

THE EUROPEAN UNION AND NON-PROLIFERATION, 2014–17

LINA GRIP

I. INTRODUCTION

The EU Non-proliferation Consortium was established by a Council Decision in December 2010 as one step in the implementation of the European Union (EU) 2003 Strategy against the Proliferation of Weapons of Mass Destruction (WMD), the 2008 New Lines for Action and the 2005 Small Arms and Light Weapons (SALW) strategy. The Consortium is a legal entity solely funded by the EU Common Foreign and Security Policy (CFSP) budget, with the aim of promoting, strengthening and improving the EU's common arms control, disarmament and non-proliferation efforts.¹ The EU Non-proliferation Consortium is a unique outcome of the CFSP comprised of four core members and a network of 73 independent European research institutes.

In March 2014, Council Decision 2014/129/CFSP extended the financial support for the Consortium's activities for a further three years.² These activities involved convening meetings and promoting discussions between experts, academics and practitioners, a publication series and maintaining the wider European network and a website. Activities were also expanded to include educational elements,

¹ Council Decision 2010/430/CFSP of 26 July 2010 establishing a European network of independent non-proliferation think tanks in support of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction, *Official Journal of the European Union*, L202, 4 Aug. 2010; Council of the European Union, 'Fight against the proliferation of weapons of mass destruction: EU Strategy against Proliferation of Weapons of Mass Destruction', 15708/03, 10 Dec. 2003; Council of the European Union, 'Council conclusions and new lines for action by the European Union in combating the proliferation of weapons of mass destruction and their delivery systems', 17172/08, 17 Dec. 2008, pp. 4–5.

² Council Decision 2014/129/CFSP of 10 March 2014 promoting the European network of independent non-proliferation think tanks in support of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction.

SUMMARY

The EU Non-proliferation Consortium has encouraged dialogue and knowledge production between experts, practitioners and academics on issues of arms control, disarmament and non-proliferation since 2011, with the aim of assisting the European Union (EU) in implementing its non-proliferation policies.

The period 2014–17 was characterized by a number of major events in the field of arms control, non-proliferation and disarmament: the entry into force of the United Nations Arms Trade Treaty and the nuclear weapons ban, the use and process of disarming Syria's chemical weapons, and the Iran nuclear deal. This paper discusses these challenges and the role of the EU in each case. It also looks ahead and raises broader institutional issues that may impact on the EU's non-proliferation policy in the coming years.

ABOUT THE AUTHOR

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primarily online courses on arms control, disarmament and non-proliferation, and a fellowship programme for students.³

Over the past three years, the Consortium has created an online educational programme comprised of 15 individual learning units, published 20 policy papers on a broad range of issues as well as 18 shorter briefs as part of the so-called Help Desk Facility, convened 7 seminars, and organized 4 European Consultative Meetings and 3 major international conferences. Rather than attempting to summarize the outcomes of all these activities, this final report draws on the discussions and recommendations generated over the past three years to assess where EU non-proliferation policy is today and where it might be heading. In doing so, the report summarizes the key developments in non-proliferation in 2014–17, with a focus on an analysis of the EU's main achievements, and the major obstacles and future challenges it faces.

II. KEY CHALLENGES FOR NON-PROLIFERATION, 2014–17

The changing security environment in and around Europe has had a significant impact on the EU. Increasing insecurity in the EU neighbourhood has put additional pressures on, and at times undermined, the EU's external action.

The war in Syria has caused hundreds of thousands of deaths, led to a sharp rise in terrorism in the region and beyond, and generated the largest refugee crisis in the world since World War II. The EU has not been unaffected, as its citizens live under a heightened risk of terrorism while coping with millions of people seeking refuge outside their home country. Although the EU WMD non-proliferation and SALW strategies do not refer to the Middle East, it is clearly a region of key concern with regard to both conventional and non-conventional weapons, as well as the terrorist use of WMD.

Russia is considered a key strategic partner of the EU in both its SALW and WMD strategies. EU–Russia relations have deteriorated, however, since Russia's annexation of Crimea in March 2014. The EU and other Western countries imposed sanctions on Russia following its aggression in Ukraine, and Russia has retaliated with counter-sanctions. Russia is also

accused of waging an information war against the EU.⁴ Growing international condemnation of Russia's military involvement in the Syrian civil war in support of the Syrian Government of Bashir al-Assad has strained relations between the EU and Russia still further. Since 2015, Russia has also stepped up its political and military support for General Khalifa Haftar, who controls the eastern part of Libya. Russia's engagement in the Libyan civil war is thought to be at least partially motivated by its desire to build strategic leverage vis-à-vis the EU.⁵ The most recent progress report on the implementation of the EU WMD non-proliferation strategy mentions that the European External Action Service (EEAS) Special Envoy for Disarmament and Non-proliferation, Jacek Bylica, held a non-proliferation and disarmament dialogue meeting with Russia, but no further reference is made to Russia in the report. Nor does the most recent annual progress report on the implementation of the SALW strategy mention Russia.⁶

The former report states that the EU remains committed to the Global Partnership against the Spread of Weapons and Materials of Mass Destruction. The Global Partnership used to be a key avenue for EU cooperation with Russia on issues related to non-proliferation, but this is no longer the case since the other seven members excluded Russia in 2014 following Russia's annexation of Crimea.⁷ Instead of working with Russia, the EU envisages technical assistance under the Global Partnership being provided to states worldwide through the EU Chemical, Biological, Radiological and Nuclear (CBRN) Centres of Excellence (COE). In this regard, the EU has underlined

⁴ European Parliament, EU–Russia relations, 18 Oct. 2016, <http://www.europarl.europa.eu/EPRS/TD_EU-Russia-Relations.pdf>.

