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THE EU'S ARMS CONTROL CHALLENGE

Bridging nuclear divides

By
Clara Portela

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The EUISS Chaillot Paper series

The *Chaillot Paper* series, launched in 1991, takes its name from the Chaillot hill in the Trocadéro area of Paris, where the Institute's first premises were located in the building occupied by the Western European Union (WEU). The hill is particularly known for the Palais de Chaillot which was the site of the signing of the UN Universal Declaration of Human Rights in 1948, and housed NATO's provisional headquarters from 1952 until 1959.

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EXECUTIVE SUMMARY

Since the adoption of its Strategy against the Proliferation of Weapons of Mass Destruction (WMD), the EU has been gradually carving out a role for itself in the field of arms control, non-proliferation and disarmament. This role has consisted primarily in the provision of technical and financial assistance for threat and risk reduction to support implementation of treaties and the work of international agencies. To this day, the delivery of funding and technical assistance remains the EU's strength.

While encouraging when measured by its level of achievement, this record does not sufficiently equip the EU to deal with the current crisis of arms control, which has recently seen the demise of key agreements like the Intermediate Nuclear Forces (INF) Treaty, while the New Strategic Arms Reduction Treaty (New START) was temporarily extended only shortly before it expired.

In the arms control field, the EU is facing a contradictory situation: on the one hand, its territory will be most directly affected by the dismantlement of the arms control treaty network. On the other, it is not a party to the arms control treaties which are in danger or have been abandoned, given that only the United States and Russia are parties.

In the management of proliferation crises, the EU achieved a notable success with the conclusion of the Joint Comprehensive Plan of Action (JCPOA) under the leadership of the E3 and the High Representative, which was however put under pressure after Washington's withdrawal under the Trump presidency.

At international forums such as the review conferences of the Nuclear Non-Proliferation Treaty (NPT), the EU has greatly enhanced its coordination. However, its internal unity is under increasing strain due to disagreement between opposed camps: some of its member are parties to the Treaty on the Prohibition of Nuclear Weapons (TPNW) and others object to it as potentially undermining the NPT. Meanwhile, the only nuclear-armed member state aspires to extend the reach of its nuclear deterrent to the EU as a whole.

This *Chaillot Paper* suggests that, in order to promote a successful outcome of the NPT RevCon, the EU could capitalise on its access to groupings divided over the TPNW in order to foster dialogue, acting as a bridge-builder. The EU can take the lead in building the intellectual groundwork for the emergence of a new arms control treaty system to replace those agreements which are currently being abandoned.

INTRODUCTION

THE VANISHING TREATY NETWORK

While proliferation challenges in Iran and North Korea dominated the nuclear arms control and disarmament landscape in the first decades of this century, in recent years the progressive dismantlement of the treaty network, known as 'the crisis of nuclear arms control', has taken centre stage. The decline in arms control affects both the bilateral agreements between the United States and Russia, which are being gradually abandoned, and multilateral treaties that, collectively, constitute the cornerstone of the global nuclear arms control regime. In recent years, descriptions of contemporary nuclear arms control have evolved from 'eroding' [(1)] and 'in deep crisis' [(2)] to 'unravelling' [(3)], 'collapsing' [(4)], or even 'dead' [(5)].

The domain of nuclear arms control, which consists of a network of treaties between the United States and Russia limiting nuclear weaponry, witnessed the withdrawal by Washington from the Intermediate Nuclear Forces (INF) Treaty in 2019, citing Russian non-compliance. The treaty network that prevented the descent into a nuclear arms race is being progressively dismantled. Only the New Strategic Arms Reduction Treaty (New START) survives, after it was extended for a period of five years in February 2021 [(6)]. This bleak picture affects Europe directly. Albeit concluded between the United States and the Soviet Union or its successor state Russia, these treaties protect primarily European territory.

The treaty network that prevented the descent into a nuclear arms race is being progressively dismantled.

In the multilateral arena, the picture is slightly brighter. The Treaty on the Non-Proliferation of Nuclear Weapons (NPT) of 1968, which constitutes the cornerstone of the nuclear non-proliferation regime and undergoes review by state parties on a quinquennial basis, experienced a setback in 2015. Its Review Conference (RevCon) witnessed the unravelling of the acclaimed achievements of previous editions, notably the 2010 Action Plan and the initiative for the establishment of a zone free of weapons of mass destruction in the Middle East. While possessors of nuclear weapons resist steps towards disarmament, an increasing 'radicalisation' of the nuclear disarmament debate has

(1) Smith, D., 'The crisis of nuclear arms control', *SIPRI Yearbook 2019*, SIPRI, Stockholm, 2019, pp. 4-9.

(2) Neuneck, G., 'The deep crisis of nuclear arms control and disarmament', *Journal for Peace and Nuclear Disarmament*, Vol. 2, No 2, 2019, pp. 431-452.

(3) Vilmer, J. B., 'The forever-emerging norm of banning nuclear weapons', *Journal of Strategic Studies*, 2020 (online first).

(4) Arbatov, A., 'MAD moment redux? The rise and fall of nuclear arms control', *Survival*, Vol. 61, No 3, 2019, pp. 7-38.

(5) Thränert, O., 'Die Rüstungskontrolle ist tot', *Internationale Politik und Gesellschaft*, 18 July 2019.

(6) 'US, Russia agree to extend "New START" nuclear arms treaty', *Deutsche Welle*, 26 January 2021.

seen the shrinking of states advocating a gradual approach towards nuclear disarmament [(7)]. Two years after the RevCon, the Treaty on the Prohibition of Nuclear Weapons (TPNW or 'Ban Treaty') opened for signature, evidencing a split between those supporting a gradualist approach towards disarmament on the one hand, and abolitionists on the other. Other multilateral arms control agreements are characterised by stagnation. The Comprehensive Test Ban Treaty (CTBT) of 1996 consolidated the norm against nuclear testing [(8)], but still falls short of the eight signatories necessary for its entry into force. The paralysed Conference of Disarmament has not yet launched negotiations on a Fissile Material Cut-Off Treaty that has been planned for decades. Experts assess progress on both agreements as 'minimal' [(9)]. Related agreements like the Treaty on Open Skies are similarly in jeopardy.

The current challenges to the NPT framework are of concern to the EU since the bulk of its members occupy the shrinking middle ground of advocates of a gradual approach to disarmament. In the aftermath of the ninth RevCon of 2015, observers referred to the EU as 'caught in the middle' or 'stuck on disarmament' [(10)]. In the tenth RevCon, the EU faces the challenge of preserving a framework under strain while it remains divided between advocates and opponents of the TPNW. Nevertheless, this split has not fully obstructed coordination. The Swedish-launched 'Stepping Stones' initiative, which advances the gradualist approach to disarmament, finds broad backing among fellow EU members [(11)].

The eruption of the Covid-19 pandemic resulted in the postponement of the tenth NPT RevCon that was originally scheduled for March 2020. The decision on postponement to summer 2021 extends the period available for preparatory coordination, affording an additional opportunity to build consensus [(12)]. Had it been held as originally scheduled, the RevCon was expected to take place under inauspicious circumstances. Due to the Trump administration's unfavourable attitude to multilateral arms control, the RevCon was predicted to almost certainly fail. In light of the change of US administration in January 2021, more optimism reigns regarding the RevCon. Still, in view of the structural divisions with the NPT, described as 'deeply fractured' and 'in chronic crisis' even after the relatively successful outcome of the 2010 RevCon [(13)], it is sometimes claimed that a postponement is unlikely to alter its course.

The present *Chaillot Paper* is organised as follows. The first chapter illuminates the EU's record in the field of nuclear arms control, non-proliferation and disarmament, analysing its strengths and shortcomings. The second chapter outlines the current crisis of the nuclear arms control regime, identifying its drivers and sketching options for its revitalisation. The concluding chapter looks into ways in which the EU can proactively support the advancement of the nuclear arms control and disarmament agenda.

(7) Meier, O., 'The 2015 NPT Review Conference Failure', Working Paper 4, SWP, Berlin, 2015.

(8) 'The deep crisis of nuclear arms control', op. cit.

(9) Evans, G., Oglivie-White, T. and Thakur, R., *Nuclear Weapons: The State of Play,* Centre for Non-Proliferation and Disarmament, Australian National University, Canberra, 2015.

(10) Smetana, M., 'Stuck on Disarmament: The European Union and the 2015 NPT Review Conference', *International Affairs*, Vol. 92, No 1, 2016, pp. 137-52.

(11) The full text of this document is provided in the annex at the end of this publication.

(12) Gottemoeller, R., 'When COVID-19 delays a nuclear non-proliferation conference, is there a silver lining?', Freeman Spogli Institute for International Studies, 26 March 2020.

(13) Miller, S., 'A deeply fractured regime: Assessing the 2010 NPT Review Conference', *International Spectator*, Vol. 45, No 3, 2010, pp. 19-26; Johnson, R., 'NPT: Challenging the nuclear powers' fiefdom', Open Democracy, 15 June 2010; Mölling, C., 'The grand bargain in the NPT: Challenges for the EU beyond 2010', in Zanders, J.P. (ed.), 'Nuclear weapons after the 2020 NPT Review Conference', *Chaillot Paper* No. 120, EUISS, Paris, April 2010, pp. 49-70.

CHAPTER 1

THE ROLE OF THE EU IN NUCLEAR ARMS CONTROL AND DISARMAMENT

Since 2003, the EU has had a 'Strategy against the Proliferation of Weapons of Mass Destruction (WMD)' (henceforth the 'WMD Strategy'), adopted in the framework of its common foreign and security policy (CFSP) [(1)]. The WMD Strategy heralded a qualitative improvement of EU action, which culminated in the key role it played in the resolution of the Iran nuclear dispute [(2)]. The present chapter outlines the evolution of EU nuclear non-proliferation policy, examining its action in three key domains: technical assistance programmes, coordination in international forums, and the management of proliferation crises. As will be shown, nuclear issues occupy a central place in EU WMD policies.

THE ORIGINS OF EU POLICY

The origins of the EU's role in nuclear issues go back to Euratom, one of the original European communities, which was tasked, *inter alia*, with managing the internal market for uranium [(3)]. Even though Euratom was designed to prevent proliferation and develop civilian nuclear energy primarily among members of the European Economic Community, it could engage externally as it was endowed with legal personality. To this end, it provided assistance to the activities of the International Atomic Energy Agency (IAEA) in the field of nuclear safeguards [(4)]. The external role of the European Community (EC) in non-proliferation originated as early as 1981, when the Council set up a working group on nuclear questions in the context of the European Political Cooperation (EPC) mechanism, in whose framework member states started to coordinate national positions in international forums. Initially, the working group produced

(1) Council of the European Union, 'EU Strategy against Proliferation of Weapons of Mass Destruction', 15656/03, 10 December 2003.

(2) Portela, C. and Kienzle, B., 'European Union non-proliferation policies before and after the 2003 Strategy: Continuity and change', in Blavuokos, S., Bourantonis, D. and Portela, C. (eds.), *The EU and the Non-Proliferation of Nuclear Weapons*, Palgrave MacMillan, Basingstoke, 2015, pp. 48-66.

(3) Müller, H. and Van Dassen, L., 'From Cacophony to Joint Action: Successes and shortcomings of European nuclear non-proliferation policy', in Holland, M. (ed.), *Common Foreign and Security Policy: The Record and Reforms*, Pinter, London, 1997, pp. 52-72.

(4) Grip, L., 'The performance of the EU in external nuclear Non-proliferation assistance', in Blavuokos, S., Bourantonis, D. and Portela, C. (eds), *The EU and the Non-Proliferation of Nuclear Weapons*, Palgrave MacMillan, Basingstoke, 2015, pp. 117-140.

some common statements at UN forums and the Nuclear Suppliers Group (NSG) on safeguards and nuclear technology transfers.

Two developments enabled the EU to upgrade its role in the field in the early 1990s. Firstly, the Treaty on European Union (TEU) signed at Maastricht in 1991 enhanced foreign policy coordination by formally linking the EC and the CFSP, giving the EU a mandate to deal with security affairs. Secondly, France's 1992 accession to the NPT allowed the EU to instigate some initiatives in the field [(5)]. The European Council singled out arms control, non-proliferation and disarmament as priority areas for the CFSP, and member states began tabling joint proposals at international forums, such as the 1992 joint initiative to the IAEA Board of Governors Conference on the strengthening of safeguards. The culmination of this trend was the campaign for the indefinite extension of the NPT in 1995, an endeavour in which the EU worked hand in hand with the United States [(6)].

The external environment played a role in stimulating the multiplication of EU initiatives in the field. Dubbed 'the golden age of arms control', the 1990s saw the conclusion of new disarmament treaties, and a considerable reduction of nuclear arsenals. Following the terrorist attacks of 11 September 2001 in the United States, suspicions that al-Qaeda was seeking to obtain nuclear weapons caused widespread concern about the possibility that WMD might fall into the hands of terrorist groups [(7)]. This prompted the EU to boost aid for nuclear safety in third countries, while EU members promoted the adoption of UN Security Council Resolution 1540. Adopted unanimously in 2004, this resolution requires states to prevent the proliferation of WMD and their means of delivery to non-state actors, in particular for terrorist purposes [(8)]. Once the resolution was in force, the EU launched capacity-building programmes to aid third countries with its implementation. This strand of action was strengthened with the adoption of a new programme in May 2017, which is being implemented by the UN Office for Disarmament Affairs [(9)].

Washington's military intervention in Iraq placed proliferation at the centre of the international agenda.

As the United States set aside its traditional leadership in arms control in favour of counter-proliferation, relying on the use of military force, the EU was compelled to champion the multilateral regime [(10)]. Washington's military intervention in Iraq, largely justified by allegations that Baghdad possessed WMD, placed proliferation at the centre of the international agenda. Yet, the operation had a devastating impact on transatlantic relations as it polarised the North Atlantic Treaty Organisation (NATO). The effects on EU foreign policy were equally detrimental: divisions between supporters and opponents of the intervention cut across the EU, and gave rise to what was has been described as the 'deepest crisis the CFSP ever suffered' [(11)]. The framing of the WMD strategy aimed to restore an intra-European consensus. At the same time,

(5) Cottey, A., 'The EU's non-proliferation strategy ten years on', *European Foreign Affairs Review*, Vol. 19, No 1, 2014, pp. 45-64.

(6) Onderco, M., *Networked Non-proliferation: Making the NPT Permanent*, Stanford, CA, Stanford University Press, 2021.

(7) Stenersen, A., 'Nuclear terrorism: Hype, hoax or waiting to happen?' in Eriksson, M. and Osland, K. (eds.), *Nuclear Weapons in the 21st Century*, Norwegian Institute of International Affairs, Oslo, 2008; United Nations Security Council, Resolution 1540, S/RES/1540 (2004), 28 April 2004 (https://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1540%20(2004)

(8) United Nations Security Council, Resolution 1540, S/RES/1540 (2004).

(9) Council Decision (CFSP) 2017/809 of 11 May 2017 in support of the implementation of United Nations Security Council Resolution 1540 (2004) on the non-proliferation of weapons of mass destruction and their means of delivery (https://eur-lex.europa.eu/eli/dec/2017/809/oj).

(10) Murauskaite, E., 'Dynamics of the EU non-proliferation discourse in global context' in Tonra, B. et al. (eds.), *SAGE Handbook of European Foreign Policy*, SAGE, London, 2015, pp. 952-66.

(11) Keukeleire, S. and Delreux, T., *The Foreign Policy of the European Union*, Palgrave Macmillan, Houndmills, 2014, p. 149.

it attempted to perform a 'balancing act': that of differentiating the European emphasis on multilateral solutions from the US coercive approach *while* bridging the transatlantic rift on nuclear proliferation challenges [(12)].

CONVERGENCE AND DIVERGENCE IN NUCLEAR ATTITUDES

Among EU member states, agreement is forthcoming around the need to 'uphold and strengthen the integrity of the NPT' [(13)]. A recent survey of national security and defence strategies of EU member states shows remarkable convergence regarding WMD proliferation: more than half of the national security strategies of 25 member states point to the proliferation of WMD and missiles as a threat [(14)].

However, that is where agreement ends. Voting patterns at the United Nations General Assembly (UNGA) reveal that resolutions on nuclear disarmament are among the most controversial among EU members, with the European nuclear powers and non-NATO members often voting differently from the EU mainstream [(15)]. EU action in nuclear non-proliferation remains constrained by the disparity of nuclear statuses and attitudes towards nuclear deterrence. All EU members are parties to the NPT. After the British withdrawal from the EU, France remains the organisation's only nuclear-weapons state (NWS). 21 out of the current 27 EU member states are allies of NATO. Four of them, Belgium, Germany, Italy and the Netherlands, host nuclear weapons on their territory while the remaining 17 are covered by its nuclear 'umbrella', i.e. by extended deterrence. Of the six EU partners that remain outside the Alliance, Austria, Finland, Ireland and Sweden are nuclear-free and traditional advocates of nuclear disarmament, while Cyprus and Malta forego reliance on nuclear weapons but are less active in disarmament advocacy [(16)]. The enlargement rounds of the last two decades consolidated the predominance of 'umbrella' countries: while the EU had 11 NATO members when it adopted its WMD Strategy in 2003, this number had doubled by 2014 [(17)].

The increasing antagonism between Russia and the West over Ukraine and the adoption of the TPNW added further nuance to this diverse picture, which has been described as a 'patchwork' [(18)]. Ireland and Austria, resolute disarmament advocates, co-sponsored the UNGA resolution on the TPNW and are now states parties to it, alongside Malta. Cyprus and Sweden voted in favour, but did not sign the treaty. Finland refrained both from participating in the vote and from signing the treaty. All NATO allies voted against [(19)].

Attitudes also diverge with regard to civilian uses of nuclear energy. Some member states, like Denmark, have renounced the use of nuclear energy for civilian purposes; others, like

(12) Meier, O. and Neuneck, G., 'In der Defensive: Europas Politik der Nichtverbreitung von Massenvernichtungswaffen', *Friedensgutachten* 2006, pp. 198-207.

(13) European Union General Statement by Mr. Jacek Bylica, Special Envoy for Disarmament and Non-Proliferation, European External Action Service, Preparatory Committee for the 2020 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), 3rd Session, New York, 29 April-10 May 2019.

(14) Fiott, D., 'Uncharted Territory? Towards a common threat analysis and a Strategic Compass for EU security and defence', *Brief* No. 16, EUISS, Paris, July 2020.

(15) Luif, P., 'Der Konsens der Staaten der Europäischen Union in der Außen- und Sicherheitspolitik', in Frank, J. and Matyas, W. (eds.), *Strategie und Sicherheit 2014*, Böhlau, 2014, pp. 289-303.

(16) Romanyshyn, I., 'The EU in multilateral arms negotiations: Shaping the process or outcome?', *Journal of European Integration*, Vol. 41, No 5, 2018, pp. 675-692.

