full independence would also give President Medvedev a way to ease the tensions that flared in response to the August 2007 resumption of strategic bomber flights;⁹⁴ joint exercises in 2008 with the Venezuelan Navy;⁹⁵ training exercises by two nuclear attack submarines off the East Coast of the United States in August 2009;⁹⁶ and, its most egregious action to date, the August 2008 invasion of Georgia.⁹⁷ In essence, granting Kaliningrad semi-autonomy or full independence would create goodwill for the Medvedev administration.⁹⁸ Russia could use this goodwill to patch relations with the West, as a bargaining chip in its ongoing energy price disputes with Eastern Europe and the EU,⁹⁹ or even to weaken the reaction to its next incursion into a Caucasus or Balkan nation.¹⁰⁰

94. See Andrew Borowiec, *Russia Boasts Buzzing U.S. Base in Cold War-Style Assertiveness*, WASH. TIMES, Aug. 10, 2007, <http://www.washingtontimes.com/news/2007/aug/10/russia-boasts-buzzing-us-base-in-cold-war-style-as>.

95. See Oleg Schedov, *Chavez, Medvedev Tour Russian Warships in Venezuela*, REUTERS, Nov. 27, 2008, <http://www.reuters.com/article/worldNews/idUSTRE4AQ6WF20081127>. See also *Russian Strategic Bombers Leave Venezuela for Home Base*, Sept. 18, 2008, RIA NOVOSTI, <http://en.rian.ru/russia/20080918/116914837.html>.

In addition to conducting naval exercises with the Venezuelan Navy, Russian long-range TU-160 Blackjack bombers conducted joint exercises in the South Atlantic and Caribbean. See *Russian Strategic Bombers Leave Venezuela for Home Base*, Sept. 18, 2008, RIA NOVOSTI, <http://en.rian.ru/russia/20080918/116914837.html>. The Blackjack bomber is capable of carrying nuclear-tipped cruise missiles as well as conventional weapons. Because of these capabilities, the exercises conducted in conjunction with the Venezuelan Navy and Air Force are often viewed as a possible threat to American security, especially since the Chavez regime has openly declared itself anti-American. GlobalSecurity.org, TU-160 Blackjack (TUPOLEV), <http://www.globalsecurity.org/wmd/world/russia/tu-160.htm> (last visited Feb. 12, 2009).

96. *Russia Confirms Attack Subs Training Off U.S. Coast*, FOX NEWS, Aug. 5, 2009, <http://www.foxnews.com/story/0,2933,537077,00.html>.

97. Susan Cornwell & Sue Pleming, *U.S. Tells Russia to Pull Forces Out of Georgia*, REUTERS, Aug. 8, 2008, <http://www.reuters.com/article/newsMaps/idUSSP24176320080809>. For a discussion of the rising tensions between Russia and the EU and the United States, see GlobalSecurity.org, *Russia—A New Cold War?*, <http://www.globalsecurity.org/military/world/russia/intro.htm> (last visited Feb. 12, 2009).

98. Allowing Kaliningrad to hold a referendum on semi-autonomy, full independence, or remaining a part of Russia would also give Russia a chance to resolve the ongoing question of de jure control of the region. See *supra* note 6.

99. See *supra* note 91.

100. See *supra* notes 91 and 97.

V. CONCLUSION

An ancient Baltic legend speaks of Winetha,¹⁰¹ a city imbued with immense beauty and commercial power that disappeared beneath the waves of the Baltic Sea as punishment for its citizens' sins.¹⁰² According to the legend, on calm days sailors can see the city with its "silver ramparts and marble columns"¹⁰³ and, once a year, on Good Friday, Winetha rises intact from the waves only to sink back into the murky depths at the end of the day.¹⁰⁴

The creation of a semi-autonomous or independent Kaliningrad could turn this myth into reality by restoring what was once the crown jewel of Prussia¹⁰⁵ to its former glory.¹⁰⁶ The people of Kaliningrad should be given the opportunity, via plebiscite, to determine their own destiny, whether it be independence, semi-autonomy as a republic within the Russian Federation, or continued second-class citizenship.¹⁰⁷ Being semi-autonomous or independent would allow Kaliningrad to shed itself of the baggage it still carries from two of the most evil empires in the modern era. A multi-ethnic Kaliningrad Republic could become the Hong Kong of Eastern Europe, bringing prosperity and freedom to a people and a region that has seen little of either in the past eighty years.

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101. DENNY, *supra* note 1, at 19.

102. *Id.*

103. *Id.*

104. *Id.* at 19–20. Denny not only describes the Winetha myth, but she also posits that “[v]isitors to Kaliningrad frequently experience a strange feeling that, under the ugly town which exists today, the old city of Königsberg is lying in wait, ready to resurface when the time is right.” *Id.*

105. William I of Prussia was crowned in Königsberg Cathedral in 1861. DENNY, *supra* note 1, at 14.

106. *See supra* notes 31 and 33.

107. KRICKUS, *supra* note 5, at 68.

Within Kaliningrad itself, local scholars have suggested that the region’s residents possessed the legal authority to decide its fate. Through a referendum, they could choose the status quo, decide to remain within the federation but with the enhanced powers enjoyed by ethnic republics like Tatarstan, or elect to become an independent fourth Baltic republic.

Id. Concerning second-class citizenship, scholar Peer H. Lange asserts that “Russia’s interest in [Kaliningrad] seem[s] to be limited to holding onto a war-trophy, and any future oriented perspectives are lacking.” Peer H. Lange, *Kaliningrad—Relevant Options*, in KALININGRAD: THE EUROPEAN AMBER REGION 60 (Pertti Joenniemi & Jan Prawitz eds., 1998).

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