⁵ Kozhanov, N., 'Moscow's presence in Libya is a new challenge for the West', 30 May 2017, Chatham House, Expert comment, <<https://www.chathamhouse.org/expert/comment/moscow-s-presence-libya-new-challenge-west>>.

⁶ European External Action Service, *Annual Progress Report on the Implementation of the European Union Strategy Against the Proliferation of Weapons of Mass Destruction, 2016*, 5361/17, 17 Jan. 2017, <<http://data.consilium.europa.eu/doc/document/ST-5361-2017-INIT/en/pdf>>, p. 18; and European External Action Service, *Annual Report on the Implementation of the EU Strategy to Combat the Illicit Accumulation and Trafficking of Small Arms and Light Weapons and their Ammunition: Actions in 2015*, 5368/17, 17 Jan. 2017, <<http://data.consilium.europa.eu/doc/document/ST-5368-2017-INIT/en/pdf>>.

⁷ Nuclear Threat Initiative, Global partnership against the spread of weapons and materials of mass destruction ('10 plus 10 over 10 program'), updated 20 June 2017, <<http://www.nti.org/learn/treaties-and-regimes/global-partnership-against-spread-weapons-and-materials-mass-destruction-10-plus-10-over-10-program/>>.

³ For more information about the activities of the Consortium see <www-nonproliferation.eu>.

the fact that the Global Partnership has expanded beyond the Group of Seven (G7) to include 30 members, 5 of which have EU Regional Secretariats.⁸ The CBRN COEs are platforms for delivering projects in different states outside the EU. An independent Consortium evaluation of the Centres found that, although in need of improvement in some areas, the COE methodology had demonstrated a capability to deliver meaningful results in ways that are sustainable and achieve greater impact, such as in the case of the deployment of mobile biological laboratories during the 2014–16 Ebola outbreak in West Africa.⁹

The changing security environment has coincided with the first ever decision to withdraw from the EU, as the United Kingdom has committed itself to leaving the EU in March 2019. This seems likely to undermine the EU's role in non-proliferation and disarmament, as the UK is one of the largest economies in the EU, one of its most capable military powers and one of its two nuclear weapon states and permanent members of the United Nations Security Council. The EU is trying to lessen the blow to its security architecture by boosting common defence spending and outlining a new strategic direction. The High Representative for Foreign Affairs and Security Policy/Vice-President of the Commission (HR/VP), Federica Mogherini, has gone so far as to say that the EU is living 'in times of existential crisis'.¹⁰

Chemical weapons use in Syria

Syria's chemical weapons have been a long-standing concern for the international community, including the EU. Syria's decisions to remain outside of the 1972 Biological and Toxin Weapon Convention and 1993 Chemical Weapons Convention (CWC) were, for example, discussed in the EU during the negotiations on an EU–Syria Association Agreement in 2004–2008. The agreement, which contained relatively weak

language on non-proliferation, was signed but never ratified.¹¹

Syria first publicly acknowledged that it possessed chemical weapons in July 2012. The first allegation of chemical weapon use by the Assad regime was regarding the use of 'poisonous gas' in Homs on 23 December 2012. In the following months, several reports were made of chemical weapon use in Syria, most notably in Aleppo and Damascus.¹² In March 2013, France and the UK sent letters to the UN Secretary-General calling for investigations into the alleged incidents. A UN investigation confirmed the likely use of chemical weapons in Syria on five separate occasions, of which one—in Ghouta, Damascus—was on a relatively large scale.¹³ Russia and the United States agreed on a framework for the elimination of Syrian chemical weapons in September 2013. At the same time, Assad deposited Syria's instrument of accession to the CWC with the UN Secretary-General and agreed that Syria would observe its CWC obligations with immediate effect.¹⁴ On that basis, the Organisation for the Prohibition of Chemical Weapons (OPCW) Executive Council adopted a decision on the destruction of Syrian chemical weapons by a joint mission between the UN and the OPCW. The decision was endorsed by the unanimous adoption of UN Security Council Resolution 2118 on 27 September 2013.¹⁵

The UN–OPCW Joint Mission's mandate was to oversee the elimination of Syrian chemical weapons and the aim was to complete the destruction of all chemical weapons material and equipment in the first half of 2014. In 2013–14, the EU contributed almost €17 million to the OPCW Special Trust Fund for the destruction of chemical weapons in Syria via the Instrument Contributing to Stability and Peace and the CFSP. The EU's contribution sought to cover part of the 'costs associated with the inspection and verification of the destruction of Syrian chemical weapons' and to

⁸ Council of the European Union, 'Annual Progress Report on the Implementation of the European Union Strategy against the Proliferation of Weapons of Mass Destruction, 2016' (2017/C 136/01), *Official Journal of the European Union*, C136, 28 Apr. 2016, <<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C:2017:136:FULL&from=EN>>, p. 11.

⁹ Trapp, R., 'The EU's CBRN centres of excellence initiative after six years', *Non-proliferation Paper*, no. 55 (Feb. 2017), p. 13.

¹⁰ Grip, L., 'The EU common defence: Deeper integration on the horizon?', SIPRI blog post, 4 July 2017, <<https://www.sipri.org/commentary/blog/2017/eu-common-defence-deeper-integration-horizon>>.

¹¹ Grip, L., 'The EU non-proliferation clause: a preliminary assessment', SIPRI Background Paper (2009), p. 7.

¹² Arms Control Association, 'Timeline of Syrian chemical weapons activity, 2012–2017', <<https://www.armscontrol.org/factsheets/Timeline-of-Syrian-Chemical-Weapons-Activity>>.

¹³ Arms Control Association (note 12).