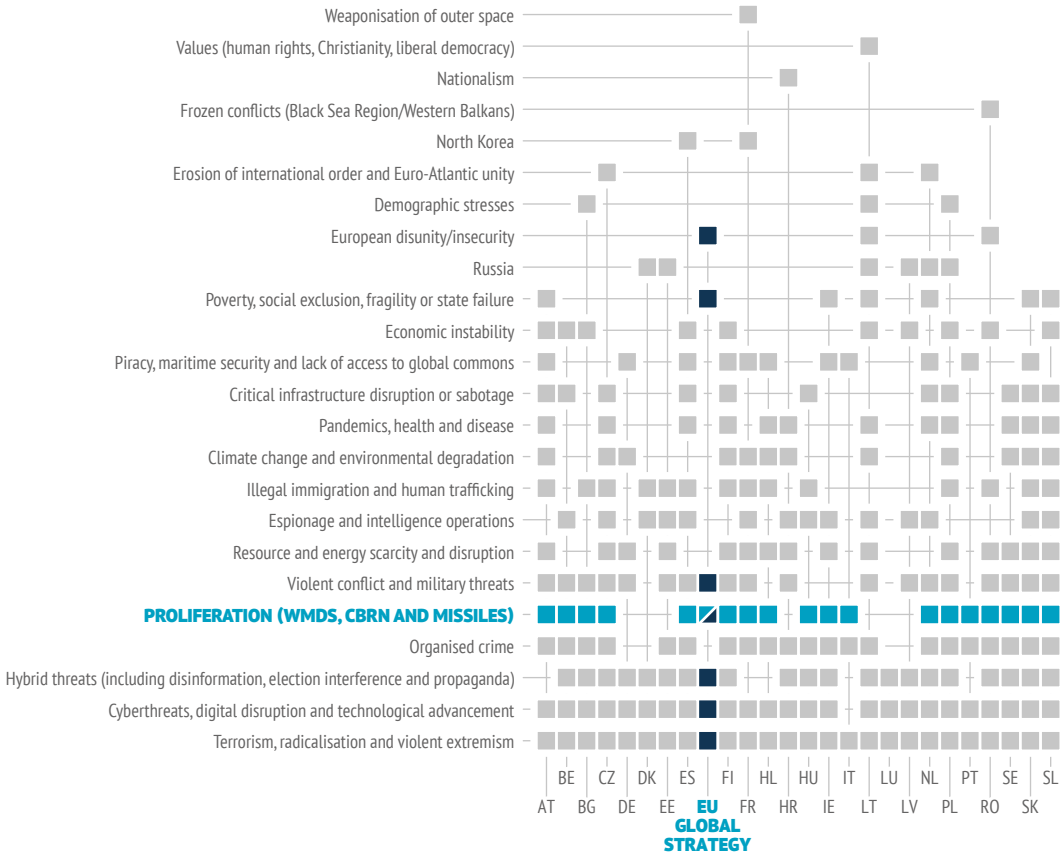
(17) Nielsen, J. and Hanson, M., 'The European Union and the Humanitarian Initiative in the 2015 Non-proliferation Treaty review cycle', *Non-Proliferation Papers* No 41, SIPRI, Stockholm, 2014.

(18) Lafont, M., Varma, T. and Witney, N., 'Eyes tight shut. European attitudes toward nuclear deterrence', European Council on Foreign Relations (ECFR), Paris, 2018.

(19) See voting record for UNGA Resolution A/RES/71/75, 15 December 2016.

Threat perception

In national strategies of EU member states and the EU Global Strategy



Each value represents the number of times a particular security and defence issue was labelled as a 'threat' by a member state. This analysis is based on a combination of word searches and textual analysis. Therefore, references to particular words found in contents pages and abbreviations are excluded but references found in footnotes are retained. Each reference to a particular security and defence issue is counted only once even though the issue may appear multiple times in an individual national security strategy and across defence reviews and white papers.

Data: European Union Instiute for Security Studies, 2020

Germany, have pledged to so do or, like Belgium, have a *de facto* moratorium on power plants, while others continue to rely on it. This diversity also has political implications: the economic dimension represents a source of friction between those states with a significant nuclear industry and those without. Illustratively, when export barriers against India were lifted thanks to the issuance of a waiver by the NSG [(20)], several EU-based firms where among the first to supply New Delhi with nuclear technology [(21)].

On top of differences in the official positions of member governments, a different layer of divergence concerns the level of internal consensus on nuclear statuses. A recent study exploring the alignment of elite preferences and public opinion on nuclear issues classifies EU members in four groups: a disarmament-friendly

(20) This is discussed in more detail on pages 16–17.

(21) 'The grand bargain in the NPT', op. cit., p. 63.

group covers Austria, Cyprus, Finland, Ireland and Malta, even though Helsinki is less critical of nuclear weapons than the others. At the opposite end of the spectrum, the leaderships of France, Poland and Romania are staunch supporters of nuclear deterrence and do not face internal dissent. Sweden forms, alongside Germany and the Netherlands, a group of 'conflicted' members where civil society and part of the political elite views nuclear weaponry unfavourably. Among the remaining EU members, concurrently NATO allies, some are persuaded of the centrality of nuclear deterrence, like the Baltic States, Belgium or Italy, while others ascribe less importance to it [(22)].

Indeed, popular support for nuclear disarmament is significant in some key countries. A 2019 poll commissioned by the German foundation Köber reports that 31% of respondents favour foregoing nuclear deterrence over options like continued reliance on the US nuclear umbrella (22%), seeking protection from France or the United Kingdom (40%) or developing indigenous nuclear weapons (7%) [(23)]. By contrast, a 2020 poll by the Munich Security Conference suggested that 66% of German citizens reject any role for nuclear weapons in Germany's defence, while 31% supported nuclear deterrence [(24)]. Yet another poll surveying nuclear attitudes in nine European countries including seven EU members found that a majority of respondents indicated that nuclear weapons did not improve their feeling of security [(25)].

THE WMD STRATEGY AS A TURNING POINT

The WMD Strategy in 2003 was the first programmatic document adopted by the Council outlining EU priorities and methods in the field of non-proliferation, and reflected a growing convergence of the interests of member states [(26)]. It identifies WMD proliferation as a threat, and details the means to address it as well as an action plan to implement the European response. The threat analysis includes an array of scenarios that may affect the EU or the broader international non-proliferation regime, including terrorist attacks using WMD. The potential measures are equally broad and include commitments 'to address the root causes of instability' and different forms of coercion which might involve the use of force under Chapter VII of the UN Charter [(27)]. The measures are organised into 'effective multilateralism', the 'promotion of a stable international and regional environment' and the 'co-operation with key partners' [(28)]. The WMD Strategy was assessed as wide-ranging and lacking in significant gaps [(29)].

In the wake of the adoption of the WMD Strategy, the EU built up new institutional and financial capabilities for its implementation [(30)]. The position of Personal Representative for Non-Proliferation was created in 2003. Its first occupant, Italian diplomat Ms Annalisa Giannella, headed a new unit in the Council

(22) 'Eyes tight shut', op. cit.

(23) Köber Stiftung, 'German Foreign Policy: Challenges, Partners and Priorities', 2019 (https://www.koerber-stiftung.de/fileadmin/user_upload/koerber-stiftung/redaktion/the-berlin-pulse/pdf/2019/Gesamtpdf_Grafiken.pdf).

(24) Munich Security Conference, 'Zeitenwende – Wendezeiten', 2020, p. 217 (https://securityconference.org/assets/01_Bilder_Inhalte/03_Medien/02_Publikationen/MSC_Germany_Report_10-2020_De.pdf).

(25) Countries surveyed included Belgium, France, Germany, Italy, the Netherlands, Poland and Sweden along with non-EU members Turkey and the United Kingdom. See Egeland, K. and Pelopidas, B., 'European nuclear weapons? Zombie debates and nuclear realities', *European Security*, 2020, (online first), p.10.

(26) Müller, H., 'Europe and the Proliferation of Weapons of Mass Destruction', in Foradori, P., Rosa, P. and Scartezzini, R. (eds), *Managing a Multilevel Foreign Policy: The EU in International Affairs*, Lexington, Lanham, MD, 2007, pp. 181-200.

(27) 'EU Strategy against Proliferation of Weapons of Mass Destruction', op. cit., p. 5.

(28) Ibid., pp. 6-8.

(29) UK House of Lords, 'Preventing Proliferation of Weapons of Mass Destruction: The EU Contribution', London, 2005, p. 11.

(30) Kienzle, B., 'A European contribution to non-proliferation? The EU WMD strategy at ten', *International Affairs*, Vol. 89, No 5, 2013, pp. 1143-59.

Secretariat, which operated a budget of around €125 million between 2004 and 2013. Concurrently, the European Commission maintained a unit dealing with non-proliferation. The Commission's non-proliferation budget was larger than the Council's, especially after the Instrument for Stability established in 2006 earmarked around €300 million for action in this area. Although the dualism between Council and Commission sometimes impeded the smooth functioning of EU non-proliferation policy, both institutions progressively improved their coordination [(31)]. To support this aim, the EU adopted the New Lines for Action in Combating the Proliferation of WMD and their Delivery Systems in 2008 [(32)]. However, this initiative led to few tangible outcomes. More significant were the institutional changes that followed the 2009 Lisbon Treaty. This included the redefinition of the role of Personal Representative for Non-Proliferation as Principal Adviser and Special Envoy for Non-proliferation and Disarmament, assumed by Polish diplomat Jacek Bylica until his replacement by Dutch diplomat Marjolijn van Deelen in September 2020. Importantly, the Lisbon Treaty merged both non-proliferation units under the roof of the European External Action Service (EEAS). It also created the position of permanent chair of the Working Group on Non-Proliferation, which brings together relevant officials from EU capitals.

THE NON-PROLIFERATION CLAUSE

Building on its extensive experience with human rights conditionality in the 1990s [(33)], the EU introduced a non-proliferation clause in agreements with third countries. This clause was to be included in all new mixed agreements between the EU and third parties, i.e. agreements that affect the competences of both the Community and its member states [(34)]. It consists of a commitment by the partner country to abide by its non-proliferation obligations accompanied by a non-binding encouragement to accede to treaties it has not joined yet. The clause allows the EU to cancel an agreement if a partner country breaches its non-proliferation obligations. The clause was included in over 100 contractual relationships, and the non-binding element appears to have yielded tangible results, as a remarkable increase in the number of signatories of the CTBT (62.5 %) [(35)] and the IAEA Additional Protocol (7 %) among EU trading partners occurred in the six years that followed its introduction [(36)]. Yet, several weaknesses have been pointed out. One of them is that the binding segments refer to commitments into which the partner has already entered [(37)]. Importantly, whereas countries of proliferation concern like Indonesia or South Korea signed agreements featuring the non-proliferation clause, others, like India, refused. [(38)] In addition, the clause could be circumvented by privileging the continuation of sectoral agreements over the conclusion of

(31) Zwolski, K., 'Institutions and epistemic networks in the EU's non-proliferation governance', in Blavuokos, S., Bourantonis, D. and Portela, C. (eds.), *The EU and the Non-Proliferation of Nuclear Weapons*, Palgrave MacMillan, Basingstoke, 2015, pp. 205-223.

(32) Council of the European Union, 'New lines for action in combating the proliferation of WMD and their delivery systems', Brussels, 17172/08, 17 December 2008.

(33) Bartels, L., *Human Rights Conditionality in the EU's International Agreements*, Oxford University Press, Oxford, 2005.

(34) 'EU Strategy against Proliferation of Weapons of Mass Destruction', op.cit.

(35) This includes Annex 2-countries Colombia, DRC and Vietnam.

(36) 'The performance of the EU in external nuclear non-proliferation assistance', op.cit., p. 130.

(37) 'The performance of the EU in external nuclear non-proliferation assistance', op.cit.

(38) Herrera, M., 'Contestation to the European Union on nuclear non-proliferation', *Global Affairs*, 2021 (online first).

mixed agreements, as sectoral agreements lack political conditionality [39]. Eventually, in order to avoid controversy, the WMD clause was inserted alongside other political conditionality provisions in agreements on political cooperation rather than directly in the text of trade agreements.

A recent illustration can be found in the Partnership and Co-operation Agreement initialled with Singapore in 2013. It states that both parties 'consider that the proliferation of weapons of mass destruction and their means of delivery, both to state and non-state actors, represents one of the most serious threats to international stability and security' [40]. The article commits them to 'cooperate and to contribute to countering the proliferation of WMD and their means of delivery through full compliance with and national implementation of their existing obligations under international disarmament and non-proliferation treaties and agreements and other applicable UN resolutions and international instruments to which the Parties are Contracting Parties'. The key point in this provision is that it is defined as an essential element of the agreement, which subjects it to a possible suspension in case of violation [41]. This puts the fight against WMD on a pair with the respect for democratic principles, the rule of law and fundamental human rights, which are also defined as essential elements under the agreement. Nevertheless, a joint declaration appended to the agreement specifies that 'violation of an essential element of the Agreement' referred to in the non-execution clause is only applicable to 'particularly exceptional cases of systematic, serious and substantial failure to comply with the obligations' [42].

ARMS CONTROL IN THE EU GLOBAL STRATEGY

While the European Security Strategy (ESS) of 2003 notoriously identified the proliferation of WMD and their delivery means as 'potentially the greatest threat to our security' [43], the Global Strategy of 2016 seems to tone down this assessment by claiming that it 'remains a growing threat to Europe and the wider world' [44]. Still, the Global Strategy confirms the continuity of existing lines of action, notably the support for the expanding membership, universalisation, full implementation and enforcement of multilateral disarmament, non-proliferation and arms control treaties and regimes:

> *'We will use every means at our disposal to assist in resolving proliferation crises, as we successfully did on the Iranian nuclear programme. The EU will actively participate in export control regimes, strengthen common rules governing member states' export policies of military – including dual-use – equipment and technologies, and support export control authorities in third countries and technical bodies that sustain arms control regimes'* [45].

However, a certain de-emphasis in the Global Strategy does not necessarily augur badly for the prospective role of the EU in arms control and disarmament issues. As recent research pointed out, the lower level of ambition of the Global Strategy as compared to the ESS did not lead to decreased engagement. Rather than heralding an era of stagnation in integration, it preceded major integration initiatives in the

(39) 'The performance of the EU in external nuclear non-proliferation assistance', op. cit.

(40) 'Partnership and Cooperation Agreement between the European Union and Its Member States, of the one part, and the Republic of Singapore, of the other Part', 2013, article 7.

(41) Art. 44.

(42) Joint Declaration on Article 44 (Non-execution of the Agreement).

(43) Council of the European Union, 'European Security Strategy', 15895/03, 12 December 2003, p. 5

(44) European External Action Service, 'Shared Vision, Common Action: A Stronger Europe. A Global Strategy for the European Union's Foreign and Security Policy', 2016, p. 41.

(45) Ibid., p. 42.

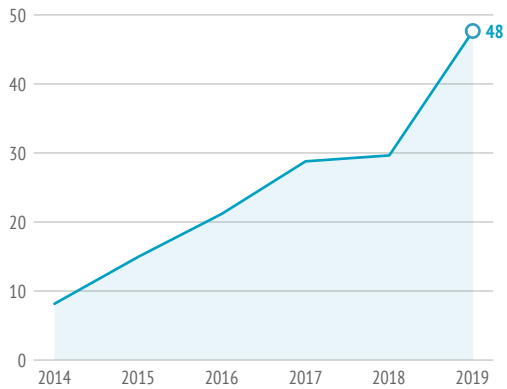
field of defence, such as the launch of permanent structured cooperation [46]. As the following section shows, the financial allocation to the arms control field kept rising.

BUDGETARY GROWTH AND THE TECHNICAL ASSISTANCE RECORD

The activation of the role of the EU in the arms control and non-proliferation field was backed by the creation of a dedicated CFSP budget line [47]. The allocation for non-proliferation and disarmament increased steadily in recent years, as evidenced in the graph below.

Funds committed for non-proliferation and disarmament per year

2014-2019, € million



Data: EEAS, 2019

Within the non-proliferation and disarmament budget, nuclear security and non-proliferation occupies a privileged position, as it constitutes the most generously endowed chapter since the inception of the budget, amounting to 32 % of funds. Only the budget devoted to stem the proliferation of Small Arms and Light Weapons (SALW), which amounts to 29 % of the total, rivals the nuclear proliferation and nuclear security allocation.

In the aftermath of the Cold War, EU activities displayed a strong focus on the post-Soviet space, taking the form of threat reduction efforts. By assisting Russia to improve nuclear safety and to abide by its disarmament commitments, threat reduction ought to prevent the illegal diversion of nuclear materials. As one of the funders of the International Science and Technology Centre in Moscow and the Science and Technology Centre in Kyiv, which employed scientists who had worked in Soviet military programmes, the EU strove to prevent the diversion of proliferation-sensitive knowledge. Threat reduction efforts focused on fields where the EU could rely on in-house expertise, like safeguards, nuclear safety and research [48].

The geographical coverage progressively expanded beyond the post-Soviet space. Thanks to the Instrument for Stability created in 2006, which identified non-proliferation as a priority, resources were released for ambitious projects like the establishment of a network of Centres of Excellence aimed at the mitigation of chemical, biological, radiological and nuclear (CBRN) risks [49]. Apart from the geographic reorientation, the initiative broadened the thematic focus to deal with risks such as CBRN accidents. In cooperation with the UN and the EU Joint Research Centre, it established focal points for regional expertise and CBRN risk mitigation around the world.

Programmes in the Russian Federation remain prominent as they receive the second-largest

(46) Barbé, E. and Morillas, P., 'The EU global strategy: the dynamics of a more politicised and politically integrated foreign policy', *Cambridge Review of International Affairs*, Vol. 32, No 6, 2019, pp. 753-770.

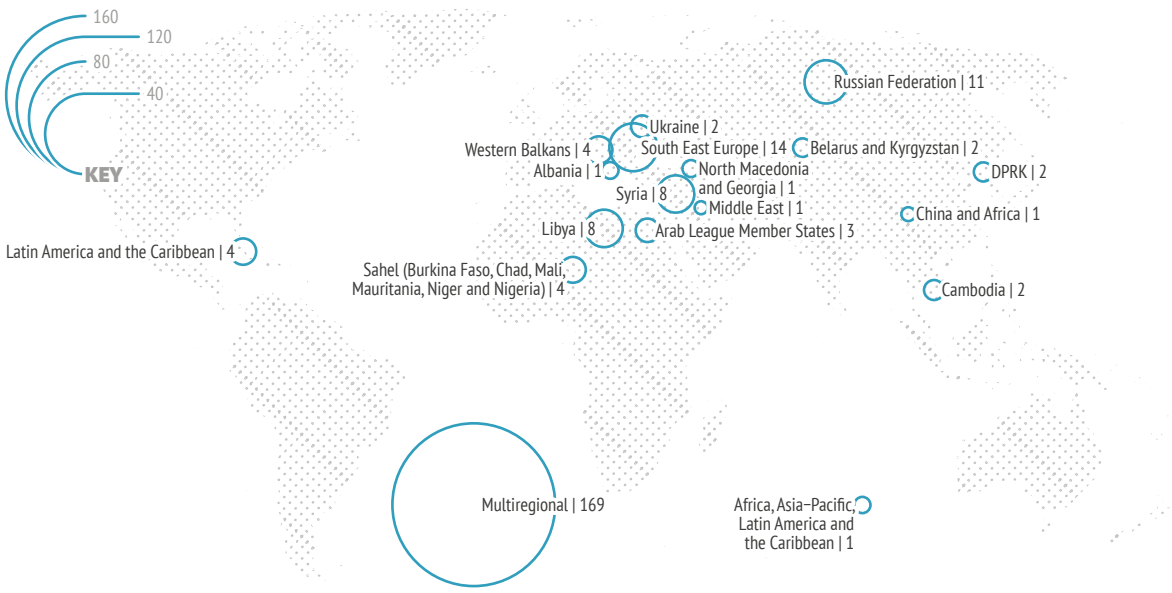
(47) Tertrais, B., 'The European Union and nuclear non-proliferation: Does soft power work?', *International Spectator*, Vol. 40, No 3, 2005, pp. 45-57.

(48) Portela, C., 'The role of the EU in the non-proliferation of nuclear weapons: The way to Thessaloniki and beyond', Research Report 65, HSFK/Peace Research Institute Frankfurt, Frankfurt am Main, 2003.

(49) 'The performance of the EU in external nuclear non-proliferation assistance', op.cit.

Amounts committed per region

2004–2017, € million



Data: EEAS, 2019; GISCO, 2021

regional allocation, accounting for 5 % of the budget, while Ukraine, Belarus and Kyrgyzstan together receive almost 2 %. While the emphasis on the post-Soviet space remains perceptible, the vast majority of EU programmes have a multiregional vocation.

