

The need for a new approach to European non-proliferation policy?



Manuel Herrera

April 2020

About INCIPE

The International Affairs and Foreign Policy Institute (INCIPE) is a private foundation, non-profit and recognized by the Spanish Ministry of Culture. Founded in 1978, INCIPE's main objective is to conduct research and debates on the problems of Spanish foreign policy and contemporary international relation, with special attention to the security and defense studies. INCIPE is the **only think-tank in Spain with special focus on arms control, non-proliferation and disarmament** with a broad and active program of conferences, debates and research on those issues. Although INCIPE actively collaborates with the Spanish Foreign Affairs and Defense ministries, the Foundation maintains an independent position from any political party or interest group, and involves in its activities collaborators and experts stemming from distinct professional and political perspectives.



For more information please visit our website: <http://www.incipe.org/>

About the author

Manuel Herrera worked with INCIPE throughout the Winter and Spring of 2020 as an EU Non-Proliferation Consortium research intern. He holds a master's degree from the Barcelona Institute of International Studies in International Security, with a focus on European external action on nuclear security, non-proliferation and arms control. He is currently a European mention PhD student at the King Juan Carlos University of Madrid international quality doctorate program where he is writing a thesis on the EU non-proliferation policy.

Acknowledgement

This report has been prepared under the supervision of Prof. Dr. Vicente Garrido as part of a research internship at the International Affairs and Foreign Policy Institute (INCIPE), funded by the European Union (EU) Non-Proliferation and Disarmament Consortium as part of a larger EU educational initiative aimed at building capacity in the next generation of scholars and practitioners in non-proliferation policy and programming. The views expressed in this paper are those of the author and do not necessarily reflect those of the INCIPE, the EU Non-Proliferation and Disarmament Consortium or other members of the network.

The need for a new approach to European non-proliferation policy?

Manuel Herrera

April 2020

Published by the International Affairs and Foreign Policy Institute (INCIPE)

C/Alberto Aguilera 7 – 6º dcha. 28015
Madrid (Spain)

Tel: +34 91 445 58 47/48

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

INDEX

1. Introduction
2. The EU Non-Proliferation Normative Basis and Developments
 - 2.1 Why and EU Non-Proliferation Strategy ?
 - 2.2 The strategy's anatomy
 - 2.3 The normative underpinning and shortcomings for the implementation of the strategy
 - 2.4 Beyond the Non-Proliferation Strategy: The 2016 Global Strategy
3. EU Normative Power in practice
 - 3.1 The case of the non-proliferation clause: India
 - 3.2 The use of sanctions: Iran
 - 3.3 EU Normative Power performance: An assessment
4. The New Strategic Environment and Policy Recommendation
 - 4.1 The Global Strategy and WMD
5. Conclusions

1. Introduction

Since the publication of Ian Manners' article "*Normative Power Europe: A Contradiction in Terms?*", it is assumed that the EU is a power that seeks to expand its norms to make the rest of the actors in the international system similar to it. The notion of normative power does not escape the scope of non-proliferation and European policy in this area: Since the publication of the Non-Proliferation Strategy in 2003, the EU has sought to expand its non-proliferation norms to all members of the international community (e.g. the will to universalize the 1968 Non-Proliferation Treaty (NPT) or the incorporation of the non-proliferation clause in agreements with third States) by maximising the use the instruments at its disposal.

Despite the fact that this has led to think about the EU as an emerging defender of the fundamental sense of non-proliferation and disarmament, EU member States have diverging views altogether on these matters, particularly on the second one. Reality is that the field of non-proliferation is not one where the EU has acted to its full potential. The question therefore that arises is if third parties consider the European Union as a fully-fledged actor in non-proliferation and if it can do more and be more effective in this field. In this sense, we formulate the following hypothesis: The acceptance of the norms that the EU intends to expand in this policy field by third party actors entails a positive performance in terms of its non-proliferation policy, and therefore its acceptance as a valid actor in this regime. To verify this hypothesis, we will proceed to carry out two case studies that provide practical evidence of the EU's normative power in action, these being the negotiation of a non-proliferation clause with India, and the implementation of sanctions against Iran as a result of its nuclear programme. Ultimately, this will allow us to have a clear idea of the real capacity of the EU for disseminating its non-proliferation norms, whether the EU non-proliferation norms have been adopted (accepted) or not, to know to what extent the EU is conceived by other States as a valid actor in this policy area, and whether conditionality instruments are really fulfilling their function or whether the principle of EU political conditionality needs to be revised.

2. EU's Non-Proliferation Normative Basis and Developments

2.1 Why an EU Non-Proliferation Strategy?

The main reason for the publication of the Non-Proliferation Strategy in 2003 was an endogenous one: the attempt to repair the intra-European fissures caused by the American invasion of Iraq. The 2003 Iraqi crisis was very divisive in terms of support and rejection of Washington's policy towards Saddam Hussein's regime, but had the virtue of awakening European leaders and force them to look for common positions on security and defence affairs, particularly on non-proliferation, if they wanted the EU to be seen as a credible actor in international security affairs. In this regard, the draft of a common Non-Proliferation Strategy became a priority.

On the other hand, there are several exogenous reasons that lead to draft such a document. First, the WMD regimes found themselves in a period of serious crisis, largely due the neglect and effective relinquishment of arms control by the Bush administration. At the core of U.S. policy in the aftermath of September 11 2001, was an increased concern that terrorist organizations could gain access to WMD, combined with the perception that the existing regimes were ill-equipped to prevent proliferation threats, which were thought to require a more forcible response. As a consequence, the non-proliferation regimes were deprived of the leadership of the major international player. Secondly, the United States was intent on promoting a doctrine of "*preventive defence*". This was employed to justify the use of force against Iraq largely on the basis of its alleged possession of WMD. U.S. policy provoked a profound disagreement over the necessity of conducting a military campaign against Iraq, dividing Europeans amongst themselves and causing serious rifts in the transatlantic partnership. So, the framing of an EU Non-Proliferation Strategy thus arose primarily from the need to restore both a transatlantic and an intra-European consensus on security affairs.