¹⁴ Arms Control Association, *Chemical Weapons Convention signatories and states parties*, updated June 2017, <<https://www.armscontrol.org/factsheets/cwcsig>>.

¹⁵ Organisation for the Prohibition of Chemical Weapons (OPCW), 'OPCW–UN Joint Mission: Background' [n.d.], <<https://opcw.unmissions.org/background>>.

provide satellite imagery from the EU Satellite Centre to ensure the safety and efficiency of UN–OPCW Joint Mission operations in Syria.¹⁶ The EU funding was later extended to 30 September 2015. At the same time the EU agreed to release frozen funds belonging to the Central Bank of Syria and Syrian state-owned entities, to enable them to make payments on behalf of Syria to the OPCW Special Trust Fund for activities related to the destruction of Syria’s chemical weapons.¹⁷

Several EU member states were directly involved in the multilateral process of destroying Syria’s chemical weapons. The weapons were loaded on Danish ships at the Syrian port of Lattakia. Gioa Tauro, a port in southern Italy, was then used to transfer Syrian chemical weapons onto ships where the chemicals were neutralized using hydrolysis. The Finnish company Ekokem OY AB was selected to dispose of the effluent created during the destruction in Finland.¹⁸

Despite the progress in 2012–14 in bringing Syria into the CWC, and initiating and carrying out disarmament of Syria’s chemical weapons, there were several new cases of the use of chemical weapons against civilians in Syria by both the Islamic State (IS) and government forces in the period 2014–17. Following these attacks, in August 2015 the UN Security Council established a one-year Joint Investigative Mechanism of the UN and the OPCW with a mandate to identify, ‘to the greatest extent feasible, individuals, entities, groups, or governments who were perpetrators, organizers, sponsors or otherwise involved in the use of chemicals as weapons’ in Syria. The EU responded by providing €4.6 million to the OPCW and the UN Office for Disarmament Affairs (UNODA) for their joint investigation.¹⁹

The reports of the OPCW–UN Joint Investigative Mechanism found that the Syrian Government was responsible for the chemical weapon attacks in Talmenes in April 2014, in Sarmin in March 2015 and in

Idlib province in March 2015. They also found that IS was responsible for an attack using sulphur mustard in Marea in August 2015. The most recent attack, in Idlib province in April 2017, killed over 70 people. Initial reports suggest that the attack used Sarin gas, a nerve agent. This attack is believed to have been perpetrated by the Syrian Government.²⁰

The continued use of chemical weapons and the proliferation of such weapons to terrorists pose great dangers to civilians in Syria and also undermine the international non-proliferation and disarmament regime. As a party to the CWC, the Syrian regime has explicit obligations to refrain from stockpiling, proliferating or the use of chemical weapons. The UN Security Council extended the mandate of the OPCW–UN Joint Investigative Mechanism by one year in the light of the continuing chemical weapon attacks in Syria. The EU welcomed this decision but no new funding for the OPCW/UNODA was made available in 2016 or the first half of 2017, although the duration of Council Decision 2015/2215/CFSP was only 18 months.²¹

North Korea’s nuclear programme

The nuclear tests by the Democratic People’s Republic of Korea (DPRK, North Korea) have increased in number and frequency, and become more destructive since 2014. Two nuclear tests were conducted in 2016.²² North Korea has also rapidly expanded its missile testing: since 2014 it has tested 75 missiles. North Korea conducted its first test of an intercontinental ballistic missile on 4 July 2017.²³ The nuclear and missile tests are thought to bring North Korea closer to its stated goal of developing a nuclear weapon that can be mounted on a missile capable of reaching the USA, thereby presumably protecting North Korea against territorial violations by the USA and its allies.²⁴

The EU has had sanctions in place since 2006 in response to North Korea’s nuclear tests and missile

¹⁶ Council Decision 2013/726/CFSP of 9 December 2013 in support of the UNSCR 2118 (2013) and OPCW Executive Council EC-M-33/Dec 1, in the framework of the implementation of the EU Strategy against the proliferation of weapons of mass destruction, *Official Journal of the European Union*, L329, 10 Dec. 2013.

¹⁷ Council Decision 2014/74/CFSP of 10 February 2014 amending Decision 2013/255/CFSP concerning restrictive measures against Syria, *Official Journal of the European Union*, L40, 11 Feb. 2014.

¹⁸ Arms Control Association (note 12).

¹⁹ Council Decision (CFSP) 2015/2215 of 30 November 2015 in support of UNSCR 2235 (2015), establishing an OPCW–UN joint investigative mechanism to identify the perpetrators of chemical attacks in the Syrian Arab Republic, *Official Journal of the European Union*, L 314, 1 Dec. 2015.

²⁰ Arms Control Association (note 12).

²¹ Council of the European Union (note 8), p. 5.

²² Nuclear Threat Initiative, ‘North Korea’, updated Mar. 2017, <<http://www.nti.org/learn/countries/north-korea/nuclear/>>.

²³ Berlinger, J., ‘North Korea’s missile tests by the numbers’, CNN, 5 July 2017, <<http://edition.cnn.com/2017/05/29/asia/north-korea-missile-tests/index.html>>.