A large portion of the non-proliferation and disarmament budget is implemented by external agencies: the UN system, treaty bodies and regional organisations account for the lion's share of implementation. A breakdown by implementer shows that the agencies with responsibilities in the nuclear domain occupy a leading position among implementing agencies: the IAEA receives the largest portion with a 19 % share and the Preparatory Commission of the CTBT Organisation (CTBTO) takes 8 %, while other nuclear-relevant programmes are spread among entities with heterogeneous mandates. EU cooperation with partner countries experienced a substantial increase, in line with its emphasis on 'effective multilateralism'. EU-supported projects boosted the capacity of international non-proliferation organisations such as the IAEA and CTBTO.

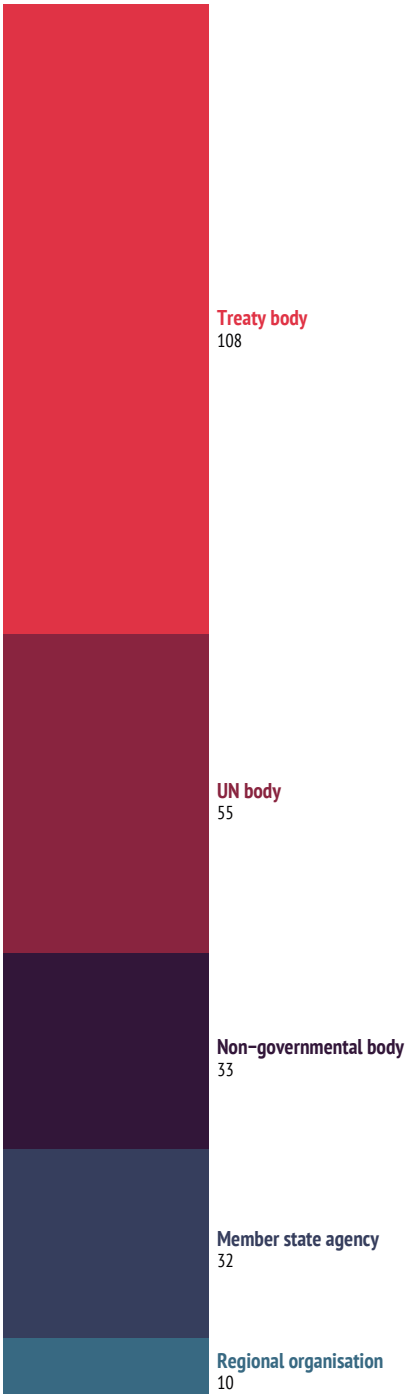
Part of the budget is devoted to the operational support of non-proliferation agreements and projects by international entities like the IAEA or the CTBTO [(50)]. In the first decade after the release of the WMD Strategy, much of the funding went to the nuclear security work of the IAEA, contributing to the prevention of nuclear terrorism. Actions funded ranged from workshops to encourage third countries' accession to multilateral agreements to strengthening the CTBTO's ability to detect nuclear tests. Atypically, the EU provides direct financial support to these international organisations rather than operating its own projects in a demonstration of its commitment to multilateralism [(51)].

(50) Anthony, I. and Grip, L., 'Strengthening the European Union's Future Approach to WMD Non-proliferation', SIPRI Policy Paper No 37, SIPRI, Stockholm, 2013.

(51) 'A European contribution to non-proliferation?', op.cit.

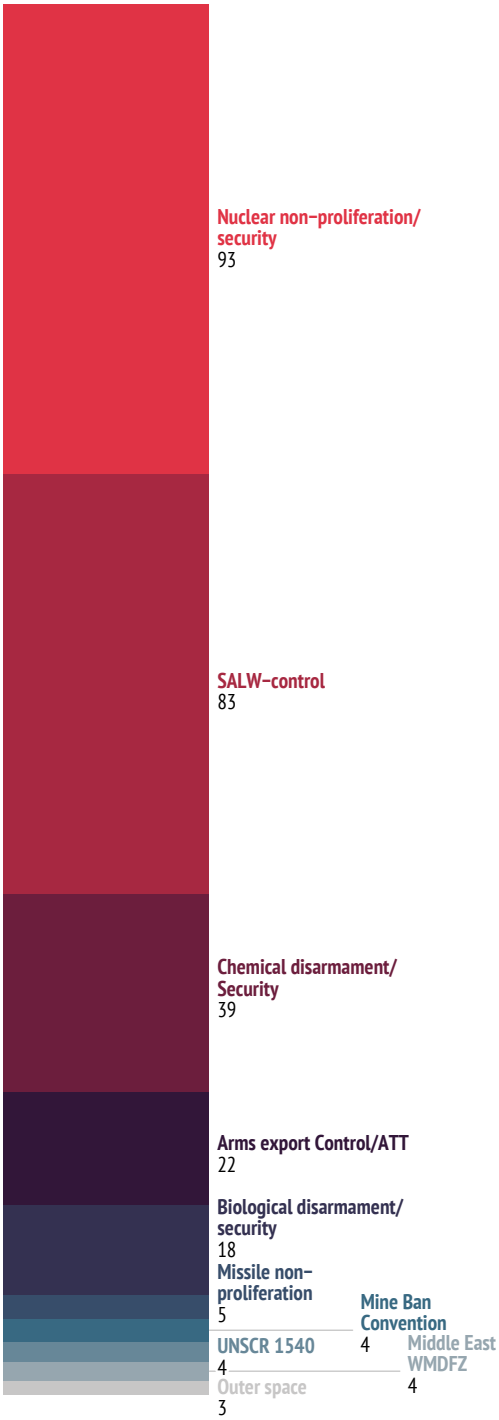
Agencies in charge of implementing programmes

2004-2019



Proportion of amount committed to projects per topic

2004–2019, € million



Data: EEAS, 2019

COORDINATION IN MULTILATERAL FORUMS

With the help of CFSP instruments, EU action aimed at strengthening multilateral regimes [52]. In the 1990s and 2000s, this approach became more prominent, as EU member states joined virtually all non-proliferation arrangements [53]. Paramount among these forums are the NPT RevCons, a framework in which European states began to coordinate their positions well before the creation of the CFSP [54]. At NPT RevCons, negotiations unfold among and within clusters of informal groupings of varying composition. A few groupings have particular importance: the nuclear-weapons states (NWS), which are simultaneously the P5 of the United Nations Security Council (UNSC), and which meet in a forum for consultation on nuclear armaments questions dubbed the 'P5 process' since 2009 [55]. On the opposite side of the spectrum, the Non-Aligned Movement (NAM), a grouping consisting of 118 member states and 18 observers, representing more than 70% of the NPT community, promotes disarmament and access to nuclear energy. In recent editions, two groups attempted a bridge-building role to drive negotiations forward: the Non-Proliferation and Disarmament Initiative (NPDI), composed of countries closely aligned with Washington, and the pro-disarmament New Agenda Coalition (NAC). Other significant groupings include the Vienna Group of Ten, which focuses on export controls, safeguards and nuclear safety, and the Seven Nation Initiative, which works across all three NPT pillars [56].

In successive RevCons, the EU presidency delivered statements on behalf of the Union, and member states jointly submitted working papers on some of the most central issues before the conference, with proposals and language that often proved subject to consensus [57]. On the other hand, member states continued to present working papers either in their national capacity or as part of other groupings, such as France and the United Kingdom as NWS, or Ireland and Sweden as members of the NAC [58]. An early success of EU action in non-proliferation was the diplomatic campaign for the indefinite extension of the NPT 1995 [59]. The following years witnessed a rise in EU initiatives in multilateral fora geared at promoting the entry into force of the CTBT and the universalisation of the Hague Code of Conduct against ballistic missile proliferation. The EU also committed to contribute to the NSG Working Group on Transparency and to finance a seminar on nuclear-related export controls. EU member states coordinated as a grouping, while simultaneously acting as part of other groupings and in their individual national capacities. EU members remain scattered in different groupings: Ireland is part of NAC [60], the NPDI includes Germany, the Netherlands and Poland [61], and Romania is part of the Seven Nation Initiative. Cross alignment is, however,

(52) Denza, E., 'Non-proliferation of weapons of mass destruction', in Blockmans, S. and Koutrakos, P. (eds.), *Research Handbook on the EU's Common Foreign and Security Policy*, Edward Elgar, Cheltenham, 2018, pp. 182–204.

(53) Kienzle, B. and Vestergaard, C., 'The non-proliferation regimes', in Jørgensen, K.E, and Laatikainen, K.V. (eds.), *Routledge Handbook on the European Union and International Institutions: Performance, Policy, Power*, Routledge, Abingdon, 2013, pp. 371–88.

(54) Onderco, M., 'Collaboration networks in conference diplomacy: The case of the non-proliferation regime', *International Studies Review*, Vol. 22, No 4, 2019, pp. 739–757.

(55) Hoell, M., 'The P5 Process: Ten Years On', European Leadership Network, London, 2019.

(56) 'The EU in multilateral arms negotiations', op.cit.

(57) Müller, H., 'The 2010 NPT Review Conference: Some breathing space gained, but no breakthrough', *International Spectator*, Vol. 45, No 3, 2010, pp. 5-18; Mölling, 'The grand bargain in the NPT'.

(58) Sweden left NAC in 2013.

(59) 'From Cacophony to Joint Action', op.cit.

(60) NAC founding members Slovenia and Sweden relinquished the grouping subsequently.

(61) Portela, C., 'Revitalising the NPT: Preparing the EU for the tenth RevCon', *Brief* No. 1, EUISS, Paris, January 2020.

not exclusive to the EU: in the 2010 RevCon, the Egyptian delegation chaired both the NAM and the NAC [(62)].

The EU progressively acquired visibility as an actor in the NPT domain. It greatly improved internal coordination ahead of international meetings, evidencing a learning process in which it sought to address identified shortcomings [(63)]. Over the three review cycles that elapsed between 1995 and 2010, the EU established increasingly successful coordination: it invariably entered the RevCons with a common position in place, made statements at both Plenary and Main Committees, and submitted working papers. The length of the CFSP documents adopted in preparation for the meetings, albeit an imperfect indicator, illustrates this evolution. The CFSP acts that preceded the 1995 and 2000 reviews consisted of merely one substantive page. By contrast, the 2005 Common Position featured a catalogue of four substantive pages, and the 2010 Common Position reached a peak of six [(64)]. Equipped with a robust common position, the EU presented statements and working papers across all pillars of negotiation at the 2010 RevCon. In contrast, in the 2015 review cycle, the Humanitarian Initiative proved so divisive that the Council could not agree on a CFSP act. Instead, it reflected some priorities in non-binding Council conclusions, revealing the existence of unresolved disagreement [(65)]. The conclusions highlighted the responsibility of the United States and Russia for further stockpile reductions: 'The Council welcomes the considerable reductions made so far taking into account the special responsibility of the States that possess the largest arsenals … and strongly encourages them to seek further reductions in their nuclear arsenals'. The language employed echoed the stance of France and the UK on the matter [(66)]. By contrast, allusions to the Humanitarian Initiative barely concealed controversy, noting 'the ongoing discussions on the consequences of nuclear weapons, in the course of which different views are being expressed, including at an international conference organised by Austria, in which not all EU member states participated'. Abnormally for a Council statement, the emphasis on the lack of universal EU attendance of the meeting undermines the message of EU unity [(67)]. In consequence, the 2015 RevCon witnessed the EU's most disappointing performance to date. Beyond the presentation of statements and working papers, EU action remained negligible, which contrasts with the constructive, consensus-seeking approach that characterised its role in previous editions [(68)].

India's application for a waiver to allow for international cooperation in the nuclear domain proved a challenge for EU unity.

In export control regimes like the NSG or the Australia Group, coordination is not always forthcoming, even though EU members constitute a majority. India's application for a waiver to allow for international cooperation in the nuclear domain proved a challenge for EU unity. The EU traditionally votes in unison against a UNGA resolution tabled by India proposing a convention prohibiting the use of nuclear weapons [(69)]. Yet, in the early 2000s, departing from its traditional rejection of the international non-proliferation regime, New Delhi

(62) 'The 2010 NPT Review Conference: Some breathing space gained, but no breakthrough', op.cit.

(63) 'European Union non-proliferation policies', op.cit.

(64) 'Revitalising the NPT', op.cit.

(65) 'Stuck on Disarmament', op.cit.

(66) 'Non-proliferation of weapons of mass destruction', op.cit.

(67) 'Revitalising the NPT', op.cit.

(68) Dee, M., 'The EU's Performance in the 2015 NPT Review Conference: What went wrong', *European Foreign Affairs Review*, Vol. 20, No 4, 2015, pp. 591-608; ‚In der Defensive', op.cit.; 'The grand bargain in the NPT', op.cit.

(69) Panke, D., 'Regional Power Revisited: how to explain differences in coherency and success of regional organizations in the United Nations General Assembly', *International Negotiation*, Vol. 18, No 2, 2013, pp. 265-91.

advocated its acceptance in the regime as a *de facto* NWS. Although this contradicted the terms of the NPT, which recognises only five NWS, Washington backed India's bid and agreed on a nuclear deal with New Delhi in 2005, opening up the international nuclear trade for India without insisting on the abandonment of its nuclear arsenal. However, this deal required the conclusion of a special IAEA safeguard agreement and a waiver by the NSG. Both in the IAEA and the NSG EU member states had the opportunity to block the US–India nuclear deal by withholding their consent to the safeguard agreement and waiver. However, EU members could not agree on a common approach. After years of pressure and lobbying from the US, France, the UK and others, opponents such as Ireland and Austria eventually consented [(70)].

PROLIFERATION CRISES

The EU responded with varying intensity to instances where a state initiated a military nuclear programme or aroused suspicions that it intended to do so. The EU contributed modestly to early crises, invariably complementing US efforts [(71)].

The beginnings: Ukraine and South Asia

In the early days of the post-Cold War period, the EU contributed to the resolution of the proliferation crisis in Ukraine. The crisis erupted when the Ukrainian parliament refused to ratify the Lisbon Protocol to the START-1 Treaty, which foresaw the removal of Soviet nuclear weapons from the territory of Ukraine as well as Kyiv's accession to the NPT as a non-nuclear weapons state (NNWS). Ukraine's eventual ratification of the protocol was achieved primarily thanks to incentives offered by the US, including direct financial contributions and security assurances by the five NWS. For its part, the EU made the implementation of its Partnership and Co-operation Agreement with Kyiv conditional on Ukraine's renunciation of nuclear weapons. While this package was not the principal incentive offered to Ukraine for signing the protocol, the EU's contribution complemented US efforts and proved instrumental in bringing about success [(72)].

The Indo-Pakistan nuclear tests of May 1998 elicited different responses in Europe: Members like Denmark, Germany and Sweden temporarily froze bilateral aid, while others limited themselves to reprobation. Brussels issued declarations inviting both countries to join the NPT and the CTBT and pledged to support enhanced confidence-building in South Asia, including the organisation of seminars, links with European think tanks, and technical assistance regarding the implementation of export controls. Still, the Council took some measures outside the CFSP, instructing the Commission to reconsider both countries' eligibility for trade preferences and temporarily postponing the conclusion of a Cooperation Agreement with Islamabad.

The turning point: Iraq

EU member states notoriously failed to articulate a unified stance on the US invasion of Iraq, largely justified on the basis of allegations that Baghdad possessed a WMD arsenal. Following Baghdad's refusal to allow UN inspectors into the country in December 1998, the US, the UK and France conducted periodical strikes on Iraq in the absence of a UN Security Council mandate. While France eventually withdrew, the US

(70) Kienzle, B., 'The exception to the rule? The EU and India's challenge to the non-proliferation norm', *European Security*, Vol 24, No 1, 2015, pp. 36–55.

(71) 'From Cacophony to Joint Action', op.cit.

(72) Ibid.

and Britain continued the bombing campaigns until the diplomatic crisis escalated in 2002. Although Baghdad eventually allowed UN inspections, the evidence it provided to dispel suspicions on its alleged WMD programme failed to satisfy the US and the UK, which subsequently launched a military operation. Efforts to frame a common European response proved unfruitful. The Council's statements released during the period did not go beyond condemnation of Iraq: the UK, Denmark, Italy, Portugal and Spain backed military action, although only Britain committed forces. EU acceding states, the Baltic countries, the Czech Republic, Hungary, Poland, Slovakia and Slovenia, as well the candidate countries Bulgaria and Romania, expressed solidarity with the US. By contrast, France, Germany and Belgium opposed the intervention, voicing concerns over the unauthorised use of force. Divisions over the Iraq crisis evidenced disagreement on the means to address non-compliance, rather than on the risks posed by WMD proliferation.

Divisions over the Iraq crisis evidenced disagreement on the means to address non-compliance, rather than on the risks posed by WMD proliferation.

A permanent challenge: the DPRK

The European response to the crisis in the Democratic People's Republic of Korea (DPRK) was to resort to funding tools while maintaining a low political profile. The EU attempted to reinforce, diplomatically as well as financially, the Korean Peninsula Energy Development Organisation (KEDO), an entity set up by the United States in 1995 in an effort to discourage North Korea from developing a military nuclear programme. Following Pyongyang's withdrawal from the NPT in 2003, Brussels suspended its support. After the UNSC launched its sanctions regime in 2006 in view of recurrent missile tests, Brussels strengthened the robust UN sanctions regime with supplementary restrictions [(73)]. The EU has never participated in any political framework devoted to the resolution of the political and security crisis resulting from Pyongyang's challenge to the non-proliferation regime. Notably, it remained excluded from the Six-Party-Talks the DPRK held with China, Japan, Russia, South Korea and the United States from 2003 to 2009. The North Korean proliferation crisis became a permanent proliferation challenge in which the EU combines the application of supplementary sanctions with the provision of humanitarian aid and a policy of engagement featuring, until as recently as 2015, political dialogue and even meetings between the European Parliament (EP) and the Supreme People's Assembly [(74)]. While the EU consistently condemns North Korea's violations of UNSC resolutions, it recognises that its restrictions lack much impact on the regime because of weak economic links [(75)].

On balance, EU responses to proliferation crises until the release of the WMD strategy were uneven. Some received far more attention and resources than others did. The level of European engagement is often a function of the geographic proximity of the country of concern to the Union's territory. While Ukraine and Russia, and later Iran, received considerable attention, the EU reacted to the 1998 nuclear tests in South Asia with a mere offer of confidence-building measures and export control assistance. Interestingly, in Ukraine, the

(73) Taylor, B., *Sanctions as Grand Strategy*, IISS, London, 2010; Esteban, M. and Portela, C., 'EU sanctions against North Korea: Making a stringent UN sanctions regime even tougher', in Casarini, N. et al. (eds.), *Routledge Handbook of EU-Korea Relations*, Routledge, Abingdon, 2021.

(74) Bondaz, A., 'Reinvigorating the EU's Strategy toward North Korea: From critical engagement to credible commitments', 38North, 16 April 2020.

(75) Mogherini, F., 'Speech at the European Parliament Plenary session on the situation in the Democratic People's Republic of Korea', EEAS, Strasbourg, 12 September 2017.

EU offered increased contractual cooperation as an incentive to renounce nuclear weapons. This revealed an attempt by the EU to employ its trade instruments and economic leverage to advance non-proliferation objectives, anticipating the subsequent introduction of political conditionality in this field. EU responses complemented action by the US, the principal actor in proliferation crises. When member states disagreed on the appropriateness of the US approach, EU responses were wanting, most obviously in Iraq. By contrast, the resolution of the proliferation crises in Ukraine and most notably Iran are examples of a successful 'division of labour' between the transatlantic partners. Nevertheless, observers lamented that the EU seldom took a leadership role [(76)].

The second turning point: Iran

This record changed dramatically with the crisis that erupted over Iran's undeclared nuclear activities from 2002 onwards. Initially, the strategies followed by the United States and the EU *vis-à-vis* the Iranian issue diverged. While the United States pursued a policy of containment that culminated in Tehran's inclusion in Bush's 'axis of evil' speech [(77)], Brussels attempted a policy of 'constructive engagement', where non-proliferation grew in prominence. Washington's initial refusal to deal directly with Tehran left a vacuum filled by the foreign ministers of France, Germany and the United Kingdom, the 'E3'. Although only the E3 participated in the talks, the other member states remained involved through the High Representative's role. Thanks to the overlapping membership of France and the UK in the UN Security Council, the EU developed a sanctions policy that complemented UN action [(78)]. EU diplomatic efforts not only prevented a new escalation, but also paved the way for the conclusion of the 2015 Joint Comprehensive Plan of Action (JCPOA) between Iran, the EU and the three extra-European members of the P5 [(79)].

The European Parliament's contribution

Although the framing of WMD policies has traditionally been in the hands of the Council, and partly in those of the Commission, the EP's involvement expanded gradually. During the 1980s, in its early years as a directly elected institution, the EP advocated developing a role for the EU in arms control and non-proliferation. In the absence of decision-making powers in the field, it directed questions to the Council, and adopted a number of resolutions calling for a common European non-proliferation policy, backing talks on a CTBT. Most remarkably, the EP played a positive role in endowing WMD activities with adequate funding. After the WMD Strategy called for the creation of a Community budget line devoted to non-proliferation and disarmament, the EP promoted the allocation of €3 million to the fight against WMD proliferation in the 2004 budget [(80)]. In the reform of EU budget instruments of 2006, the EP requested the creation of a budget line on WMD under the Instrument for Stability [(81)].

EP activities soon transcended the budgetary field. It adopted numerous resolutions related to WMD proliferation and disarmament, and it accompanied the Council's practice of drafting EU priorities in the wake of NPT review conferences by agreeing its own priorities. However, it only published its first comprehensive

(76) 'The role of the EU in the non-proliferation of nuclear weapons', op.cit.; 'The grand bargain in the NPT', op. cit., p.70.

(77) Gottemoeller, R., 'The evolution of sanctions in practice and theory', *Survival*, Vol. 49, No 4, 2007, pp. 99-110.

(78) Viaud, A., 'France et Royaume-Uni : Adoption des sanctions onusiennes et européennes', *Revue de Défense Nationale*, No 818, 2019, pp. 99–105 and No 819, 2019, pp. 119-126.

(79) Portela, C., 'The EU's evolving responses to nuclear proliferation crises', *Non-Proliferation Papers* No 46, SIPRI, Stockholm, 2015.

(80) Grip, L., 'The European Parliament and WMD non-proliferation', *European Foreign Affairs Review*, Vol. 18, No 4, 2013, pp. 563-584.

(81) Ibid.

report on non-proliferation in 2005, two years after the adoption of the WMD Strategy. A report specifically on the NPT was adopted four years later [(82)]. Thus, the EP started to position itself on the implementation of the WMD Strategy rather late, which contrasts with the *avant-garde* role it had played in the 1980s. The 2005 report was one of the most comprehensive EP declarations on WMD issues [(83)]. Endorsing the launch of a non-proliferation policy, it embraced the introduction of conditionality in the form of a WMD clause. The report requested that the clauses 'be strictly implemented by all the Union's partners without exception, and that sanctions be applied against those that breached their obligations [(84)]. The reports, tabled by MEPs Ģirts Valdis Kristovskis and Angelika Beer in 2005 and 2009 respectively, encouraged the Council to strengthen its role as a non-proliferation actor along existing lines: universalisation of treaties and provision of financial support to third countries to implement their obligations under international legal instruments. In fulfilment of the parliamentary scrutiny function, resolutions and reports invited the Council to specify how it aimed to lend substance to its stated plans to foster the role of the UNSC to meet the challenge of non-proliferation, or to persuade third states to accede to the IAEA Additional Protocol [(85)]. Overall, it encouraged the Council to 'play a more active role in non-proliferation and disarmament policies' [(86)].

The Parliament also followed closely the EU's contribution to the mitigation of nuclear proliferation crises, such as the denuclearisation of the DPRK. When Euratom concluded a treaty with KEDO, the EP complained that the agreement did not allow European enterprises to participate in contracts [(87)], after which the agreement was renewed under improved conditions. In the wake of the 2015 NPT RevCon, the EP adopted a resolution calling for reviving the project of a Middle East free of weapons of mass destruction, a commitment that goes back to the indefinite extension of the NPT in 1995 [(88)]. The EP also passed a resolution calling for a lifting of the sanctions as soon as a comprehensive agreement guaranteed that Tehran's nuclear programme remained exclusively peaceful [(89)].

The EP tends to be more supportive of disarmament than the Council, and allusions to the need for nuclear disarmament measures abound in EP documents [(90)]. Already in 2010, in a visit to the European Parliament, UN Secretary-General Ban Ki-Moon applauded a parliamentary resolution supporting nuclear disarmament [(91)]. In 2012, a majority of MEPs – 389 out of 754 at the time – signed a declaration supporting 'Global Zero', President Obama's initiative on the phased elimination of nuclear weapons worldwide [(92)], which, however, does not bind the Parliament as a whole.

(82) European Parliament, Report with a proposal for a European Parliament recommendation to the Council on non-proliferation and the future of the Treaty on the Non-proliferation of Nuclear Weapons (NPT), A6–0234/2009, 3 April 2009.

(83) 'The European Parliament and WMD non-proliferation', op.cit.

(84) European Parliament, Report on non-proliferation of weapons of mass destruction: a role for the European Parliament, (Rapporteur: Ģirts Valdis Kristovskis), A6–0297/2005, 12 October 2005.

(85) Ibid.

(86) Ibid.

(87) European Parliament, Proposal for a Council decision approving the conclusion by the Commission of an agreement between the European Atomic Energy Community (EURATOM) and the Korean Peninsula Energy Development Organization (KEDO). (Rapporteur: J. Gawronski), 4 December 2001.

(88) European Parliament, Resolution on the recommendations of the Non-Proliferation Review Conference regarding the establishment of a Middle East free of weapons of mass destruction, 17 January 2013.

(89) European Parliament, Motion for a resolution to wind up the debate on the statement by the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy pursuant to Rule 110(2) of the Rules of Procedure on the EU strategy towards Iran (2014/2625(RSP)), 31 March 2014.

(90) European Parliament, European Parliament resolution on nuclear disarmament: Non-proliferation Treaty Review Conference in 2005 - EU preparation of third NPT PrepCom (New York, 26 April- 7 May 2004), 26 February 2004.

(91) Ban, K.M., 'Address to the European Parliament', Strasbourg, 19 October 2010.

(92) The White House, 'Remarks by President Barack Obama, Hradcany Square, Prague, Czech Republic', 5 April 2009.

Notwithstanding its more pronounced pro-disarmament orientation, the EP is subject to the same cleavage that impedes consensus at Council level. When the EU proved unable to agree on a list of priorities ahead of the 2015 RevCon, owing to divisions over the Humanitarian Initiative, the EP also failed to draft its own priorities [(93)]. Nevertheless, the years following the 2015 NPT RevCon witnessed increasing activism on the side of the EP in the arms control and disarmament field: the chamber called upon North Korea to cease nuclear testing and human rights violations, and unreservedly supported the JCPOA. Notably, the EP supported the launch of negotiations on the TPNW prior to its endorsement by the UNGA, and invited EU member states to participate constructively in its negotiation [(94)]. More recently, in the face of the impending collapse of the INF, the EP called on the United States and Russia to preserve the treaty, and urged the High Representative/Vice-President (HR/VP) 'to engage in dialogue with the INF States Parties in order to restore cross-border trust' and 'to push for the preservation and development of the INF Treaty and to initiate negotiations for a multilateral treaty for this category of missiles' [(95)]. Lastly, in October 2020, the chamber adopted a recommendation on the preparation of the 2020 NPT RevCon [(96)]. Notably, the EP ensured that the EU was endowed with the necessary financial instruments to become a non-proliferation actor [(97)].

While analyses rightly emphasise that the formulation of EU arms control policy is greatly influenced by the predominance of members covered by NATO's nuclear umbrella [(98)], EP action is hampered by additional hurdles. Firstly, a mismatch exists between EP strengths in external relations and the CFSP decision-making framework. Among the assets the EP can deploy externally are inter-parliamentary dialogues. The EP has over 40 Inter-parliamentary Delegations for relations with parliamentary assemblies from third countries, regions or international organisations [(99)], which provide it with a direct insight into foreign policy dossiers from their interlocutors, which strengthens its position in dialogue with the Council and Commission. It also provides a channel through which they may influence the views of parliamentarians from third countries [(100)]. However, inter-parliamentary links tend to be weak with countries with dubious proliferation credentials. A second hurdle relates to the visibility of arms control as a security policy. Over the years, Strasbourg has established human rights and democracy promotion as a flagship foreign policy project. By contrast, the Parliament has made a more timid use of its tools in the less accessible arms control and disarmament field. Nuclear proliferation is not only more divisive among MEPs than human rights; it is also unlikely to exert the same traction on European constituencies [(101)].

Conclusion

The WMD Strategy undeniably marked a milestone in the consolidation of non-proliferation policies building upon the EU's experience with multilateral coordination, technical

(93) 'Stuck on Disarmament', op.cit.

(94) European Parliament, Resolution on nuclear security and non-proliferation (2016/2936(RSP)), 27 October 2016.

(95) European Parliament, Resolution on the future of the INF treaty and the impact on the European Union (2019/2574 (RSP)), 14 February 2019.

(96) European Parliament, Recommendation of 21 October 2020 to the Council in preparation of the 10th Non-Proliferation of Nuclear Weapons Treaty (NPT) review process, nuclear arms and nuclear disarmament options, 21 October 2020.

(97) 'The European Parliament and WMD non-proliferation', op.cit.

(98) 'The EU's Performance in the 2015 NPT Review Conference', op.cit.; 'European Union non-proliferation policies before and after the 2003 Strategy', op.cit.

(99) *The Foreign Policy of the European Union*, op. cit.

(100) Ibid.

(101) Portela, C., 'The European Parliament and the external dimension of EU nuclear non-proliferation policy' in Stavridis, S. and Irrera, D. (eds.), *The European Parliament as an International Actor*, Routledge, Abingdon, 2015, pp. 109-120.

cooperation and, to a lesser extent, political conditionality [(102)]. The strategy was central in making WMD issues a CFSP priority and endowing EU policies with adequate funds. This policy, driven by the Council and to some extent by the Commission, was consistently endorsed by the EP, whose stance became increasingly favourable to disarmament. The role of the EU in proliferation crises since the adoption of the WMD Strategy is characterised by an incremental– if uneven – record [(103)]. While the EU's role in the technical assistance field is robust, progress on the political front has remained selective, displaying a focus on non-proliferation while neglecting disarmament. The secondary role partly results from the transatlantic objective with which it was designed. In the implementation of the Strategy, Brussels prioritised working together with the United States to such an extent that the focus on strengthening multilateralism became diluted [(104)]. Transatlantic cooperation was smoother in dealing with proliferation crises like Iran, North Korea or Libya, but less so in advancing multilateral approaches in which the US displays little interest [(105)]. EU-internal coordination in multilateral forums, which had evolved into one of the EU's strengths, suffered a setback in 2015 with the political fracture witnessed over the TPNW at the NPT RevCon; however, existing mechanisms managed to reconstitute some degree of consensus, allowing for the adoption of statements at post-2015 NPT Preparatory Committees (PrepComs).

(102) Álvarez, M., 'Mixing Tools against Proliferation: The EU's strategy for dealing with weapons of mass destruction', *European Foreign Affairs Review*, Vol. 11, No 3, 2006, pp. 417-438.

(103) *The EU and the Non-Proliferation of Nuclear Weapons*, op.cit.

(104) Portela, C., 'The EU and the NPT: Testing the New European Non-proliferation Strategy', *Disarmament Diplomacy*, No 78, July/August 2004.

(105) 'In der Defensive', op.cit.

CHAPTER 2

THE CRISIS OF NUCLEAR ARMS CONTROL AND DISARMAMENT

While disarmament is an idea that pre-dated the 20th century, the inspiration for the control of nuclear arms emanated from the Cuban missile crisis of 1962 over Soviet plans to deploy missiles in Cuba, where both Cold War superpowers came close to a military confrontation. While the crisis was eventually resolved, an episode bordering on a conflagration between two nuclear-armed powers constituted a wake-up call that prompted the Soviet Union and the United States to negotiate ceilings in their strategic nuclear forces. Faced with the prohibitive financial costs of a nuclear arms race and the danger of a nuclear exchange, both superpowers decided jointly to agree limits on their nuclear stockpiles to avoid unconstrained competition or eventual war [(1)]. In contrast to disarmament, whose goal is the complete elimination of a weapon category, arms control refers to military cooperation between potential enemies in the interest of reducing the likelihood of war, its scope and violence if it occurs, and the political and economic costs of preparing for it. Because of its historical origins, arms control developed in the form of bilateral agreements mostly over the course of the Cold War, while non-proliferation and disarmament efforts tended to unfold in a multilateral setting. The process of controlling and monitoring continued with varying intensity until the arms control system started to be deconstructed at the beginning of this century, in what is dubbed the 'crisis of nuclear arms control' [(2)].

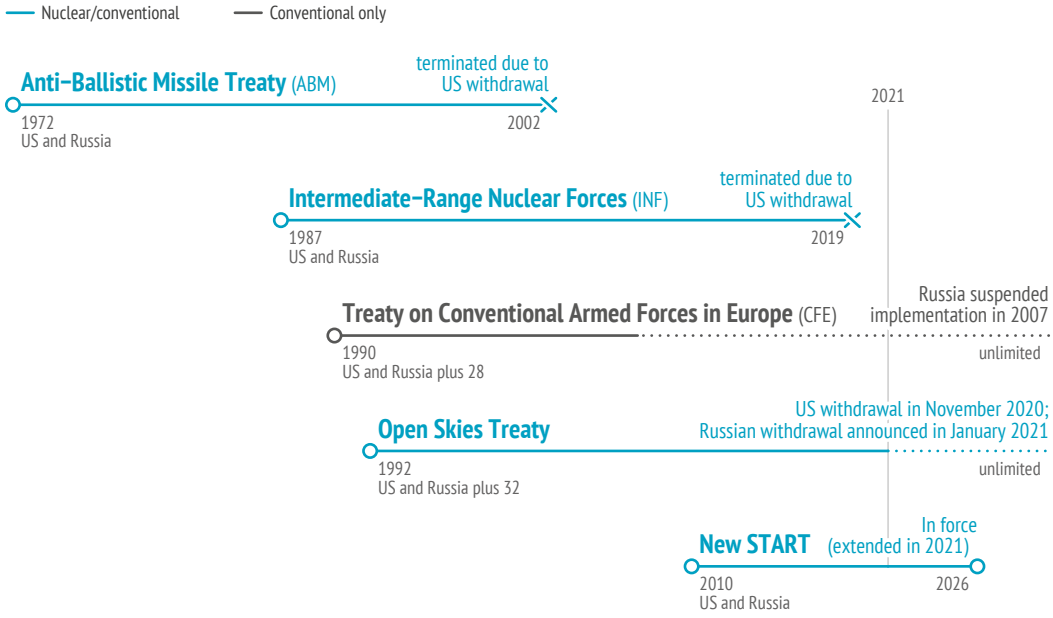
The inspiration for the control of nuclear arms emanated from the Cuban missile crisis of 1962.

The pioneering Strategic Arms Limitation Talks (SALT), launched in the late 1960s, led to the conclusion of the SALT 1 agreement of 1972, which introduced a numerical balance of carriers and warheads for the first time. It was complemented with the Anti-Ballistic Missile (ABM) Treaty, which severely limited the deployment of anti-ballistic missile systems. SALT was succeeded by SALT 2, and in 1987, these arrangements were followed by the Intermediate-Range Nuclear Forces (INF) Treaty, which prohibits the development, testing, and production of land-based short-medium and intermediate range cruise and ballistic missiles (of a range between 500-1 500 km and 1 000-5 500 km respectively) and missile launchers. The early 1990s saw the replacement of the SALT treaties with the Strategic Arms Reduction Treaty (START 1), which developed into a new series. This treaty network is credited with stabilising superpower confrontation during the Cold War and supporting the peaceful transformation of East–West relations. While all these treaties were concluded bilaterally between Washington and Moscow,

(1) Kulesa, L., 'The crisis of nuclear arms control and its impact on European security', *Non-Proliferation and Disarmament Papers*, No 66, SIPRI: Stockholm, 2020.

(2) Nikitin, A., *International Security*, MGIMO University Publishing, Moscow, 2020.

Key arms control treaties under threat



landmark agreements in the conventional field were finalised multilaterally when the Cold War was coming to a close. The Treaty on Conventional Forces in Europe (CFE) was concluded in 1990 between the Eastern and Western blocs, including the European allies of the superpowers as signatories. Similarly, the multilateral Open Skies Treaty of 1992 allows each party to conduct observation flights to collect data on ground-based military forces and activities [(3)]. Arms control enabled significant reductions in the number of warheads and delivery vehicles, and its contribution to the prevention of nuclear war and to the management of relations between Washington and Moscow remains incontestable [(4)].

The erosion of the treaty network began in 2002 with the termination of the 1972 ABM Treaty by the United States in order to allow for the deployment of a missile shield against potential threats from North Korea or Iran, which Washington prioritised over arms control with Russia [(5)]. This eliminated geographical and numerical limitations on strategic missile defence, making new deployments possible. In turn, Moscow withdrew from START 2, just two years after ratifying it. The less robust Strategic Offensive Reductions Treaty (SORT) limited the number of nuclear weapons that could be used by each party, but lacked comprehensive verification obligations [(6)].

The Obama administration endeavoured to reverse the decline in nuclear arms control. In his Prague speech in April 2009, President Obama articulated the vision of a world free from nuclear arms, dubbed 'Global Zero' [(7)].

(3) Jenkins, B., 'A farewell to the Open Skies Treaty, and area of imaginative thinking', Brookings Institution, 16 June 2020.

(4) 'The crisis of nuclear arms control', op.cit.

(5) Thränert, O., 'A nuclear world out of (arms) control', *Strategic Trends* 2016, pp. 65-82.

(6) 'The deep crisis of nuclear arms control and disarmament', op.cit.

(7) The White House, 'Remarks by President Barack Obama', op.cit.

President Obama continued previous cuts that had reduced the United States nuclear arsenal by 70% [8]. Although he could not persuade the US Congress to ratify the CTBT, the signature of the New START Treaty represented a major accomplishment. President Obama also launched a series of Nuclear Security Summits from 2010 to 2016 to prevent and respond to nuclear terrorism by securing, returning and destroying dangerous nuclear material usable in bombs worldwide.

Multilateral conventional arms control treaties with European participation are experiencing a similar fate. Russia officially suspended the implementation of the Treaty on Conventional Armed Forces in Europe [9], which set ceilings in the deployment of conventional forces, in 2007. By 2011, Moldova, Georgia and NATO members, followed by Ukraine in 2015, ceased to implement the treaty in relation to Russia. All states parties except Russia continue to implement the treaty. The Treaty on Open Skies [10], which authorises state parties to conduct unarmed overflights over other state parties, saw the withdrawal of the United States in 2020, which was followed by an announcement by Russia in January 2021 that it was following suit [11].

THE LAST NUCLEAR ARMS CONTROL TREATIES: THE INF TREATY AND THE NEW START

By 2019, only two arms control treaties between the US and Russia remained in force: the INF and New START. Following the termination of the INF without a sequel in 2019, New START remains the last survivor [12]. The INF Treaty of 1987 prohibited the development, testing, and production of land-based short-medium and intermediate range cruise and ballistic missiles with a range of 500 to 5 500 kilometres, irrespective of whether they carry nuclear or conventional warheads. It also banned medium-range delivery systems. Thanks to this treaty, INF systems were verifiably destroyed, dramatically reducing the nuclear threat in Europe. The START series and the INF Treaty led to a massive reduction in strategic warheads from about 63 000 in 1986 to 8 300 today [13]. Notably, the INF Treaty was celebrated for eliminating an entire category of nuclear delivery systems, rather than only limiting it.