²⁴ Cottee, M., ‘North Korea moves closer to missile that could strike US’, IISS blog, 19 May 2017, <<https://www.iiss.org/en/iiss%20voices/blogsections/iiss-voices-2017-adeb/may-8636/north-korea-continues-drive-for-missile-that-could-strike-the-us-952e>>.

launches. The existing measures implement all the UN Security Council resolutions and additional EU autonomous measures. The most recent set of additional restrictions was adopted by the Council of the EU in April 2017. These complement and reinforce the sanctions regime imposed by Security Council resolutions. The EU decided to expand the prohibition on investments in North Korea to the conventional arms-related industry, metallurgy and metalworking, and aerospace. The Council also agreed to prohibit the provision of computer services to persons or entities in North Korea as well as services linked to mining and manufacturing in the chemical, mining and refining industry. As of July 2017, 53 persons and 46 entities, as listed by the UN, are subject to restrictive measures in North Korea. In addition, 41 persons and 7 entities have been identified autonomously by the EU as responsible for either supporting or promoting North Korea's nuclear, ballistic missile or other WMD-related programmes.²⁵

According to repeated statements by the HR/VP, the EU position is that North Korea must immediately re-engage in a credible and meaningful dialogue with the international community, in particular through the Six-Party Talks.²⁶ Compared to Iran, however, the EU lacks leverage vis-à-vis North Korea, although it does maintain strategic partnerships with individual states in North East Asia. The EU, for example, is South Korea's third largest export market.²⁷ Through the EU Non-proliferation Consortium and the South Korean Ministry of Foreign Affairs, the EU co-sponsored a seminar on the nuclear and ballistic missile dimensions of the North Korea crisis in Seoul on 24–25 October 2016.²⁸ Participants shared their views on how the

²⁵ Council Decision (CFSP) 2017/666 of 6 April 2017 amending Decision (CFSP) 2016/849 concerning restrictive measures against the Democratic People's Republic of Korea, *Official Journal of the European Union*, L94, 7 Apr. 2017; and Council of the European Union, 'EU restrictive measures against North Korea', updated 8 June 2017, <<http://www.consilium.europa.eu/en/policies/sanctions/history-north-korea/>>.

²⁶ Mogherini, F., High Representative of the EU for Foreign Affairs and Security Policy, Keynote address at the Fifth EU Non Proliferation and Disarmament Conference, 4 Nov. 2016, <<http://www.iiss.org/en/events/eu-conference/sections/eu-conference-2016-c74a/introduction-and-keynote-address-5c32/full-session-live-stream-ec85>>; and Statement by the HRVP Federica Mogherini on the launch of ballistic missiles by the DPRK, Brussels, 6 Mar. 2017, <<https://www.nonproliferation.eu/activities/online-publishing/focus/>>.

²⁷ European Commission, DG Trade, 'South Korea', <<http://ec.europa.eu/trade/policy/countries-and-regions/countries/south-korea/>>.

²⁸ European External Action Service (note 6), p. 5.

international community, including the EU, should best respond to the persistent violations by North Korea of multiple UN Security Council resolutions. They discussed the effectiveness of the diplomatic response, including sanctions, as well as counterproliferation options and solutions. Participants expressed hope that the dialogue and exchange on this issue would continue, among other things, within the framework of bilateral relations between the EU and South Korea.²⁹

III. KEY ACHIEVEMENTS IN NON-PROLIFERATION, 2014–17

Despite the worsening security environment, the period also saw a number of achievements in both conventional and nuclear arms control, using the multilateral diplomatic approach based on international law and international institutions that the EU set out to achieve in its various strategies.

The Iran nuclear deal and its implementation

On 14 July 2015, the Joint Comprehensive Plan of Action (JCPOA) was agreed between Iran and the E3/EU+3 (Germany, France, the UK and the EU, China, Russia and the USA). Commonly known as the 'Iran deal', the agreement is expected to ensure that Iran's nuclear programme is entirely peaceful and that all avenues to the development of nuclear weapons are closed.³⁰ This diplomatic solution to a long-standing proliferation challenge was the greatest achievement of the EU's non-proliferation policy in 2014–17, and probably its greatest achievement to date. The EU both initiated and later coordinated the process throughout 12 years of negotiations. During the process, the role of the EU evolved from that of the main negotiator to a facilitator of US–Iranian bilateral negotiations.³¹

With the support of the EU High Representative, the UK, France and Germany began negotiations with Iran in October 2003—at a time when the USA had

²⁹ European External Action Service, 'EU-ROK Non-Proliferation Seminar on the nuclear and ballistic dimension of the DPRK crisis', 25 Oct. 2016, <https://eeas.europa.eu/headquarters/headquarters-homepage/12946/eu-rok-non-proliferation-seminar-nuclear-and-ballistic-dimension-dprk-crisis_en>.

³⁰ EU/E3+3 and Iran, Joint Comprehensive Plan of Action, IAEA, Vienna, 14 July 2015.

³¹ Amano, Y., IAEA Director General, 'Reflections on the Joint Comprehensive Plan of Action', DIIS, 11 May 2017, <<https://www.iaea.org/newscenter/statements/reflections-on-the-joint-comprehensive-plan-of-action>>.

just invaded Iraq based on perceived nuclear weapon proliferation and without the support of the UN Security Council, and clandestine nuclear facilities had been exposed in Iran.³² The USA, and later Russia and China, joined the negotiations and the Security Council adopted a series of sanctions against Iran.³³ The EU, however, went beyond the global measures and adopted unilateral sanctions to block Iran's oil exports and access to financial markets. Both China and Russia opposed these unilateral sanctions.³⁴ The importance of the EU sanctions was linked to Europe's close economic ties with Iran, which gave the EU leverage in the negotiations. In 2006, 38 per cent of Iranian oil exports went to the EU; and this quickly decreased in 2012–13.³⁵ EU sanctions had a real impact, cutting off 18 cent of Iran's oil sales, prohibiting its use of SWIFT banking communications and blocking insurance for Iranian entities.³⁶