From 2013 onwards, the United States accused Russia of developing ground-launched cruise missiles (GLCM) with a range above 500 kilometres, thus in breach of the INF Treaty [14]. Previously, Russian officials had protested that

(8) Cirincione, J. and Bell, A., 'Prague and the transformation of American nuclear policy', in Vasconcelos, A. and Zaborowski, M. (eds.), *The Obama Moment*, EUISS, Paris, 2009, pp. 91-110.

(9) State parties include Armenia, Azerbaijan, Belarus, Belgium, Bulgaria, Canada, Czechia, Denmark, France, Georgia, Germany, Greece, Hungary, Iceland, Italy, Kazakhstan, Luxembourg, Moldova, the Netherlands, Norway, Poland, Portugal, Romania, Russia, Slovakia, Spain, Turkey, Ukraine, the United Kingdom, and the United States.

(10) State parties currently include Belarus, Belgium, Bosnia-Herzegovina, Bulgaria, Canada, Croatia, Czechia, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Italy, Latvia, Lithuania, Luxembourg, the Netherlands, Norway, Poland, Portugal, Romania, Russia, Slovakia, Slovenia, Spain, Sweden, Turkey, Ukraine, and the United Kingdom. Kyrgyzstan is a signatory only.

(11) Ministry of Foreign Affairs of the Russian Federation, Statement on the Beginning of Domestic Procedures for the Withdrawal of the Russian Federation from the Treaty on Open Skies, 15 January 2021.

(12) 'Die Rüstungskontrolle ist tot', op.cit.

(13) 'The deep crisis of nuclear arms control and disarmament', op.cit.

(14) Topychkanov, P., Kile, S. and Davis, I., 'US-Russian nuclear arms control and disarmament', *SIPRI Yearbook 2019*, SIPRI, Stockholm, 2019, pp. 369-377.

the INF disadvantaged their forces: in 2007, they proposed the multilateralisation of the treaty to the Committee on Disarmament in Geneva [(15)]. Moscow refuted this charge and made countercharges that the United States had violated the treaty by moving shipborne missile-launchers capable of firing cruise missiles within the INF range parameters ashore, and by arming certain aerial vehicles in ways that meet the INF definition of a cruise missile [(16)]. The US Nuclear Posture Review of 2018 confirmed plans to develop a new intermediate-range GLCM [(17)]. The treaty eventually collapsed after the US withdrawal in August 2019, which Russia followed one day later. Subsequently, both sides showed relative restraint. According to its Secretary-General Jens Stoltenberg, NATO stated that it did not intend to deploy nuclear-armed missiles in Europe. For its part, Russia announced that it would only deploy them in reaction to a US deployment in Europe [(18)]. Since then, both parties started developing weapons prohibited under the INF Treaty [(19)]. In the absence of agreed limitations, there is no obstacle to a descent into an arms race with Europe as the most likely theatre of operations.

After the demise of the INF, New START remains the only agreement limiting the nuclear arsenals of the United States and Russia. New START, remarkably robust in its verification provisions, was concluded by the United States and Russia in 2010 and has been in force since 2011. The treaty limits the number of deployed strategic nuclear warheads to 1 550 per side and the number of launchers to 800, and both Russia and the United States have adhered to their commitments under the treaty [(20)]. Following the inauguration of US President Joe Biden in January, New START was extended in February 2021 for five years.

DRIVERS OF THE CRISIS

A driver of the decline in bilateral nuclear arms control is the deteriorating relationship between Moscow and Washington, notably due to NATO's eastward expansion, and to the Russian annexation of Crimea. Mutual accusations of non-compliance with the INF Treaty, which remain unresolved, could have been addressed with the help of a dedicated body foreseen in the treaty, the Special Verification Commission, which could have conducted overflights, on-site inspections, or a verifiable data exchange [(21)]. As bilateral relations worsened, 'arms control became a barb to throw *in the context of* other bilateral disagreements. The alleged violations of the INF Treaty, which might have been swiftly resolved under different political circumstances, became a narrative of confrontation' [(22)]. This dynamic of growing antagonism is compounded by a weak appreciation of the contribution of arms control to international security among the

In the absence of agreed limitations, there is no obstacle to a descent into an arms race with Europe as the most likely theatre of operations.

(15) Barrie, D., 'Allegation, Counter-Allegation and the INF Treaty', *Survival*, Vol. 59, No 4, 2017, pp. 35-43.

(16) Anthony, I., 'European Security after the INF Treaty', *Survival*, Vol. 59, No 6, 2017, pp. 61-76.

(17) 'US-Russian nuclear arms control and disarmament', op.cit., p.373.

(18) 'The deep crisis of nuclear arms control and disarmament', op.cit.

(19) Ibid.

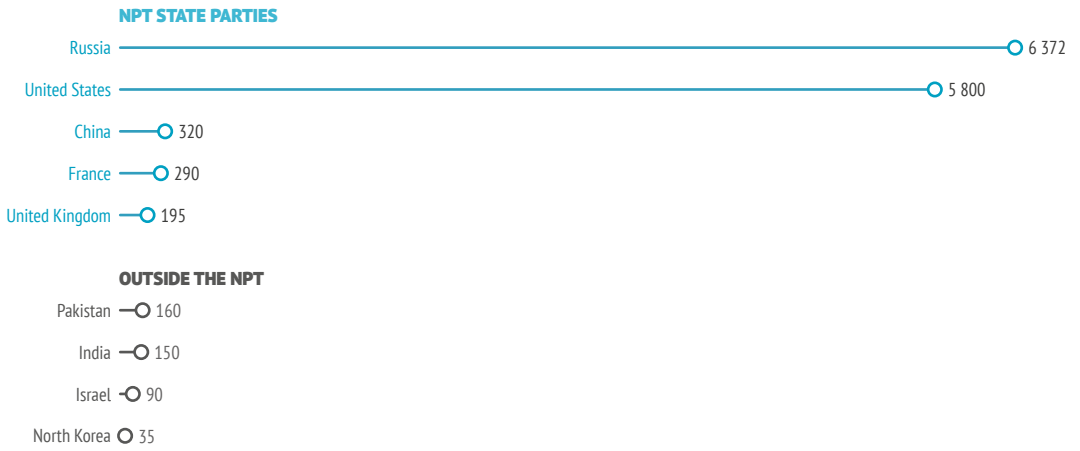
(20) Ibid.

(21) Ibid.

(22) Kane, A. and Mayhew, N., 'The Future of Nuclear Arms Control: Time for an Update', Stiftung Entwicklung und Frieden/ Development and Peace Foundation, Bonn, 2020 (emphasis in original).

Strength of global nuclear arsenals

Estimated inventories, 2020



Data: Federation of American Scientists, 2020

present-day political elites, in the 'classical' arms control partners and beyond [(23)].

However, this is not the only - not even the *main* - driver of the crisis. A key rationale at the root of the declining interest of the traditional nuclear powers in arms control is the lack of involvement of Asian nuclear actors, primarily the People's Republic of China (PRC). Both Washington and Moscow are wary of maintaining commitments to each other that might hinder their ability to respond to challenges originating elsewhere. The classical arms control partners regard China as a strategic competitor and wish to avoid reducing their own nuclear arsenals to a level that could eventually be matched by Beijing through continued development of its capabilities [(24)]. This fear is compounded by the notorious opacity of Chinese nuclear capabilities and doctrine, which is a deliberate element in its defence posture. Although the United States justified its deployment of a national missile defence system with reference to North Korea and Iran, the key player is China. In recent years, in addition to citing Russian non-compliance, Washington pointed to the multiplication of Chinese missiles when it decided to abrogate the INF Treaty [(25)]. Moscow's stance is also that further steps in the field of nuclear arms reduction and limitation must be multilateral, and Washington's is that 'to prevent an unconstrained nuclear arms competition and enhance stability, the world will need nuclear arms control that includes the PRC' [(26)]. However, Beijing rejects participation in arms control negotiations while the United States and Russia maintain disproportionately high nuclear arsenals, positing that countries possessing the largest nuclear arsenals ought to further drastically reduce their nuclear arsenals and encouraging them to abandon a policy based on first use of nuclear weapons before it will countenance multilateral arms control discussions. Furthermore, given that China plans to build up its non-strategic missiles arsenal, a multilateral sequel to the expired INF treaty

(23) 'MAD moment redux?', op.cit.

(24) Klotz, F. and Bloom, O., 'China's nuclear weapons and the prospects for multilateral arms control', *Strategic Studies Quarterly*, Vol.7, No 4, 2013, pp. 3-10.

(25) 'The Future of Nuclear Arms Control', op.cit., p. 7.

(26) US State Department, 'New START Treaty Mythbusters', 3 February 2021.

is unlikely to attract its support [27]. For the time being, the only signs of a Chinese opening towards multilateral dialogue can be found in Beijing's recent leadership in the P5 process that brings together the official NWS for informal discussions on nuclear matters, as well as its participation in 'Track 2' dialogues [28].

An equally powerful rationale for the abandonment of existing treaties is the challenge posed by the emergence of new weapons technologies not covered in existing treaties. This concerns offensive cyber capabilities and new categories of arms such as lethal autonomous weapons, which are not covered by New START. The same is true of new types of missiles, including hypersonic models, which can carry both conventional and nuclear explosives [29]. Similarly, lethal autonomous weapons remain unregulated, even though there have been multiple calls for their limitation. Various experts advocate a new approach to arms control that takes into account the risks posed by new technologies. The key difficulty is not technological advancement *per se*, but the uncertainty surrounding their possible applications to the nuclear military field. By way of illustration, 23 countries are believed to command offensive cyber capabilities and a further 30 are believed to be developing them [30]. This generates an additional element of uncertainty, given that arms control and disarmament operates 'in silos', establishing limits on certain categories of arms while leaving others unregulated, thereby overlooking possible interconnections.

PROSPECTS

Thanks to the 2021 extension of New START, negotiations on a replacement treaty can be envisaged – a path which Moscow supports [31]. However, the exclusion from the treaty of Russian non-strategic weapons and of the modest but nevertheless growing Chinese arsenal has compelled the US Congress to condition continued funding for New START implementation and consent to the negotiation of a sequel.

Two options for a sequel to New START have been floated: one of them would expand its coverage to include additional weapons systems, an approach that could meet Moscow's concerns regarding US long-range conventional weapons and its anti-missile systems as well as Washington's concerns regarding Russian non-strategic weapons and hypersonic vehicles. However, this option would probably sacrifice the strict verification standards that constitute a strength of New START. An alternative would be to negotiate a sequel with the participation of China, if it can be persuaded to join a trilateral negotiation. The focus on involving Beijing is due to deepening Sino-American geopolitical rivalry and especially to the anxieties aroused by the modernisation and expansion of the Chinese arsenal. However, establishing ceilings for highly asymmetrical arsenals remains a challenge that makes such a treaty unattractive for a Chinese leadership uninterested in reducing stocks [32].

The collapse of New START without a sequel after its expiry in 2026 would clear the way for an arms race, with devastating consequences for the security of Europe, which has benefited greatly from the protection afforded by this

(27) Tertrais, B., 'La mort annoncée du traite FNI ou la fin de l'après-guerre froide', Note 02/19, Fondation pour la Recherche Stratégique, Paris, 2019.

(28) 'The P5 Process', op. cit.; 'China's nuclear weapons and the prospects for multilateral arms control', op,.cit.

(29) Finaud, M., 'Traité New START: Vers le chaos ou la sécurité?', Initiatives pour le désarmement nucléaire, April 2020.

(30) 'The Future of Nuclear Arms Control', op.cit.

(31) Ministry of Foreign Affairs of the Russian Federation, 'Deputy Foreign Minister Sergey Ryabkov's interview with Kommersant', 5 March 2020.

(32) Maître, E. and Tertrais, B., 'Le Traité New Start: bilan et perspectives', Note 59/20, Fondation pour la Recherche Stratégique, Paris, 2020.

treaty. Two key consequences are of note: under the terms of the treaty, both parties could maintain the capacity to reconstitute former arsenals as it did not foresee the destruction of warheads. Secondly, the disappearance of the stringent verification system would entail a decline in knowledge about the Russian nuclear arsenal; in particular, insight into Russian intercontinental–range nuclear forces and operations would be lost. As recognised by the US State Department, 'our window of transparency into Russian intracontinental range nuclear forces would shrink' [(33)]. In the absence of a replacement, rare opportunities for direct communication between the US and Russian military afforded by the treaty will vanish alongside its trust-building effect [(34)]. While a drastic rise in the capabilities of either side is unlikely in the short term, the combination of diminished transparency in the development of arsenals and the option of re-building weapons easily increases the chances of an unconstrained arms race. This risk is exacerbated by the introduction of new technologies, which is likely to be more qualitative than quantitative. For example, it could take the form of the assignation of hypersonic systems to nuclear missions in addition to ballistic missiles [(35)]. The resulting escalation could drag EU member states, most of which remain US military allies, into a confrontation between the United States and Russia without retaining much influence on Washington's nuclear military build-up.

The collapse of New START without a sequel after its expiry in 2026 would clear the way for an arms race, with devastating consequences for the security of Europe.

NUCLEAR ARMS CONTROL BEYOND THE US-RUSSIA BILATERAL AXIS

Outside the bilateral US-Russia realm, the arms control treaty network presents a heterogeneous picture. The JCPOA that Iran concluded in 2015 with France, Germany and the UK, and the three remaining UNSC members China, Russia and the United States, put an end to protracted negotiations addressing international concerns about the Iranian nuclear programme. The agreement was endorsed by UNSC Resolution 2231, making it binding under international law. Importantly, the JCPOA foresees the lifting of nuclear-related sanctions that had been imposed on Iran in the previous decade.

On account of its stipulated restrictions on uranium enrichment coupled with intrusive verification provisions, the JCPOA is regarded as one of the most comprehensive arms control agreements [(36)]. While the agreement's verification provisions have indefinite duration, certain restrictions have temporal limits. Restrictions on new centrifuges will be in place until 2025, and the monitoring of centrifuges will remain for 10 additional years. The uranium stockpile is restricted until 2031, and its enrichment must be kept below an established threshold for 15 years. Research and development may take place at the Natanz facility exclusively, while the facility at Fordo may only undertake research. The monitoring of the limit

(33) 'New START Treaty Mythbusters', op.cit.

(34) 'Le Traité New Start: bilan et perspectives', op.cit.

(35) Ibid.

(36) Gärtner, H., 'The Fate of the JCPOA', in Gärtner, H. and Shahmoradi, M. (eds.), *Iran in the International System*, Routledge, Abingdon, 2019, pp. 56-76.

on uranium ore will not expire until 2040. Notoriously, the treaty is endowed with an elaborate dispute resolution mechanism to address non-compliance by any of the parties. A party that considers that another party is not honouring its commitments under the JCPOA can refer the issue to the Joint Commission, which brings together representatives from all parties to the agreement. It then has 15 days to resolve the issue, unless the Joint Commission agrees to an extension. If the issue remains unresolved, it may be reviewed at the ministerial level and then by an Advisory Board consisting of two members appointed by the JCPOA states involved in the dispute and one independent member, which issues a non-binding opinion. In the event that the Joint Commission fails to resolve the issue, the complaining party may cease its observance and inform the UNSC that it believes the issue breaches the agreement.

Although the conclusion of the JCPOA was celebrated as a major diplomatic success, Washington's unilateral withdrawal and its reinstatement of robust sanctions in May 2018 soon put it under considerable strain. The EU has gone to great lengths to salvage the treaty's viability. Notably, it revived in 2018 the blocking statute it had originally framed in response to US secondary sanctions concerning Cuba in 1996. The E3 set up the Instrument for Supporting Trade Exchanges (Instex) to facilitate transactions between European and Iranian firms, which Belgium, Denmark, Finland, the Netherlands, Norway and Sweden joined as shareholders. After becoming operational in mid-2019, Instex completed its first transaction in March 2020. While European efforts demonstrate a willingness to preserve the viability of the JCPOA, they have yielded modest results as the private sector – in particular banks and investors – hold back under the threat of US sanctions [(37)].

Disagreements surrounding the application of the JCPOA intensified following the US withdrawal. Dissatisfied with the economic costs resulting from US sanctions, Tehran announced in January 2020 that it no longer considered itself bound by JCPOA restrictions. As a result, the E3 activated the dispute resolution mechanism in January 2020 [(38)], which was suspended following talks between the E3 and Iran. The mechanism was triggered by Tehran in July 2020; however, the following month, it reached an agreement with the IAEA on the safeguards implementation issues that had been raised by the IAEA [(39)]. The EU's current approach consists of resisting full alignment with the United States coupled with efforts to persuade Washington to rejoin the JCPOA and relinquish its 'maximum pressure' sanctions campaign, in the hope that this would compel Iran's return to full compliance [(40)]. Meanwhile, the EU continues to work through UN mechanisms in cooperation with both Russia and China as co-signatories of the deal to maintain Iran's political and economic interest in the survival of the JCPOA [(41)].

The key to the resolution of the Iranian nuclear issue rests primarily with the US, which demands that Iran returns to full implementation of the 2015 agreement as a prerequisite for any easing of sanctions, following which it intends to extend the duration of the prohibitions imposed on Iran by the JCPOA. While Iran maintains that it wishes to remain in the treaty, it ceased respecting its constraints

(37) Jaeger, MD., 'Circumventing sovereignty: Extraterritorial sanctions leveraging the technologies of the financial system', *Swiss Political Science Review*, 2021 (online first).

(38) Joint statement by the Foreign Ministers of France, Germany and the United Kingdom on the Joint Comprehensive Plan of Action: 14 January 2020 (https://www.auswaertiges-amt.de/en/newsroom/news/-/2292574?isLocal=false&isPreview=false).

(39) IAEA, 'Joint Statement by the Director General of the IAEA and the Vice-President of the Islamic Republic of Iran and Head of the IAEA' (https://www.iaea.org/newscenter/pressreleases/joint-statement-by-the-director-general-of-the-iaea-and-the-vice-president-of-the-islamic-republic-of-iran-and-head-of-the-aeoi); EEAS, 'JCPOA: Statement by the High Representative Josep Borrell as coordinator of the Joint Commission of the Joint Comprehensive Plan of Action on the Dispute Resolution Mechanism, 3 July 2020 (https://eeas.europa.eu/headquarters/headquarters-homepage/82059/jcpoa-statement-high-representative-josep-borrell-coordinator-joint-commission-joint_en).

(40) Parsi, R. and Bassiri Tabrizi, A., 'State of play of EU-Iran relations and the future of the JCPOA', Directorate-General for External Policies, European Parliament, Brussels, 2020.

(41) Aderbahr, C., 'EU policy options in case of US withdrawal from the Iran nuclear deal', Carnegie Europe, 12 April 2018.

after the United States withdrew. It started uranium enrichment in January 2021, and the Iranian parliament enacted legislation that foresees limiting IAEA inspections unless US sanctions are lifted. In February 2021, IAEA Secretary-General Rafael Grossi reached a temporary technical understanding with Tehran whereby inspectors will retain access to nuclear sites for a period of three months [(42)]. In a declaration by High Representative Borrell, the EU lamented the suspension of the provisional application of the Additional Protocol as well as additional transparency provisions under the JCPOA [(43)]. The recent communication on multilateralism underlines the EU's determination to preserve the JCPOA:

> *'It is fundamental for all members of the international community to uphold and improve the implementation of international norms on arms control, disarmament, and non-proliferation, while ensuring that they keep up with new technological developments. To that end, the EU will play an active role in defending its security interests which are grounded in multilateral arrangements. It will consolidate the achievements of the Joint Comprehensive Plan of Action with Iran as a key pillar of the global non-proliferation architecture'* [(44)].

In the event of a persisting impasse over the JCPOA, some alternative courses of action have been suggested for the EU. One of them consists of triggering the dispute resolution mechanism in response to Iranian non-compliance, an option that was already resorted to in January 2020, although it was later suspended. However, an activation by the E3 of the dispute resolution mechanism could easily lead to the re-imposition of UN – and possibly EU – sanctions, which would, in all likelihood, precipitate the JCPOA's collapse [(45)]. Thus, this option appears unattractive. In addition, it might compel Tehran to withdraw from the NPT. Under an alternative option, the E3 would secure an interim arrangement with China and Russia under the umbrella of the Joint Commission established by the nuclear deal to strengthen Iranian compliance in exchange for economic incentives [(46)]. An understanding which allows Iran to regain some leverage through its nuclear programme and economic rewards could support the moderate leadership's case for maintaining compliance. However, the difficulty with this path remains that, despite the updated blocking statute and the set-up of Instex, European companies still lack a framework enabling them to trade with Iran without fear of penalties resulting from US sanctions [(47)]. In addition, a dialogue on possible regional arrangements with regard to nuclear energy has been suggested. While Iran was the first country of the Persian Gulf with a civilian nuclear energy programme, other regional powers like the United Arab Emirates and Saudi Arabia are currently pursuing such programmes [(48)]. This has implications for regional security, especially given that Saudi Arabia has threatened to acquire a nuclear bomb if Iran were to build one [(49)].

(42) Rotivel, A., 'Première détente sur le dossier nucléaire iranien', *La Croix*, 23 February 2021.

(43) Declaration by the High Representative on behalf of the EU on the Joint Comprehensive Plan of Action, press release 136/21, 25 February 2021.

(44) European Commission/High Representative of the Union for the CFSP, 'Joint Communication to the European Parliament and the Council on strengthening the EU's contribution to rules-based multilateralism', JOIN(2021) 3 final, 17 February 2021, p.4 (https://eeas.europa.eu/sites/default/files/en_strategy_on_strengthening_the_eus_contribution_to_rules-based_multilateralism.pdf).

(45) Geranmayeh, E., 'How Europe can save what's left of the Iran Nuclear deal', *Foreign Policy*, 12 July 2019.

(46) Ibid

(47) Ibid.

(48) 'EU policy options in case of US withdrawal from the Iran nuclear deal', op.cit.

(49) Maître, E., 'Retrait américain du JCPOA : conséquences stratégiques d'une décision politique', Observatoire de la Dissuasion, No 18, 2018, pp. 11-13.

THE TREATY ON THE PROHIBITION OF NUCLEAR WEAPONS AND ITS AFTERMATH

While the existing arms control treaty system was under growing strain, a new multilateral treaty came into being: the Treaty on the Prohibition of Nuclear Weapons, popularly known as the 'Ban Treaty'. The adoption of the TPNW ended twenty years of stagnation in multilateral arms control [(50)]. The treaty prohibits the production, transfer, threat or use of nuclear weapons under any circumstance. It also establishes a duty of assistance to victims of nuclear detonations, including those affected by radiation emanating from nuclear tests [(51)]. In addition, the treaty pursues the objective of delegitimising nuclear deterrence, framing nuclear weapons as unacceptable [(52)].

The TPNW originated from the 'Humanitarian Initiative', which highlighted the disastrous impacts resulting from any use of nuclear weapons, and the acknowledgement that no state or international entity could address such devastation adequately [(53)]. This found reflection in the final document of the 2010 NPT Review Conference, which expressed 'deep concern at the catastrophic humanitarian consequences of any use of nuclear weapons' and 'reaffirmed the need for all States at all times to comply with applicable international law, including international humanitarian law' [(54)]. These notions were subsequently developed over three conferences convened successively between 2013 and 2014 by Norway, Mexico and EU member Austria, lending support for a humanitarian reframing of nuclear disarmament [(55)]. The conferences discussed the compatibility of nuclear weapons with humanitarian law, as well as new scientific evidence suggesting that the 'nuclear winter' resulting from a limited nuclear war would cause widespread starvation in addition to millions of direct casualties [(56)]. At the 2015 NPT RevCon, Austria reported on the findings of the 'humanitarian conferences'. In October 2016, UNGA voted Resolution 71/258 authorising the convening of multilateral negotiations to develop an agreement to prohibit nuclear weapons [(57)], which started the following year and concluded in July 2017. Following its opening for signature, the TPNW became the third most ratified treaty during its first year of existence [(58)]. Having reached the minimum number of ratifications required, it entered into force on 22 January 2021. As of April 2021, it counts 86 signatories and 54 state parties [(59)].

While the entry into force of the TPNW will not entail any reduction in nuclear arsenals in view of the absence of nuclear possessors among its signatories, advocates hope to unleash forces that may eventually influence the policies of nuclear powers and their allies. In pursuance of the unconcealed goal of de-legitimising

(50) Michel and Pesu, 'Strategic deterrence redux: Nuclear weapons and European Security', *FIIA Report* no 60, Finnish Institute of International Affairs, Helsinki, 2019.

(51) Ronzitti, N., 'Lo stato del disarmo nucleare', *Osservatorio di Politica Internazionale* no 77, Senato de la Reppublica, Roma, 2017.

(52) Ritchie, N., 'Understanding the Ban Treaty and the power politics of nuclear weapons', *Contemporary Security Policy*, Vol. 40, No 4, 2019, pp. 409-34.

(53) 'The European Union and the Humanitarian Initiative', op.cit.

(54) Final Document of the 2010 NPT Review Conference, NPT/CONF.2010/50, 2010, p. 19.

(55) Kmentt, A., 'The development of the international initiative on the humanitarian impact of nuclear weapons and its effect on the nuclear weapons debate', *International Review of the Red Cross*, Vol. 97, No 899, 2015, pp. 681-709.

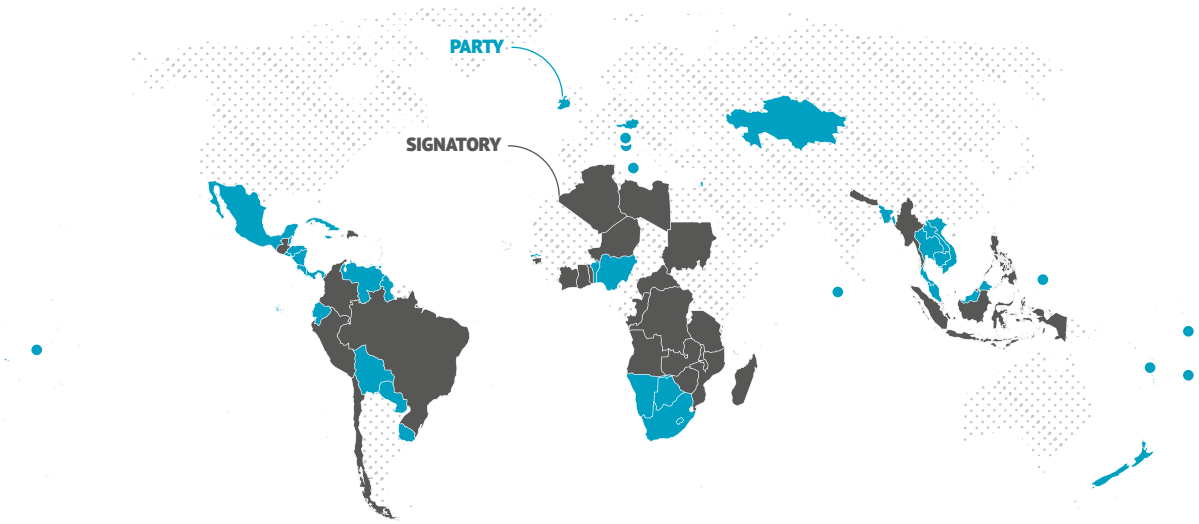
(56) 'The European Union and the Humanitarian Initiative', op.cit., p.3.

(57) UNGA Res.71/258 'Taking forward multilateral nuclear disarmament negotiations', Resolution adopted by the General Assembly on 23 December 2016 (https://undocs.org/A/RES/71/258).

(58) Onderco, M., 'Nuclear Ban Treaty: Sand or grease for the NPT?', in Sauer, T., Kustermans, J. and Segaert, B. (eds.), *Non-Nuclear Peace: Beyond the Nuclear Ban Treaty*, Palgrave McMillan, Houndmills, 2020, pp. 131-48.

(59) See treaty status at: http://disarmament.un.org/treaties/t/tpnw.

TPNW State parties and signatories
As of March 2021



Data: UNTC, 2021; GISCO, 2021

nuclear arsenals [60], the treaty aims at discouraging private investment in the nuclear military industry [61] and at promoting substantial steps towards elimination in the form of deep cuts to arsenals, de-alerting of deployed forces and the halting of modernisation. While the TPNW is often noted for its value as a reflection of the deep frustration of a large majority of non-nuclear armed states over the lack of progress in the field of multilateral nuclear disarmament [62], or as a 'sign of global impatience' [63], its provisions relating to victim assistance and environmental remediation are key contributions [64].

REACTIONS TO THE TPNW

Already before its entry into force, the TPNW came under heavy criticism. Nuclear possessors and most of its allies refrained from participating in the treaty negotiation. With the sole exception of China, NWS criticised the treaty [65]. Upon its opening for signature, NATO accused the treaty of being at odds with the existing non-proliferation and disarmament architecture, arguing that it risks undermining the NPT:

> *'The ban treaty is at odds with the existing non-proliferation and disarmament architecture. This risks undermining the NPT, which has been at the heart of global non-proliferation and disarmament efforts for almost 50 years,*

(60) 'The development of the international initiative on the humanitarian impact of nuclear weapons', op.cit.

(61) Meyer, P. and Sauer, T., 'The Nuclear Ban Treaty: A sign of global impatience', *Survival*, Vol. 60, No 2, 2018, pp. 61-72.

(62) Trezza, C., 'The UN Nuclear Ban Treaty and the NPT: Challenges for nuclear disarmament', IAI, Rome, 2017.

(63) 'The Nuclear Ban Treaty: A sign of global impatience', op.cit.

(64) Michel, L. and Pesu, M., 'Strategic deterrence redux: Nuclear weapons and European Security', *FIIA Report* no 60, Finnish Institute of International Affairs, Helsinki, 2019.

(65) Erästö , T., 'The Treaty on the Prohibition of Nuclear Weapons', *SIPRI Yearbook 2019*, SIPRI, Stockholm, 2019, p. 387-90.

> *and the IAEA Safeguards regime which supports it. … [w]e would not accept any argument that this treaty reflects or in any way contributes to the development of customary international law* [66]*.'*

Similarly, upon the entry into force of the TPNW, NATO repeated similar language, claiming that the treaty was at odds with the existing non-proliferation and disarmament architecture [67].

Accordingly, the legal debate has centred on whether the TPNW contradicts the NPT. The main cause of disagreement is a TPNW provision stipulating:

> *'The implementation of this Treaty shall not prejudice obligations undertaken by States Parties with regard to existing international agreements, to which they are party, where those obligations are consistent with the Treaty* [68]*.'*

This formulation raised doubts as to whether this article constitutes a clause of subordination, indicating that provisions of pre-existing agreements – the NPT of 1968 in our case – prevail over the new treaty. The segment 'where those obligations are consistent with the Treaty' can be interpreted as suggesting otherwise. From the negotiation history of the TPNW, it emerges that the TPNW was drafted in the spirit of subordination to the NPT. The segment in question was introduced in order to exclude a possible interpretation allowing state parties to retain nuclear weaponry if they had committed to do so prior to accession [69]. The subordination to the NPT is notably evident from the explicit reference to the NPT as the 'cornerstone of the nuclear disarmament and non-proliferation regime' made in the preamble. As highlighted by negotiators, utmost care was taken to fit the new legal text into the framework created by the NPT, which it intends to develop [70]. According to this perspective, the TPNW is regarded as a framework agreement that will require subsequent supplementary arrangements to specify verification and other procedures [71]. Legal scholarship confirms the view that the TPNW is compatible with the NPT [72]. Finally, the fact that to date no TPNW parties have withdrawn from the NPT underscores the interpretation that states do not regard them as rival frameworks [73].

However, the controversy is not only legal in nature, but surrounds its political implications. Nuclear powers and their allies object to the TPNW because it outlaws nuclear deterrence as well as the Atlantic Alliance's nuclear sharing arrangements [74]. While there is a debate on the likelihood that the TPNW might be employed to weaken the NPT, the key legal question for NATO is not primarily the degree of compatibility with the NPT, but rather the possibility that the prohibition of nuclear weaponry might eventually establish itself as a norm [75]. In principle, according to the Vienna Convention of the Law of the Treaties, a treaty does

(66) North Atlantic Council Statement on the Treaty on the Prohibition of Nuclear Weapons, 20 September 2017 (https://www.nato.int/cps/en/natohq/news_146954.htm?selectedLocale=en).

(67) North Atlantic Council Statement as the Treaty on the Prohibition of Nuclear Weapons Enters into Force, 15 December 2020 (https://www.nato.int/cps/en/natohq/news_180087.htm).

(68) Art. 18.

(69) Sossai, M., 'Il rapporto tra il trattato sul divieto die armi nucleari e gli altri accordi in material di non-proliferazione e disarmo', *Rivista de Diritto Internazionale*, No 1, 2018, pp. 185-204.

(70) Hajnoczi, J., 'The relationship between the NPT and the TPNW', *Journal for Peace and Nuclear Disarmament*, Vol.3, No 1, 2020, pp. 87-91.

(71) 'The Nuclear Ban Treaty: A sign of global impatience'; 'The European Union and the Humanitarian Initiative', op.cit.

(72) 'Lo stato del disarmo nucleare', op.cit.

(73) Hamel-Green, M., 'The Nuclear Ban Treaty and 2018 Disarmament Forums: An initial impact assessment', *Journal for Peace and Nuclear Disarmament*, Vol. 1, No 2, 2018, pp. 436-463.

(74) 'Strategic deterrence redux', op.cit.

(75) Kadelbach, S., 'Possible ways to overcome tendencies of the Nuclear Weapons Ban Treaty to erode the NPT', in Black-Branch, J. and Fleck, D. (eds.), *Nuclear Non-Proliferation in International Law*, TMC Asser, The Hague, 2020, pp. 305-22; 'The forever-emerging norm of banning nuclear weapons', op.cit.

not create obligations for a third state without its consent [(76)]. However, a rule set forth in a treaty could become binding on a third state if it becomes a customary rule, provided that its existence is recognised by an overwhelming majority of states [(77)]. Thus, concerns that the TPNW could eventually create an overarching international norm against nuclear weaponry prompted NATO members to release statements rejecting the notion that the TPNW 'contributes to the development of customary international law'. Under international law, their persistent objection can, if not frustrate the emergence of the norm, at least shield them from its effects in the event that it comes into being [(78)].

Post-TPNW Initiatives

The aftermath of the adoption of the Ban Treaty saw the launch of two initiatives to promote alternative approaches towards nuclear disarmament. During the last PrepCom for the 2020 RevCon in 2018, the United States launched the initiative 'Creating an Environment for Nuclear Disarmament' (CEND). It set up a working group bringing together both officials and civil society members from 31 countries across three categories of states: nuclear possessors – both within and outside the NPT – their allies, and non-allies [(79)]. Three meetings of the working group were held in July and November 2019 as well as virtually in September 2020 with the objective of identifying ways to improve international security and removing the obstacles impeding progress towards disarmament.

The initiative is predicated on the idea that improving confidence-building will facilitate progress towards disarmament, rather than vice versa. Its thrust was defined as follows by US Assistant Secretary Christopher Ford:

> *'Disarmament movement only becomes available when, and to the degree that, real-world weapons possessors feel that such movement is feasible, safe, verifiable, and sustainable; such movement thus depends hugely upon the nature of, and perceived trends in, the prevailing conditions of rivalry, conflict, and threat in the security environment; and … therefore the only serious and viable path to making a future nuclear weapons-free world more likely lies through making sustainable improvements in those conditions'* [(80)].

The logic informing this initiative has received criticism for portraying a deteriorating security climate as impeding disarmament, and failing to identify the lack of political will as an obstacle to disarmament [(81)]. It has also been criticised for overlooking that, during the Cold War era, arms control treaties concluded in a tense international environment often facilitated *détente*, rather than the other way around [(82)]. CEND generated the impression that the United States is backtracking from the step-by-step approach to which it previously subscribed, thereby renouncing the undertakings agreed at previous NPT RevCons [(83)].

Shortly afterwards, Sweden launched an initiative named 'Stepping Stones', also known as the 'Stockholm Initiative for Nuclear

(76) Art. 34.

(77) Hill, S., 'NATO and the Treaty on the Prohibition of Nuclear Weapons', Research Paper, Chatham House, 2021.

(78) Ibid.

(79) García Benasach, M., 'Hacia un nuevo orden nuclear?', in Garrido, V. (ed), *La No-Proliferación y el Control de Armamentos Nucleares en la Encrucijada*, Instituto de Estudios Estratégicos, Madrid, 2020, pp. 211-256.

(80) Ford, C., 'Reframing Disarmament Discourse', Remarks at CEND Leadership Group Meeting, 3 September 2020.

(81) Burford, L., Meier, O. and Ritchie, N., 'Sidetrack or kickstart? How to respond to the US proposal on nuclear disarmament', *Bulletin of the Atomic Scientists*, April 2019; Meyer, P., 'Creating an Environment for Nuclear Disarmament: Striding forward or stepping back?', *Arms Control Today*, April 2019.

(82) 'MAD moment redux?', op.cit.

(83) Kurosawa, M., 'The US initiative on Creating an Environment for Nuclear Disarmament', *Journal for Peace and Nuclear Disarmament*, Vol. 3, No 2, 2020, pp. 283-298.

Disarmament' [84]. Its inaugural meeting took place in Stockholm in June 2019, and was followed by a ministerial meeting of its 16 members in Berlin in February 2020. In addition to the Swedish host, and fellow EU members Finland, Germany, the Netherlands and Spain, participants include Argentina, Canada, Indonesia, Japan, Jordan, Kazakhstan, New Zealand, Norway, the Republic of Korea and Switzerland. The 'Stepping Stones' Initiative constitutes an attempt to revive measures and commitments agreed previously, and to reconstitute the consensus around them. These include the 2000 NPT RevCon's '13 Steps' and the 2010 RevCon's '64 Point Action Plan', which 'remain valid and form the basis for making further progress in fully implementing the treaty and achieving a world free of nuclear weapons' [85]. The method employed by participating states consists in conducting *démarches* to garner the support of other NPT members in promoting a gradualist approach towards nuclear disarmament.

In parallel, Germany launched a conference series titled 'Rethinking Arms Control' [86] in 2019. Its objective is to foster understanding on how the introduction of new technologies into weapons systems and the emergence of new players will affect global security dynamics, and exploring approaches for new arms control options to increase global stability and security. In its 2020 edition, the foreign ministers of Czechia, Finland, the Netherlands, and Sweden joined the German host in committing 'to strengthen the role of the EU in promoting arms control', *inter alia* 'by renewing commitment to the goal of an effective global arms control architecture' [87].

THE EUROPEAN POSITIONING TOWARDS THE TPNW

The TPNW generated considerable controversy in Europe, as it cuts across pre-existing dividing lines [88]. Austria, Ireland and Malta are the only EU members party to the TPNW, while traditionally disarmament-friendly Finland and Sweden have distanced themselves from it. The TPNW's evident incompatibility with the nuclear sharing arrangements in place within the Atlantic Alliance accounts for the scarcity of European ratifications. As NATO allies, most EU member states are covered by extended deterrence – the 'nuclear umbrella' – and four of them host US nuclear weapons in their territory. Contestation of nuclear sharing is all the more relevant given that it faces political opposition in some of the host countries, notably Germany and the Netherlands [89]. Politically, nuclear forces stationed in Europe harness the credibility of NATO extended deterrence. Militarily, however, their value is marginal, given that the protracted mobilisation period of aircraft designated for delivering these bombs make them ill-suited for defence against Russian forces [90]. Remarkably, the number of US nuclear weapons deployed in Europe has declined by one third over the past few decades without attracting attention [91].

In view of the growing uncertainty surrounding the sustainability of nuclear sharing, the idea of Europeanising the French nuclear deterrent

(84) Ministry of Foreign Affairs of Sweden, 'Ministerial meeting of the Stockholm Initiative for Nuclear Disarmament', 27 February 2020 (https://www.swedenabroad.se/en/embassies/un-geneva/current/news/stockholm-initiative-for-nuclear-disarmament).