The EU still has a special responsibility in the Iran nuclear agreement. The High Representative is the coordinator of the Joint Commission, which is the body responsible for overseeing the implementation of the agreement, and the EU is coordinating several subgroups that take place in the context of the JCPOA.³⁷ Importantly, the potential for increased trade with EU member states is thought to act as a major incentive for Iran to faithfully carry out its obligations under the deal. This leverage could be further strengthened if the EU is willing to increase its positive incentives by discussing closer cooperation in the form of resumed negotiations on a Trade and Cooperation Agreement. This option would increase the cost to Iran of violating or pulling out of the nuclear deal. Such talks could also be used to encourage Iran to sign up to other

non-proliferation instruments, such as ratification of the Comprehensive Nuclear-Test-Ban Treaty.³⁸

Entry into force of the UN Arms Trade Treaty

The UN Arms Trade Treaty (ATT)—a legally binding treaty that regulates the international trade in conventional arms, from small arms to battle tanks, combat aircraft and warships—entered into force on 24 December 2014. The states parties to the Treaty (currently 91) are obliged, among other things, to undertake risk assessments, mitigation efforts and information sharing to prevent the diversion of conventional arms to the illicit market, or unauthorized end use or end users (article 11). They can do this by, for example, establishing and maintaining an effective national system for controlling arms transfer-related activities (articles 3, 4 and 5.2).³⁹

The adoption and entry into force of the ATT were long-standing ambitions of the EU and great successes for the EU's targeted action under the EU's SALW strategy.⁴⁰ The EU's SALW efforts were dedicated to advocating the adoption of the ATT in regional seminars across the world, negotiating the form and content of the Treaty and supporting capacity building and awareness raising regarding its practical implementation in developing countries.⁴¹

The success in promoting the ATT partly stems from the increasing coherence of the EU's internal approach to export controls on SALW. The EU Common Position, which replaced and expanded the 1998 EU Code of Conduct on Arms Exports, was the baseline from which EU member states were able to agree on a common approach to the ATT negotiations.⁴² It also provided a solid platform for effective external action.

³² Amano (note 31).

³³ Cronberg, T., 'The great balancing act: EU policy choices during the implementation of the Iran deal', Non-Proliferation Papers, no. 50 (Apr. 2016).

³⁴ Cronberg (note 33).

³⁵ Martin, G., 'European diplomacy and the Iranian nuclear negotiations', The European Institute, [n.d.], <<https://www.europeaninstitute.org/index.php/252-european-affairs/ea-may-2015/2066-auto-generate-from-title>>.

³⁶ Fitzpatrick, M., 'Implementing an Iran Nuclear deal: the EU role', Presentation (as prepared), Fourth Consultative Meeting of the EU Non-Proliferation Consortium, Brussels, 13 July 2015, <<https://nonproliferation.eu/web/documents/activities/consultative-meetings/04/fitzpatrick.pdf>>.

³⁷ Sobral, H., Head of the Iran Task Force, Provisional transcript, EEAS, <<http://www.iiss.org/en/events/eu-conference/sections/eu-conference-2016-c74a/plenary-3-7518/cornel-feruta-0647>>.

³⁸ Fitzpatrick (note 36).

³⁹ United Nations, Office for Disarmament Affairs, The Arms Trade Treaty, <<https://unoda-web.s3-accelerate.amazonaws.com/wp-content/uploads/2013/06/English7.pdf>>.

⁴⁰ Council of the European Union, 'EU Strategy to combat illicit accumulation and trafficking of SALW and their ammunition', 5319/06, 13 Jan. 2006, <<http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%205319%202006%20INIT>>.

⁴¹ Council Decision 2013/768/CFSP of 16 December 2013 on EU activities in support of the implementation of the Arms Trade Treaty, in the framework of the European Security Strategy, *Official Journal of the European Union*, L341, 18 Dec. 2013.

⁴² Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment, *Official Journal of the European Union*, L335, 13 Dec. 2008, <<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:335:0099:0103:EN:PDF>>.

Internal coherence was also shaped by the long-standing discussions specifically on the ATT at the intra-EU level. The Council of the EU expressed its support for an ATT for the first time in 2005. The Council acknowledged the growing support in all parts of the world for an international treaty to establish common standards on the global trade in conventional arms and, to ensure its success, encouraged all states, regional organizations and multilateral institutions to join the growing international consensus for action in this area. The Council agreed that the UN was the only forum that could deliver a truly universal instrument and committed the EU to playing an active role in the process. Support for the ATT process has been repeatedly expressed in Council conclusions since 2005. The Council also established a subgroup to discuss the ATT with officials of the Working Party on Global Disarmament and Arms Controls (CODUN) and the Working Party on Conventional Arms Exports (COARM) in 2005. The CODUN–COARM Council working group on the ATT was comprised of representatives of the EU member states and served as a forum for discussion on the EU's statements and positions on the ATT in preparation for the negotiations and during the Preparatory Committees.⁴³

Finally, the EU's efforts were strengthened through member states' active involvement. The UK and Finland, together with their five co-authors (Australia, Argentina, Costa Rica, Kenya and Japan), took the initiative to table the initial UN resolution on the ATT in 2006. Seven EU member states were invited to participate in the UN Group of Governmental Experts (GGE) on the Arms Trade Treaty deliberations.⁴⁴

Since the entry into force of the ATT, the EU's efforts have focused on expanding the membership and ensuring full implementation in ratifying states, primarily through implementation assistance. The EU took its first steps to meet requests for assistance with the adoption of Council Decision 2013/768/CFSP within the framework of the EU SALW Strategy.⁴⁵ Instruments aimed at assisting states to develop improved transfer control systems have had significant success in the past. Some preliminary work has been undertaken to highlight some of the lessons from these efforts that could be of relevance to states seeking to

⁴³ Depauw, S., 'The European Union's involvement in negotiating an arms trade treaty', Non-proliferation Papers, no. 23 (Dec. 2012).

⁴⁴ Depauw (note 43).