(85) Ibid.

(86) See conference website: https://rethinkingarmscontrol.de.

(87) Ministers' Declaration at the occasion of the Conference 'Capturing Technology. Rethinking Arms Control', Berlin, 6 November 2020.

(88) Hamel-Green, 'The Nuclear Ban Treaty and 2018 Disarmament Forums'.

(89) 'Eyes tight shut', op,.cit.

(90) 'A nuclear world out of (arms) control', op.cit.

(91) Meier, O., 'Heimlich abgerüstet', *Die Zeit*, 13 March 2021.

resurfaced [92]. Questioning the continued relevance of NATO, President Macron tabled the possibility of extending the coverage of French nuclear forces to EU members [93]. This project, dubbed *dissuasion concertée* or 'concerted deterrence', had previously been floated by Macron's predecessors, with scant success [94]. Following US President Donald Trump's recurrent criticism of NATO, the proposal is predicated on the proximity of interests between France and its neighbours, to whom Paris is linked by the Treaty of Lisbon's mutual defence clause, rather than with those of the United States [95]. Although the proposal attracted more attention among German political elites than previous iterations, prompting observers to advocate launching a public debate on the matter [96], support for it remains weak.

In light of the entry into force of the TPNW in January 2021, controversies surrounding the new treaty are likely to dominate the upcoming NPT RevCon. This risks bringing to the fore, once again, divisions that surfaced during its last edition. As a defender of multilateral approaches to non-proliferation and arms control, the EU risks seeing its contribution to the conference diminished by internal dissension. A failed RevCon would have dire repercussions for the EU. While, for the time being, TPNW signatories remain committed to the NPT forum, it is feared that discontent over stagnation in the disarmament pillar may compel them to abandon it [97]. In turn, this would further complicate Brussels' efforts at rebuilding a debilitated non-proliferation and disarmament regime.

'Battlefield' or facilitator?

In the upcoming RevCon, the task of preserving the attractiveness of the NPT regime ought to feature prominently on the EU's agenda. This entails engaging with the TPNW, a formidable challenge for the EU in view of its internal divisions over this text. In order to achieve its stated goal of avoiding polarisation over the TPNW in the NPT context [98], it ought to recognise that the TPNW represents an opportunity for the NPT community. As has been commented, other than highlighting the legality and morality of nuclear deterrence, the TPNW 'will force the NPT regime to prove itself' [99]. Rather than allowing itself to become a 'battlefield' in the dispute between TPNW detractors and advocates, the EU could encourage both communities to engage in dialogue with each other, a dialogue that has been absent so far [100]. What is urgently needed is an effort at fostering mutual understanding, encouraging both sides to engage with the motivations driving the other side. In brokering such dialogue, the EU could profile itself as a facilitator rebuilding the moderate 'middle ground' amidst the fragmentation affecting the NPT community. With this end in mind, it could use its overlapping membership in NATO and in the TPNW to adopt a conciliatory approach to reduce the level of animosity between the two camps. In so doing, the EU can turn a handicap, namely its lack of rapport with the NPT community [101], into an advantage.

On one end of the spectrum, EU members of NATO could work with other allies to

(92) Finaud, M. and Mallard, G., 'L'européanisation de la dissuasion française', *La Tribune*, 18 February 2020.

(93) Elysée, 'Discours du Président Emmanuel Macron sur la stratégie de défense de dissuasion devant les stagiaires de la 27eme promotion de l'école de guerre', 7 February 2020.

(94) Jasper, U. and Portela, C., 'European Union defence integration and nuclear weapons', *Security Dialogue*, Vol. 41, No 2, 2010, pp. 145-168; Egeland and Pelopidas, 'European nuclear weapons?'.

(95) Tertrais, B., 'La dissuasion partagée ?', *Revue de Défense Nationale*, 819, 2019.

(96) Hautecouverture, B. and Maître, E., 'La France et la dissuasion nucléaire: le discours de l'Ecole de Guerre du président Macron', Note 3/20, Fondation pour la Recherche Stratégique, Paris, 2020; Sauer, T., 'Power and nuclear weapons: The case of the European Union', *Journal for Peace and Nuclear Disarmament*, Vol.3, No 1, 2020, pp. 41-59.

(97) 'The Nuclear Ban Treaty: A sign of global impatience', op.cit.

(98) Van Deelen, M., 'Exchange of views', Subcommittee on Security and Defence, European Parliament, 28 October 2020, 16:45 - 18:45.

(99) 'Strategic deterrence redux', op.cit., p.116.

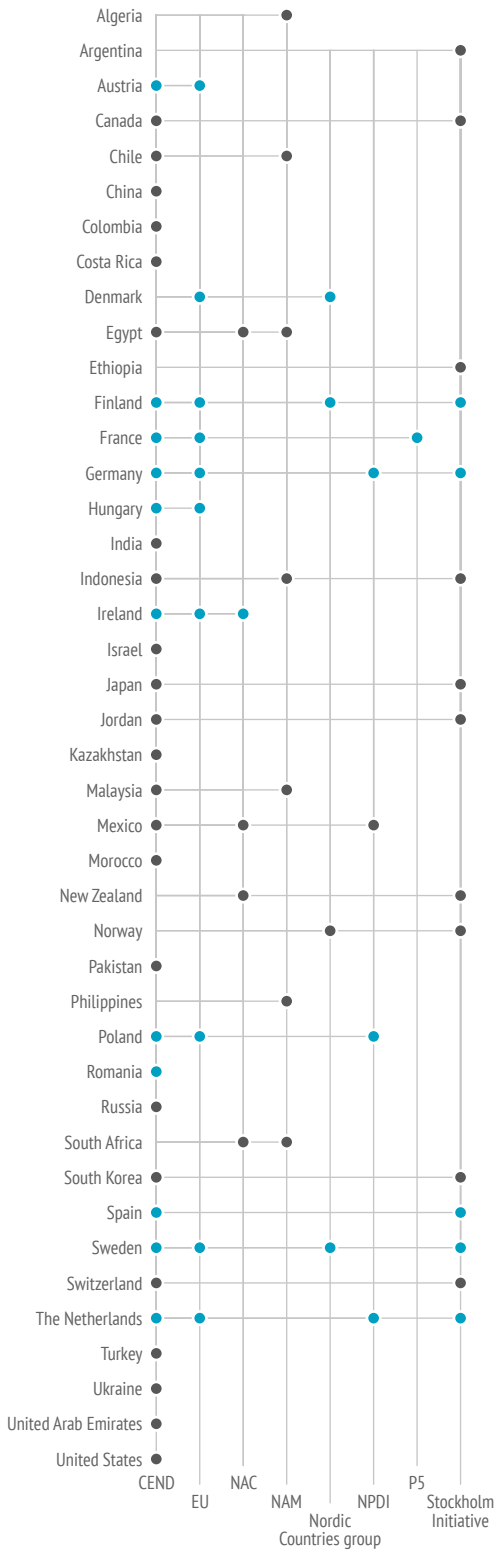
(100) 'NATO and the Treaty on the Prohibition of Nuclear Weapons', op.cit.

(101) 'Contestation to the European Union on nuclear non-proliferation', op.cit., p.9.

acknowledge the TPNW as compatible with the NPT, rather than as adversarial to it. Recognising the legitimacy of the treaty objectives does not equate to sympathising with the treaty, let alone to adhering to it. The expression of such recognition does not entail relinquishing NATO's persistent objection, which it could maintain. By acknowledging the compatibility with the NPT, parties sympathetic to the TPNW would be discouraged from distancing themselves from the NPT, or contemplating eventual withdrawal. After all, the legitimacy of the NPT regime was already in decline when the Action Plan was agreed at the 2010 RevCon. The balance between the pillars had shifted in favour of non-proliferation while increasingly limiting NNWS access to civilian nuclear technology [(102)]. NNWS did not only see their hopes for implementation of the 2010 Action Plan dashed by the lack of progress towards disarmament, but their perception of NWS' lack of adherence to disarmament obligations intensified following reports about the planned modernisation of arsenals. The progressive collapse of US-Russia arms control agreements, as well as the UK's plans to expand nuclear weaponry by up to 40 % [(103)], only exacerbated the disconnect between NWS policies and their NPT obligations. Contesting the legitimacy of the TPNW risks having the effect of isolating the EU and cementing its image as a *status quo* actor rather than as an 'honest broker' [(104)].

On the opposite end of the spectrum, EU members of the TPNW could work with other parties towards addressing shortcomings identified in the treaty. Part of the agenda should focus on 'legal repair work', addressing aspects of the text that remain ambiguous and create confusion. These include dissipating doubts about the relationship to the NPT, especially clarifying the interpretation of the subordination clause, identifying the entity responsible for verification and fleshing out the link to

Informal groupings and initiatives
Linked to the NPT Review Process



(102) 'The grand bargain in the NPT', op.cit.

(103) 'Britain is adding nukes for the first time since the cold war', *The Economist*, 16 March 2021: De Miguel, R., 'El Reino Unido ampliará su armamento nuclear en la era pos-Brexit', *El País*, 16 March 2021.

(104) 'Contestation to the European Union on nuclear non-proliferation', op.cit., p.9.

the CTBT. In addition, the text would benefit from a strengthening of its operationalisation, an aspect insufficiently considered during its drafting. This would assuage concerns that the swift establishment of the norm against nuclear weapons in a legally-binding instrument took precedence over designing an operational treaty equipped with the means to accomplish their elimination [(105)]. A second step consists in elaborating on the broader question of how disarmament could be effected without weakening the security of the parties involved [(106)]. Sceptics of the TPNW complain that only democratic countries are subject to civil society pressure, so that a successful campaign could prompt liberal democracies to disarm while autocracies would remain nuclear possessors, creating an asymmetrical situation detrimental to global security. Drafting a plan for co-ordinated reductions encompassing all nuclear powers would help advance the viability of the treaty. Finally, a number of states supportive of nuclear disarmament are reluctant to adhere to the treaty due to tensions with nuclear-armed neighbours. This is evidently the case in Europe's Nordic region, where Russia enjoys considerable advantage in the regional force correlation [(107)]. Improvements to the treaty might not fully assuage the concerns of those countries alarmed by hostile actions by nuclear-armed neighbours. However, they will promote further accessions in the mid-term, or at least, weaken the objections of hesitant states. These modifications could be accomplished via the adoption of interpretative guidance documents in the context of the forthcoming TPNW revision conferences, or with the negotiation of a protocol.

For Brussels, this entails a change of tactics. Instead of relying on the adoption of consensual language, an exercise that has reached its limits, making use of its access to opposed groups in order to mitigate antagonism and help them develop a peaceful coexistence emerges as a more promising avenue [(108)]. While facilitating dialogue and encouraging the formulation of policies that address their respective concerns, the EU should highlight the NPT as the best foundation to reconcile the various viewpoints and as the indispensable locus for negotiation between both camps [(109)].

(105) De Champchesnel, T., 'Que faire du Traite sur l'Interdiction des Armes Nucléaires ?', *Revue Défense Nationale*, No 809, 2018, pp. 113-117, p. 116.

(106) 'Possible ways to overcome tendencies of the Nuclear Weapons Ban Treaty', op.cit.

(107) 'Strategic deterrence redux', op.cit., p.124.

(108) 'Revitalising the NPT', op. cit.

(109) Hilgert, L., Kane, A. and Malygina, A., 'The TPNW and the NPT', *Deep Cuts Issue Brief* No.15, January 2021.

CONCLUSIONS

THE EU'S ARMS CONTROL CHALLENGE

The EU is currently facing a multifaceted challenge in the field of nuclear arms control. Firstly, and most fundamentally, because arms control agreements were concluded between Washington and Moscow, the EU remains formally excluded from them. As a non-party, the EU lacks direct influence on the preservation of a treaty network that protects the Union as the area sandwiched between the state parties. Secondly, the strengths of the EU do not rest on arms control. The juxtaposition of the EU's record in the nuclear field of arms control described in the first part of this *Chaillot Paper* and the current crisis reveals a mismatch: despite notable progress over the past few decades, EU action lacks the tools to address the crisis of arms control. Its areas of strength, which include the support of international agencies, technical assistance, sanctions and multilateral diplomacy, are unsuited to prevent the decline of the arms control fabric that protected the European continent for decades. Thirdly, EU internal cohesion on nuclear weapons issues is limited, and most centrally, the controversy over the TPNW cuts across its membership. The TPNW exacerbated the intra-European fracture over nuclear disarmament. The sharpening of the controversy over the urgency of advancing nuclear disarmament was reflected in the EU's inability to articulate common priorities ahead of the 2015 RevCon, breaking with an established tradition. While the EU had prepared a catalogue of joint priorities in anticipation of all RevCons of this century, the Humanitarian Initiative caused such controversy that the Council formulated only vague priorities in the Council conclusions, evidencing the magnitude of the disagreement [(1)]. This rendered the 2015 Review Conference the setting for a display of CFSP discord rather than unity. At the same time, the disagreement between advocates and detractors of the TPNW is not primarily intra-European, but reflects a gap that extends to the broader NPT community.

Hence, opposing dynamics characterise the EU's role in nuclear arms control and non-proliferation: on the one hand, a generous economic envelope that enables Brussels to fund important actions; on the other, a political fracture that hampers coordination between members. While this suggests that EU assets lie more in the technical and capacity building domain as opposed to diplomatic-political initiatives, it does not mean that EU prospects to help reinvigorate arms control are grim. Rather, the crisis in global arms control might compel Brussels to defend multilateral cooperation and to re-engage Washington as its main ally under the new Biden administration. Some observers have pointed to the growing resoluteness with which the EU endeavours to preserve the multilateral arms control regime, a recent example being the rejection of the US attempt to extend the arms embargo on Iran [(2)].

Even in the absence of formal involvement in the relevant treaties, there remain nevertheless various avenues through which the EU can actively support the preservation of what is left

(1) Council Conclusions on the Ninth Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), 8079/15, Brussels, 20 April 2015; 'Revitalising the NPT', op.cit.

(2) Meier, O., 'Europäische Antworten auf die Krise der Rüstungskontrolle', IFSH, Hamburg, 2020.

of the arms control legacy, and encourage its revival. The EU can take three steps to help reinvigorate arms control, while involving the EP in a collaborative effort throughout, alongside the Commission.

FROM 'DAMAGE CONTROL' TO 'GROUNDWORK BUILDING'

A first step would consist in keeping nuclear arms control issues at the top of the CFSP agenda. This prioritisation is intended to have different impacts. Firstly, the momentum created by the WMD Strategy, whose addendum was adopted as far back as 2008, has long subsided. The same applies to the ESS, especially since the less ambitious language of the Global Strategy has created the impression that the EU lost interest in the field. Designating nuclear arms control, non-proliferation and disarmament one of the priority areas of the CFSP will enhance the visibility of the EU as an entity committed to support the arms control regime. The ongoing drafting of the Strategic Compass [(3)] provides an ideal opportunity for the EU to identify the descent into a nuclear arms race – and not merely proliferation risks – as a common threat. A full updating of the WMD Strategy, advocated in some quarters [(4)], would deliver an even more powerful signal of EU engagement.

The formation of an intra-European consensus is important because, once in place, it could be exported to the NPT agenda.

Secondly, this prioritisation can stimulate internal coordination. The EU traditionally aspires to appear as a unitary actor by coordinating its positions and voting jointly at the NPT. With the help of the Council's remarkable coordination machinery, which produced 192 statements made in arms control forums in Geneva, New York, The Hague and Vienna in 2019 [(5)], the EU should continue to focus on reconstituting the internal cohesion that it lost at the 2015 NPT RevCon. The EP can support the Council in the formulation of its nuclear non-proliferation and disarmament agenda by cultivating its practice of drafting a catalogue of priorities for the NPT RevCon. The formation of an intra-European consensus is important because, once in place, it could be exported to the NPT agenda. This consensus can later be channelled via the links its members have in influential groupings in the NPT community, notably, the P5, the NPDI and the NAC, as well as in the recently created 'Stepping Stones' initiative. This can help surmount the polarisation of the NPT framework - a gain for the entire NPT community – while helping the EU achieve its stated goal of 'promoting a successful outcome of the 2021 Review Conference' [(6)]. Thirdly, Brussels could expand the reach of its WMD strategy and actions to include arms control also by name, reframing the current mandate of its 'Special Envoy for Non-Proliferation and Disarmament' to 'Special Envoy for Non-Proliferation, Disarmament and Arms Control'. The inclusion of arms control in the appointee's job title and mandate will empower the incumbent to participate in the arms control debate on behalf of the EU while publicly signalling the EU's readiness to engage in arms control issues.

(3) 'Contestation to the European Union on nuclear non-proliferation', op.cit.

(4) 'Europäische Antworten auf die Krise der Rüstungskontrolle', op.cit.

(5) 'Revitalising the NPT', op.cit.

(6) Written answer given by High Representative/Vice-President Borrell on behalf of the European Commission to the parliamentary question of MEP Özlem Demirel (GUE/NGL) on 'Preparing a strong common EU voice at the NPT Review Conference in light of the entry into force of the Treaty Prohibiting Nuclear Weapons', Question reference: E-006793/2020, 26 February 2021.

In a second step, the EU could consider relaxing its opposition towards the TPNW and developing a *modus vivendi* with it. Because of the predominance of NATO allies protected by the US nuclear 'umbrella' among EU members, its stance on disarmament appears closer to that of the European NWS than to those states advocating the Humanitarian Initiative. The prevalence of conservative views on disarmament accentuates the misalignment between the EU and NPT membership. Former Italian Ambassador Carlo Trezza cautions against attempts to delegitimise the [TPNW] treaty:

> *'The TPNW also represents a response to the inability of international actors to finalise consensual agreements in multilateral fora. Furthermore, by emphasising the humanitarian dimension in the discourse on nuclear weapons and disarmament, the TPNW legitimises a principle that is widely shared by the international community: that of achieving a world free of nuclear weapons* [(7)]*.'*

A central contribution the EU can make is to lay the intellectual and organisational 'groundwork' for the next arms control era.

The EU can help bridge the cleavage between those who contest the compatibility of the Ban Treaty with the NPT – mostly NATO members – and those who defend it. With the TPNW already in force, the EU can highlight that it does not rival the NPT, as its signatories remain active members in the NPT process. The Council should acknowledge the legitimacy of the Ban Treaty as a reaction to the current disarmament stalemate, and help rebuild an agenda that engages the entire NPT community. Other than having attracted 122 states to the negotiating table, the International Campaign to Abolish Nuclear Weapons received the Nobel Peace Prize.

Instead of vilifying the TPNW, the EU could promote an interpretation of the Ban Treaty that emphasises compatibility with the NPT and encourages gradual progress towards disarmament. Recent research suggests that adherence to the TPNW by non-nuclear weapons states and 'umbrella' states does not compete with the gradualist approach to disarmament favoured by nuclear powers and their allies [(8)]. Furthermore, the TPNW does not prohibit its parties from engaging in military alliances with nuclear powers as long as they refrain from assistance in nuclear-related activities.

In a third step, a central contribution the EU can make is to lay the intellectual and organisational 'groundwork' for the next arms control era. Arms control will require some degree of multilateralisation and the integration of emerging technologies, and Europe is well placed to conduct the conceptual thinking towards this multilateral effort [(9)]. Recognising that Europe is a beneficiary of arms control agreements, and that US and Russian arsenals remain sizeable despite substantial cuts [(10)], EU members can convene a process to reflect on the future of arms control in Europe. In the past, deliberative processes have resulted in major reform of security policies. The sanctions reform process, which entailed three conferences sponsored by Switzerland, Germany and Sweden, brought about the shift from comprehensive to targeted sanctions. Although it did not result in the drafting of a legally-binding treaty, it led to a redesign

(7) 'The UN Nuclear Ban Treaty and the NPT', op.cit.