⁴⁵ Council Decision 2013/768/CFSP (note 42).

meet their ATT obligations. This includes ensuring true partnership by balancing donor and partner interests, which first requires acknowledgement of potential conflicts of interest or conflicting priorities and recognition of and adaptation to local needs and capacities. Ensuring effectiveness through coordinated assistance measures and long-term commitment are also important to ensuring sustainability.⁴⁶

Progress on the ATT has not been able to curb the proliferation of SALW in the Middle East and North Africa. Concerns have been raised, for example, with regard to Libya's large stockpiles of man-portable air defence systems (MANPADS).⁴⁷ Another key challenge is bridging the gap between internal firearms policy in the EU and external SALW policy, not least in the light of the increased number of terrorist attacks carried out in recent years using small arms sourced in the EU.

IV. EU INSTITUTIONAL CHALLENGES

Beyond the external security challenges and proliferation crises, the EU will also face a number of institutional challenges to playing a prominent and effective role in arms control, non-proliferation and disarmament going forward.

Decline in EU funding for non-proliferation

The Iran nuclear deal demonstrates that the role of the EU in international arms control policy is not reduced to its funding capability. Financial assistance to international organizations and direct to states, however, has always been a key part of the EU's non-proliferation programmes.⁴⁸ Overall, the EU's funding for non-proliferation under the CFSP declined significantly in the period 2014–16 (€38 million) compared to the period 2011–13 (€48 million). Going back further, the budget in 2014–17 was slightly higher in absolute terms than in 2008–13 (€35 million), but

⁴⁶ Bromley, M. and Holtom, P., 'Arms Trade Treaty assistance: identifying a role for the European Union', Non-proliferation Paper (Feb. 2014), <https://www.sipri.org/sites/default/files/EUNPC_DP1402.pdf>, pp. 10–13.

⁴⁷ Small Arms Survey, 'Missing missiles: the proliferation of Man-portable Air Defence Systems in North Africa', *Security Assessment in North Africa (SANA) Issue Brief*, no. 2 (June 2015).

⁴⁸ Grip, L., 'Assessing selected European Union external assistance and cooperation projects on WMD non-proliferation', Non-proliferation Paper, no. 6, (Dec. 2011), <<https://www.sipri.org/publications/2011/eu-non-proliferation-papers/assessing-selected-european-union-external-assistance-and-cooperation-projects-wmd-non-proliferation>>.

Table 1. European Union annual spending on the CFSP and non-proliferation, 2008–16

Budget	2008	2009	2010	2011	2012	2013	2014	2015	2016
CFSP (€ m.)	192	314	251	303	303	316	314	321	327
Non-proliferation and disarmament (€ m.)	15	2	18	15	15	18	5	17	16

CFSP = Common Foreign and Security Policy; m. = million.

Sources: European Commission, 'EU annual budget life-cycle: figures', <http://ec.europa.eu/budget/annual/index_en.cfm?year=2014>; European Commission, Budgetary document 2013, <http://ec.europa.eu/budget/biblio/documents/2013/2013_en.cfm>, p. 810; and Annex 1, <[http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52017XG0428\(01\)&qid=1499340114366&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52017XG0428(01)&qid=1499340114366&from=EN)>.

the CFSP budget was 27 per cent larger in 2014–16 compared to 2008–13, representing a relative decline in funding over time compared to other priorities (see table 1). In addition, compared to the overall budget for 'Global Europe', which encompasses all the EU foreign policy instruments, non-proliferation spending is tiny and diminishing. The total Global Europe budget for 2014–20 is €233 872 million.

As one example, the EU's contribution to the IAEA nuclear fund is declining and the contribution for 2017–19 is forecast to be about half that of previous years. The total EU financial contribution to the Fund based on six successive Council Joint Actions/Decisions reached almost €42 million in the period 2009–16. In December 2016 the EU adopted the seventh Council Decision supporting IAEA nuclear security activities undertaken under the IAEA Nuclear Security Plan for the period 2017–19. Funding was set at around €9.3 million.⁴⁹

Reduced role for non-proliferation and disarmament in the CFSP

Members of the EU Non-proliferation Consortium have highlighted the fact that the EU WMD and SALW strategies are out of date. Reviews of both strategies are apparently under way, following the review of the European Security Strategy. The new strategic direction for the EU CFSP and the Common Security and Defence Policy (CSDP), of which the WMD non-proliferation and SALW strategies are part, was published within the framework of the EU Global

Strategy in June 2016. The EU Global Strategy set a much sought-after new strategic direction, revising the out-of-date 2003 Strategy. However, the Global Strategy puts extra focus on the CSDP but barely mentions related issues. Non-proliferation is mentioned only in passing—on 3 occasions in the 60-page document—along with 4 references to arms control and 2 mentions of disarmament. In comparison, the document makes 57 references to 'defence'.⁵⁰

In the first year of implementation, it has become clear that the focus is on developing the defence leg of the CSDP. As of December 2016, the European Council has agreed to deepen defence cooperation among the member states, most notably through:

1. The launch of a voluntary Coordinated Annual Review on Defence to be conducted by the European Defence Agency in order to enhance transparency and better synchronize member states' defence planning. The initial future governance structure of the Permanent Structured Cooperation was agreed, and it was established based on articles 42.6 and 46 and protocol 10 of the Treaty on European Union. It was also agreed as a short-term objective that a Military Planning and Conduct Capability within the EU Military Staff of the EEAS will assume command over the EU's non-executive military missions (but not military operations), currently the three EU training missions in the Central African Republic, Mali and Somalia; and to review the Athena mechanism for

⁵⁰ European External Action Service, *Shared Vision, Common Action: A Stronger Europe, A Global Strategy for the European Union's Foreign And Security Policy*, June 2016, <http://eeas.europa.eu/archives/docs/top_stories/pdf/eugs_review_web.pdf>, pp. 41–42.

⁴⁹ Council of the European Union (note 8), p. 2.

the deployment of Battlegroups to ensure their rapid financing and deployment.

2. The adoption of an EU–North Atlantic Treaty Organization (NATO) Joint Declaration on cooperation on hybrid threats, operational cooperation, cybersecurity, defence capabilities, industry and research, exercises and capacity building. A first brief progress report on the implementation of the Joint Declaration discussed the first EU–NATO staff exercise in response to a hybrid scenario and contained a commitment from the EU to contribute to NATO’s capacity-building programme aimed at strengthening good governance in the defence and security sectors.

3. The creation of a European Defence Fund, which will allocate €5.5 billion per year to defence research (directly from the EU budget) and capability development (co-financing from the EU budget). Although the fund has been agreed, it will not entail any new money and it has not been decided where the money will be taken from.

4. The launch of a reflection paper by the European Commission, laying out three possible future scenarios for the CSDP depending on the level of ambition of member states: Defence and Security Cooperation; Shared Security and Defence; or Common Defence and Security.⁵¹

Arms control, disarmament and non-proliferation policy in the EU has always been divorced from defence policy. It is therefore likely that deeper cooperation on defence will sideline arms control policy in the EU and marginalize it even more in the near future. Despite the steps taken in the field of common defence cooperation over the past year, many obstacles remain before closer cooperation on defence can be achieved.

Another notable departure from the European Security Strategy and the WMD non-proliferation strategy is the move away from the concept of effective multilateralism. Effective multilateralism, although never fully defined, referred to working through existing international institutional frameworks according to universal principles and a legal basis that would be equal for all. The actualization of this concept proved difficult for the EU and it adopted a more flexible approach. Rather than working through existing frameworks, the EU frequently preferred ad hoc measures, the most prominent case in point being the Iran case. In the Global Strategy, this flexible

approach appears to have taken over from the static concept of effective multilateralism, in that it states: ‘We will use every means at our disposal to assist in resolving proliferation crises, as we successfully did on the Iranian nuclear programme’.⁵² An independent Consortium paper from early 2017 warns that unless a combined effort is made to update its WMD Strategy and conduct crisis contingency planning that integrates WMD-related risks, there is an overwhelming risk of a reactive approach by European leaders faced with the next WMD-related crisis, resulting in slow and uncoordinated responses.⁵³

Internal fragmentation: Treaty on the Prohibition of Nuclear Weapons

In recent months the negotiation of a Treaty on the Prohibition of Nuclear Weapons has provided a clear example of the internal divisions that arise when non-proliferation objectives are mixed with issues of national defence. The Treaty is an initiative to prohibit the full range of nuclear weapon-related activities—undertaking to develop, test, produce, manufacture, acquire, possess or stockpile nuclear weapons or other nuclear explosive devices, as well as the use or the threat of use—in international law.

The Treaty on the Prohibition of Nuclear Weapons was adopted by 122 states on 7 July and will open for signature at the UN in New York on 20 September 2017. Civil society organizations and more than 124 states participated in the negotiations.⁵⁴ Only one state that participated in the negotiations, the Netherlands, voted against the Treaty. According to the Netherlands, a NATO member and territorial host of US nuclear weapons, the Treaty is incompatible with NATO norms, contains inadequate verification provisions and undermines the Nuclear Non-Proliferation Treaty (NPT) by placing itself above

⁵² European External Action Service (note 50), <http://eeas.europa.eu/archives/docs/top_stories/pdf/eugs_review_web.pdf>, pp. 41–42.

⁵³ Lundin, L. E., ‘The European Union and weapons of mass destruction: a follow-on to the global strategy?’, Non-proliferation Paper, no. 58 (May 2017), <<https://www.sipri.org/sites/default/files/European-Union-weapons-mass-destruction.pdf>>, p. 13.

⁵⁴ International Campaign to Abolish Nuclear Weapons (ICAN), ‘The United Nations prohibits nuclear weapons’, 7 July 2017, <<http://www.icanw.org/campaign-news/the-united-nations-prohibits-nuclear-weapons/>>.

⁵¹ Grip (note 10).

Table 2. Voting record of European Union member states: Treaty on the Prohibition of Nuclear Weapons

Yes	No	Did not participate
Austria	Netherlands	Belgium
Cyprus		Bulgaria
Ireland		Croatia
Malta		Czech Republic
Sweden		Denmark
		Estonia
		Finland
		France
		Germany
		Greece
		Hungary
		Italy
		Latvia
		Lithuania
		Luxembourg
		Poland
		Portugal
		Romania
		Slovakia
		Slovenia
		Spain
		United Kingdom

Source: United Nations, General Assembly, Conference to negotiate a legally binding instrument to prohibit nuclear weapons: second session, 7 July 2017, <<http://www.reachingcriticalwill.org/images/documents/Disarmament-fora/nuclear-weapon-ban/documents/voting-record.pdf>>.

the NPT and establishing a parallel, if partially overlapping, review mechanism.⁵⁵

The majority of the EU member states did not take part in the negotiations on the ban. The divide between those EU member states that support the ban and those that do not largely follows NATO membership. Apart from the Netherlands, all the EU member states that are members of NATO boycotted the negotiations and did not participate in the conference. Finland, a non-NATO member, also boycotted the conference.

⁵⁵ United Nations, General Assembly, 'Conference to negotiate legally binding instrument banning nuclear weapons adopts treaty by 122 votes in favour, 1 against, 1 abstention', Press release, 7 July 2017, <<http://www.un.org/press/en/2017/dc3723.doc.htm>>.