(8) Egeland, K., 'Arms, influence and the Treaty on the Prohibition of Nuclear Weapons', *Survival*, Vol. 61, No 3, 2019, pp. 57-79.

(9) 'Die Rüstungskontrolle ist tot', op.cit.

(10) 'The deep crisis of nuclear arms control and disarmament', op.cit.

of global sanctions policies [11]. Similarly, the Humanitarian Initiative that preceded the launch of negotiations of the TPNW convened three conferences sponsored by Norway, Mexico and Austria [12].

In the case of nuclear arms control, this endeavour could be framed as a follow-up to the Swedish-launched 'Stepping Stones' diplomatic initiative and the 'Rethinking Arms Control' conference series. The process could take place under a format that replicates membership of the OSCE (Organisation for Security and Cooperation in Europe) to ensure the participation of Russia and the North American partners. Other than calling on Moscow and Washington to maintain arms control treaties, the objective of the process should be the drafting of an agreement to replace the INF with the full participation of European countries. Europeans' involvement in future agreements on nuclear forces in Europe already counts on the support of France, whose president raised the issue as part of his vision for European security [13]. Limits on deployments could follow the CFE model. While the EU did not play a formal role in nuclear arms control negotiations in the past [14], it can draw on its extensive experience in intergovernmental negotiations, and on the expertise acquired in co-drafting the JCPOA with Iran alongside other P5 members. While the ability of the EU to directly influence the attitudes of Moscow and Washington is limited, cooperating with both key actors in laying out the intellectual groundwork for a new treaty architecture will help Brussels carve a role for itself in the future.

The EU has a key role to play in raising public awareness of the importance of arms control and its central contribution to the protection of Europe.

The formal negotiation process outlined above should be accompanied by a parallel 'Track 2' process, which could emanate from the German-initiated 'Rethinking Arms Control' initiative. Even if Beijing cannot be persuaded to join the formal negotiation process as a full participant, it could be invited to be involved as an observer while partaking in the 'Track 2' meetings. Previous experience with Chinese participation in 'Track 2' dialogues has proved helpful in illuminating points of divergence and convergence and facilitating mutual understanding [15]

Finally, the EU has a key role to play in raising public awareness of the importance of arms control and its central contribution to the protection of Europe over the past decades. This role is not confined to dissemination efforts, but entails an educational element. The EU should advocate that arms control and disarmament education components are adequately represented in the curricula of relevant university degrees as well as in formal diplomatic training. Experts and professionals are concerned that 'the current generation of leaders, political elites and military officials has an inadequate understanding of the history of the nuclear arms race and nuclear arms control, and therefore an insufficient appreciation of the dangers of the vicious circle of the arms race and the international crises it provoked' [16]. Declining knowledge of arms control inevitably contributes to a de-emphasis of the issue and limited awareness of the risks associated with an arms race. The Council decided to fund educational and dissemination activities leading up to the 2020 NPT RevCon; however, they

(11) Biersteker, T., Eckert, S., Haelgua, A. and Romaniuk, P., 'Assessing the influence of the sanctions reform process' in Wallensteen, P. and Staibano, C. (eds.), *International Sanctions: Between words and wars in the global system*, Frank Cass, London, 2005, pp. 15-30.

(12) 'The development of the international initiative on the humanitarian impact of nuclear weapons', op.cit.

(13) 'Discours du Président Emmanuel Macron', op.cit.

(14) 'The crisis of nuclear arms control and its impact on European security', op.cit.

(15) 'China's nuclear weapons and the prospects for multilateral arms control', op.cit.

(16) 'MAD moment redux?', op.cit., p. 8.

targeted foreign delegations scheduled to participate in the NPT RevCon [(17)]. The EP, thanks to its direct link to the European electorate and its robust ties to civil society, can act as a key partner in this educational endeavour.

(17) Council Decision (CFSP) 2019/615 of 15 April 2019 on Union support for activities leading up to the 2020 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT).

ANNEX

TEXT OF THE 'STEPPING STONES' INITIATIVE

Stepping stones for advancing nuclear disarmament

Ministry of Foreign Affairs of Sweden, 'Ministerial meeting of the Stockholm Initiative for Nuclear Disarmament', 27 February 2020 (1)

We pledge to take responsibility in promoting, including, but not exclusively, the following stepping stones on the way to implementing nuclear disarmament, and we invite all states to consider, support and implement them:

Nuclear-Weapon States to acknowledge the need to ensure that nuclear weapons will never be used again and to advance nuclear disarmament.

The United States and Russia to extend New START and engage in talks on its possible expansion.

Nuclear-Weapon States to reduce or further reduce their nuclear arsenals and to contribute to next-generation arms control arrangements.

Nuclear-Weapon States, collectively or individually, to discuss and take practical measures to reduce the role of nuclear weapons in their policies and doctrines.

Nuclear-Weapon States to deepen discussions on nuclear doctrine and declaratory policies, both among themselves and with Non-Nuclear Weapon States, at the upcoming NPT Review Conference and throughout the next NPT review cycle.

Nuclear-Weapon States to report to parties to the NPT on arsenals and plans for their modernisation.

Nuclear-Weapon States, collectively or individually, to tighten Negative Security Assurances, including in the context of Treaties establishing Nuclear Weapons-Free Zones.

All States to support the establishment of Nuclear Weapons-Free Zones in all regions of the world on the basis of arrangements freely arrived at among States of the region concerned, including the establishment of Middle East zone free of nuclear weapons and other weapons of mass destruction in accordance with the 1995 resolution on the Middle East, in relation to which we feel encouraged by the first session of the conference held in 2019 and continuous efforts in this regard.

Nuclear-Weapon States and Nuclear Possessor States to engage in a structured dialogue to assess, minimize and address nuclear risks, including by measures aimed at preventing crisis, extending decision-times in crisis and measures to minimise potential vulnerabilities emerging from disruptive technologies and cyber threats, e.g. on command and control.

Nuclear-Weapon States to improve or establish crisis communication and protocol among each other, e.g. by hotlines and risk reduction centres.

(1) Available at: https://www.un.org/sites/un2.un.org/files/2020_wp.6_-_2003907e.pdf.

Nuclear-Weapon States to address increasing entanglement of conventional and nuclear systems and to take measures to reverse such development.

All States to uphold existing moratoria on nuclear-weapon test explosions or any other nuclear explosion and to enhance efforts towards the long overdue entry into force of the Comprehensive Test Ban Treaty (CTBT), through continued advocacy *vis-à-vis* and engagement by the States whose ratification is required, as well as political, technical and financial efforts to further strengthen the International Monitoring Systems and the Comprehensive Test Ban Treaty Organization (CTBTO).

All States to declare and uphold moratoria on the production of fissile material for use in nuclear weapons or other nuclear explosive devices.

Nuclear-Weapon States and Nuclear Possessor States to show leadership to unblock negotiations on a treaty prohibiting fissile material production.

All States to support the ongoing initiatives on developing multilateral nuclear disarmament verification capacities, such as the International Partnership for Nuclear Disarmament Verification and efforts within the United Nations such as Groups of Governmental Experts, Open-ended Working Groups and capacity building.

All States to engage with the young generation, including through dialogue platforms, mentoring, internships, fellowships, scholarships, model events and youth group activities

All States to encourage visits to and interaction with communities affected by nuclear weapons, including Hiroshima and Nagasaki, and former nuclear test sites such as Semipalatinsk and in the Pacific.

All States to ensure the full and effective participation of women and to further integrate gender perspectives in all aspects of nuclear disarmament and nonproliferation decision-making processes.

Nuclear-Weapon States to engage in and intensify dialogue on maintaining strategic stability, with maximum transparency *vis-à-vis* the international community, to foster mutual understanding and trust and setting the frame for future arms-control agreements and disarmament.

All parties to the NPT to report on their implementation of obligations and commitments under the NPT using a standardized reporting format, and to support proposals to strengthen reporting and transparency commitments.

Each Nuclear-Weapon State to submit its NPT implementation reports in advance of the 2020 NPT Review Conference.

All states to commit to enhancing the NPT review cycle to improve implementation in all its aspects and to support ongoing efforts to strengthen the NPT review process.

TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS (NPT)

The States concluding this Treaty, hereinafter referred to as the Parties to the Treaty,

Considering the devastation that would be visited upon all mankind by a nuclear war and the consequent need to make every effort to avert the danger of such a war and to take measures to safeguard the security of peoples,

Believing that the proliferation of nuclear weapons would seriously enhance the danger of nuclear war,

In conformity with resolutions of the United Nations General Assembly calling for the conclusion of an agreement on the prevention of wider dissemination of nuclear weapons,

Undertaking to co-operate in facilitating the application of International Atomic Energy Agency safeguards on peaceful nuclear activities,

Expressing their support for research, development and other efforts to further the application, within the framework of the International Atomic Energy Agency safeguards system, of the principle of safeguarding effectively the flow of source and special fissionable materials by use of instruments and other techniques at certain strategic points,

Affirming the principle that the benefits of peaceful applications of nuclear technology, including any technological by-products which may be derived by nuclear-weapon States from the development of nuclear explosive devices, should be available for peaceful purposes to all Parties to the Treaty, whether nuclear-weapon or non-nuclear-weapon States,

Convinced that, in furtherance of this principle, all Parties to the Treaty are entitled to participate in the fullest possible exchange of scientific information for, and to contribute alone or in co-operation with other States to, the further development of the applications of atomic energy for peaceful purposes,

Declaring their intention to achieve at the earliest possible date the cessation of the nuclear arms race and to undertake effective measures in the direction of nuclear disarmament,

Urging the co-operation of all States in the attainment of this objective,

Recalling the determination expressed by the Parties to the 1963 Treaty banning nuclear weapons tests in the atmosphere, in outer space and under water in its Preamble to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time and to continue negotiations to this end,

Desiring to further the easing of international tension and the strengthening of trust between States in order to facilitate the cessation of the manufacture of nuclear weapons, the liquidation of all their existing stockpiles, and the elimination from national arsenals of nuclear weapons and the means of their delivery pursuant to a Treaty on general and complete disarmament under strict and effective international control,

Recalling that, in accordance with the Charter of the United Nations, States must refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations, and that the establishment and maintenance of international peace and security are to be promoted with the least diversion for armaments of the world's human and economic resources,

Have agreed as follows:

Article I

Each nuclear-weapon State Party to the Treaty undertakes not to transfer to any recipient whatsoever nuclear weapons or other nuclear explosive devices or control over such weapons or explosive devices directly, or indirectly; and not in any way to assist, encourage, or induce any non-nuclear-weapon State to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices, or control over such weapons or explosive devices.

Article II

Each non-nuclear-weapon State Party to the Treaty undertakes not to receive the transfer from any transferor whatsoever of nuclear weapons or other nuclear explosive devices or of control over such weapons or explosive devices directly, or indirectly; not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices; and not to seek or receive any assistance in the manufacture of nuclear weapons or other nuclear explosive devices.

Article III

1. Each non-nuclear-weapon State Party to the Treaty undertakes to accept safeguards, as set forth in an agreement to be negotiated and concluded with the International Atomic Energy Agency in accordance with the Statute of the International Atomic Energy Agency and the Agency's safeguards system, for the exclusive purpose of verification of the fulfilment of its obligations assumed under this Treaty with a view to preventing diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices. Procedures for the safeguards required by this Article shall be followed with respect to source or special fissionable material whether it is being produced, processed or used in any principal nuclear facility or is outside any such facility. The safeguards required by this Article shall be applied on all source or special fissionable material in all peaceful nuclear activities within the territory of such State, under its jurisdiction, or carried out under its control anywhere.

2. Each State Party to the Treaty undertakes not to provide: (a) source or special fissionable material, or (b) equipment or material especially designed or prepared for the processing, use or production of special fissionable material, to any non-nuclear-weapon State for peaceful purposes, unless the source or special fissionable material shall be subject to the safeguards required by this Article.

3. The safeguards required by this Article shall be implemented in a manner designed to comply with Article IV of this Treaty, and to avoid hampering the economic or technological development of the Parties or international co-operation in the field of peaceful nuclear activities, including the international exchange of nuclear material and equipment for the processing, use or production of nuclear material for peaceful purposes in accordance with the provisions of this Article and the principle of safeguarding set forth in the Preamble of the Treaty.

4. Non-nuclear-weapon States Party to the Treaty shall conclude agreements with the International Atomic Energy Agency to meet the requirements of this Article either individually or together with other States in accordance with the Statute of the International Atomic Energy Agency. Negotiation of such agreements shall commence within 180 days from the original entry into force of this Treaty. For States depositing their instruments of ratification or accession after the 180-day period, negotiation of such agreements shall commence not later than the date of such deposit. Such agreements shall enter into force not later than eighteen months after the date of initiation of negotiations.

Article IV

1. Nothing in this Treaty shall be interpreted as affecting the inalienable right of all the Parties to the Treaty to develop research, production

and use of nuclear energy for peaceful purposes without discrimination and in conformity with Articles I and II of this Treaty.

2. All the Parties to the Treaty undertake to facilitate, and have the right to participate in, the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy. Parties to the Treaty in a position to do so shall also co-operate in contributing alone or together with other States or international organizations to the further development of the applications of nuclear energy for peaceful purposes, especially in the territories of non-nuclear-weapon States Party to the Treaty, with due consideration for the needs of the developing areas of the world.

Article V

Each Party to the Treaty undertakes to take appropriate measures to ensure that, in accordance with this Treaty, under appropriate international observation and through appropriate international procedures, potential benefits from any peaceful applications of nuclear explosions will be made available to non-nuclear-weapon States Party to the Treaty on a non-discriminatory basis and that the charge to such Parties for the explosive devices used will be as low as possible and exclude any charge for research and development. Non-nuclear-weapon States Party to the Treaty shall be able to obtain such benefits, pursuant to a special international agreement or agreements, through an appropriate international body with adequate representation of non-nuclear-weapon States. Negotiations on this subject shall commence as soon as possible after the Treaty enters into force. Non-nuclear-weapon States Party to the Treaty so desiring may also obtain such benefits pursuant to bilateral agreements.

Article VI

Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control.

Article VII

Nothing in this Treaty affects the right of any group of States to conclude regional treaties in order to assure the total absence of nuclear weapons in their respective territories.

Article VIII

1. Any Party to the Treaty may propose amendments to this Treaty. The text of any proposed amendment shall be submitted to the Depositary Governments which shall circulate it to all Parties to the Treaty. Thereupon, if requested to do so by one-third or more of the Parties to the Treaty, the Depositary Governments shall convene a conference, to which they shall invite all the Parties to the Treaty, to consider such an amendment.

2. Any amendment to this Treaty must be approved by a majority of the votes of all the Parties to the Treaty, including the votes of all nuclear-weapon States Party to the Treaty and all other Parties which, on the date the amendment is circulated, are members of the Board of Governors of the International Atomic Energy Agency. The amendment shall enter into force for each Party that deposits its instrument of ratification of the amendment upon the deposit of such instruments of ratification by a majority of all the Parties, including the instruments of ratification of all nuclear-weapon States Party to the Treaty and all other Parties which, on the date the amendment is circulated, are members of the Board of Governors of the International Atomic Energy Agency. Thereafter, it shall enter into force for any other Party upon the deposit of its instrument of ratification of the amendment.

3. Five years after the entry into force of this Treaty, a conference of Parties to the Treaty shall be held in Geneva, Switzerland, in order to

review the operation of this Treaty with a view to assuring that the purposes of the Preamble and the provisions of the Treaty are being realised. At intervals of five years thereafter, a majority of the Parties to the Treaty may obtain, by submitting a proposal to this effect to the Depositary Governments, the convening of further conferences with the same objective of reviewing the operation of the Treaty.

Article IX

1. This Treaty shall be open to all States for signature. Any State which does not sign the Treaty before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time.

2. This Treaty shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics and the United States of America, which are hereby designated the Depositary Governments.

3. This Treaty shall enter into force after its ratification by the States, the Governments of which are designated Depositaries of the Treaty, and forty other States signatory to this Treaty and the deposit of their instruments of ratification. For the purposes of this Treaty, a nuclear-weapon State is one which has manufactured and exploded a nuclear weapon or other nuclear explosive device prior to 1 January 1967.

4. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Treaty, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or of accession, the date of the entry into force of this Treaty, and the date of receipt of any requests for convening a conference or other notices.

6. This Treaty shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.

Article X

1. Each Party shall in exercising its national sovereignty have the right to withdraw from the Treaty if it decides that extraordinary events, related to the subject matter of this Treaty, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to all other parties to the Treaty and to the United Nations Security Council three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

2. Twenty-five years after the entry into force of the Treaty, a conference shall be convened to decide whether the Treaty shall continue in force indefinitely, or shall be extended for an additional fixed period or periods. This decision shall be taken by a majority of the Parties to the Treaty.1

Article XI

This Treaty, the English, Russian, French, Spanish and Chinese texts of which are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of this Treaty shall be transmitted by the Depositary Governments to the Governments of the signatory and acceding States.

IN WITNESS WHEREOF the undersigned, duly authorized, have signed this Treaty.

DONE in triplicate, at the cities of London, Moscow and Washington, the first day of July, one thousand nine hundred and sixty-eight.

Note:

On 11 May 1995, in accordance with article X, paragraph 2, the Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons decided that the Treaty should continue in force indefinitely (see decision 3).

ABBREVIATIONS

ABM
Anti-Ballistic Missile

CBRN
Chemical, biological, radiological and nuclear

CEND
Creating an Environment for Nuclear Disarmament

CFE
Conventional Armed Forces in Europe

CFSP
Common Foreign and Security Policy

CTBT
Comprehensive Test Ban Treaty

CTBTO
Comprehensive Test Ban Treaty Organisation

DPRK
Democratic People's Republic of Korea

EC
European Community

EEAS
European External Action Service

EP
European Parliament

EPC
European Political Co-operation

ESS
European Security Strategy

EU
European Union

Euratom
European Atomic Energy Community

GLCM
Ground-launched cruise missiles

HR/VP
High Representative for Foreign Affairs and Security Policy/Vice-President of the Commission

IAEA
International Atomic Energy Agency

INF
Intermediate Nuclear Forces

Instex
Instrument for Supporting Trade Exchanges

JCPOA
Joint Comprehensive Plan of Action

KEDO
Korean Peninsula Energy Development Organisation

MEP
Member of the European Parliament

NAC
New Agenda Coalition

NAM
Non-Aligned Movement

NATO
North Atlantic Treaty Organisation

NNWS
Non-nuclear weapons state(s)

NPDI
Non-Proliferation and Disarmament Initiative

NPT
Non-Proliferation Treaty

NSG
Nuclear Suppliers Group

NWS
Nuclear weapons state(s)

PRC
People's Republic of China

PrepCom
Preparatory Committee

RevCon
Review Conference

SALT
Strategic Arms Limitation Talks

SALW
Small arms and light weapons

START
Strategic Arms Reduction Treaty

TEU
Treaty on European Union

TPNW
Treaty on the Prohibition of Nuclear Weapons

UN
United Nations

UNGA
United Nations General Assembly

UNSC
United Nations Security Council

WMD
Weapons of mass destruction

Since the adoption of its Strategy against the Proliferation of Weapons of Mass Destruction, the EU has raised its profile in the field of nuclear non-proliferation and arms control.

However, the current crisis of arms control, which has recently seen the demise of key agreements like the Intermediate Nuclear Forces Treaty (INT), represents a dual challenge for the EU: while its territory is most directly affected by the dismantlement of arms control treaties, it is not a party to them. Moreover, traditional divisions over disarmament among EU member states have been exacerbated by disagreements over the Treaty on the Prohibition of Nuclear Weapons (TPNW).

This *Chaillot Paper* suggests that the EU can prevent the deepening of such divisions and mitigate global polarisation in order to promote a successful outcome of the upcoming Review Conference of the Nuclear Non-Proliferation Treaty (NPT). To this end, it can make use of its access to both advocates and detractors of the TPNW in order to foster dialogue, acting as a bridge-builder between both camps while preparing for a new arms control system to replace the agreements that are progressively being abandoned.

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