Only five EU member states, none of which is a NATO member, supported the ban (see table 2).

The objective of the ban is to create an international norm that clearly discourages the modernization of nuclear arsenals and further horizontal proliferation, while building momentum for nuclear disarmament. The idea is to undermine the role of nuclear weapons in deterrence by further restricting the options for the use of such weapons. This norm-building process will be conducted by states parties and civil society organizations, and will include taking the floor in, for example, the NPT Review Conferences. The issue has divided the EU member states since its inception and will create serious obstacles to, for example, a common EU position in international forums such as the NPT Review Conferences.

V. CONCLUSIONS

The majority of the EU's non-proliferation programmes were developed and implemented under peaceful conditions, such as for use in EU candidate countries and to provide institutional support to the largest international organizations working on long-term preventive measures. More recent developments have shown how these favourable conditions have changed.

In dealing with proliferation challenges in the past, the EU relied heavily on flexible ad hoc measures such as targeted sanctions. Sanctions are always embedded in a wider context and their outcome depends on the nature of relations and, especially, the level of dependence on the EU by the targeted state. These targeted measures are a departure from the earlier definition of effective multilateralism. While ad hoc measures were originally regarded as complementary to a universal state-centric approach, they have since become the standard responses for dealing with crises.

The EU's arms control, disarmament and non-proliferation response is under serious pressure, caused by external challenges on a large scale. The EU's response was designed to deal not with urgent crisis operations, but with long-term preventive measures. The EU now faces issues of war in Europe, chemical weapons use in Syria and SALW proliferation in the Middle East and North Africa. The EU's responses to these challenges have primarily been linked not to its non-proliferation policy but to other aspects of its internal and external policies. The new responses put a heavy focus on defence-related issues, of which non-proliferation cannot be a part due to the internal

fragmentation between NATO and non-NATO members—the latter of which will soon be legally bound to actively promote nuclear disarmament, naturally including within the EU.

Past successes in EU arms control, disarmament and non-proliferation have depended on internal coherence and a common policy platform. Both were essential to effective action by the EU when, for example, promoting the ATT and negotiating the nuclear deal with Iran. The changed security conditions mean that the EU is now being asked to operate under much tougher circumstances, which makes fragmentation and conflict of interest more likely. One possible outcome is that the EU will further reduce the role of non-proliferation in its CFSP, to mainly providing basic funding to the general programmes of key international organizations such as the IAEA. Recent budget figures show a decline in recent years and suggest that even this support may be reduced in the future. One remaining option for strengthening the EU's programmes going forward is to work through the various activities of the European Commission, such as its CBRN Centres of Excellence. This would require a closer political synergy between the Commission's preventive long-term activities and the EU's foreign political strategic objectives.



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A EUROPEAN NETWORK

In July 2010 the Council of the European Union decided to create a network bringing together foreign policy institutions and research centres from across the EU to encourage political and security-related dialogue and the long-term discussion of measures to combat the proliferation of weapons of mass destruction (WMD) and their delivery systems.

STRUCTURE

The EU Non-Proliferation Consortium is managed jointly by four institutes entrusted with the project, in close cooperation with the representative of the High Representative of the Union for Foreign Affairs and Security Policy. The four institutes are the Fondation pour la recherche stratégique (FRS) in Paris, the Peace Research Institute in Frankfurt (PRIF), the International Institute for Strategic Studies (IISS) in London, and Stockholm International Peace Research Institute (SIPRI). The Consortium began its work in January 2011 and forms the core of a wider network of European non-proliferation think tanks and research centres which will be closely associated with the activities of the Consortium.

MISSION

The main aim of the network of independent non-proliferation think tanks is to encourage discussion of measures to combat the proliferation of weapons of mass destruction and their delivery systems within civil society, particularly among experts, researchers and academics. The scope of activities shall also cover issues related to conventional weapons. The fruits of the network discussions can be submitted in the form of reports and recommendations to the responsible officials within the European Union.

It is expected that this network will support EU action to counter proliferation. To that end, the network can also establish cooperation with specialized institutions and research centres in third countries, in particular in those with which the EU is conducting specific non-proliferation dialogues.

<http://www.nonproliferation.eu>

EU NON-PROLIFERATION CONSORTIUM

The European network of independent non-proliferation think tanks

FONDATION
pour la RECHERCHE
STRATÉGIQUE

FOUNDATION FOR STRATEGIC RESEARCH

FRS is an independent research centre and the leading French think tank on defence and security issues. Its team of experts in a variety of fields contributes to the strategic debate in France and abroad, and provides unique expertise across the board of defence and security studies.

<http://www.frstrategie.org>

PRIF  HSFK
Peace Research Institute Frankfurt Friedens- und Konfliktforschung
Hessische Stiftung

PEACE RESEARCH INSTITUTE IN FRANKFURT

PRIF is the largest as well as the oldest peace research institute in Germany. PRIF's work is directed towards carrying out research on peace and conflict, with a special emphasis on issues of arms control, non-proliferation and disarmament.

<http://www.hsfk.de>

 IISS

INTERNATIONAL INSTITUTE FOR STRATEGIC STUDIES

IISS is an independent centre for research, information and debate on the problems of conflict, however caused, that have, or potentially have, an important military content. It aims to provide the best possible analysis on strategic trends and to facilitate contacts.

<http://www.iiss.org/>

 sipri

STOCKHOLM INTERNATIONAL PEACE RESEARCH INSTITUTE

SIPRI is an independent international institute dedicated to research into conflict, armaments, arms control and disarmament. Established in 1966, SIPRI provides data, analysis and recommendations, based on open sources, to policymakers, researchers, media and the interested public.

<http://www.sipri.org/>