2.2 The anatomy of the Non-Proliferation Strategy

The EU Non-Proliferation Strategy provided the normative basis for the EU's external and internal action in the field of non-proliferation, thus also establishing its priorities and means of action. The announced objective of the strategy is to prevent, deter, halt and, where possible, eliminate proliferation programs of concern worldwide¹. The cornerstone of the strategy is the concept of effective multilateralism, which confirms the EU's support for the multilateral non-proliferation regimes.

The Strategy is composed of three main sections: a threat assessment; a set of broad measures; and an action plan that has already been updated several times through the strategy's six-monthly progress reports. The vast majority of the measures suggested in the action plan are geared towards the improvement of legislation, practices and coordination between member States, the establishment of external assistance programmes, as well as some proposals to be put forward in international forums. Depending on whether the proposals are purely of EU-internal nature, bilateral or multilateral, they would be implemented by means of legislation, the release of financial resources, diplomatic means, or a mix of all three. At the same time, EU non-proliferation policy emphasizes improving the verifiability of multilateral treaties and "*strengthening the enforcement of obligations*" in multilateral treaty regimes²; the introduction of a non-proliferation clause in agreements with third countries; and the quest for regional political solutions in order for States to renounce nuclear weapons and join the Non-Proliferation Treaty (NPT).

The Strategy is implemented through Common Foreign and Security Policy (CFSP) decisions as well as European Commission funded projects under instruments like the

¹ Council of the European Union. "Fight against the Proliferation of Weapons of Mass Destruction - EU Strategy against Proliferation of Weapons of Mass Destruction" Brussels 2003 p. 2

² Council of the European Union. "COUNCIL COMMON POSITION 2003/805/CFSP of 17 November 2003 on the universalisation and reinforcement of multilateral agreements in the field of non-proliferation of weapons of mass destruction and means of delivery". Brussels 2003 p.1

Instrument for Stability (now called the Instrument for Stability and Peace)³. To achieve its objectives, the EU makes use of several instruments, but mainly its significant economic resources and diplomatic leverage⁴.

Finally, the Non-Proliferation Strategy is a *sui generis* document. This means that it does not correspond to any of the formal instruments of the CFSP, it is neither a Common Position, nor a Joint Action. While not legally binding, it features one peculiarity normally absent from political declarations: it foresees a constant revision and updating process as well as the regular production of progress reports.

2.3 The normative underpinning and shortcomings for the implementation of the strategy

The global multilateral non-proliferation regime is seen as the normative underpinning of the Strategy. If the multilateral treaty regime is to remain credible, the strategy calls for an emphasis on a policy of reinforcing compliance with the regime. Policy, in the eyes of the EU, must be geared towards enhancing the detectability of significant violations and the strengthening of enforcement of the prohibitions and norms established by the regime, including by providing for the criminalisation of violations committed under the jurisdiction of a State.

The Non-Proliferation Strategy states that multilateralism has to be the EU's *modus operandi* in this policy area⁵. In this sense, the EU seeks to expand the non-proliferation regime, in terms of members, through multilateral instruments and/or mechanisms, in order to achieve the universalization of the NPT and the norms it incorporates⁶. To

³ European External Action Service. "Disarmament, Non-Proliferation and Arms Export Control". [online] Available at: http://www.eeas.europa.eu/non-proliferation-and-disarmament/index_en.htm [Accessed 25 Jan. 2020].

⁴ Quille. "A New Transatlantic Approach? A View from Europe". In: *Arms Control in the 21st Century*. London: Routledge 2013 p.190

⁵ Council of the European Union. "Fight against the Proliferation of Weapons of Mass Destruction - EU Strategy against Proliferation of Weapons of Mass Destruction" Brussels 2003 p.4

⁶ Council of the European Union. "Fight against the Proliferation of Weapons of Mass Destruction - EU Strategy against Proliferation of Weapons of Mass Destruction" Brussels 2003 p.6

expand the regime members refers to incorporate the non-recognised NWS (India, Pakistan and Israel) that stand outside the NPT and to the Additional Protocol of the International Atomic Energy Agency (IAEA), to which the EU would like to see all NPT parties adhere. In order to do so, EU policy defines effective multilateralism as involving a host of measures to reinforce compliance, strengthen the role of the United Nations Security Council (UNSC) as the final arbiter on the consequences of non-compliance, and to support the IAEA financially, as the main mechanism in order to incorporate these States to the regime.

Now, the main problem with the EU and the implementation of its Non-Proliferation Strategy lies in a conceptual contradiction between support for the sovereign equality of States and the unequal distinction between liberal and illiberal regimes. This contradiction is clearly evident in the nuclear non-proliferation regime itself, and in its supreme rule, the NPT, which the EU supports unconditionally. There is no question that the NPT was from the outset and remains a compromise between pluralism and anti-pluralism: the NPT goal is to abolish nuclear weapons, thus generating equality, but it distinguishes between the rights and obligations of nuclear weapons states (NWS) and non-nuclear weapons states (NNWS), thus recognizing inequality. The EU typically responds within the framework of pluralism, emphasizing legal traditions of sovereign equality. However, the EU is also a promoter of liberalism, which *de facto* undermines sovereign pluralism, because it values liberal-democratic values more than sovereignty. This conceptual ambiguity explains why it is difficult for the EU to operate within the NPT framework, particularly regarding the issue of disarmament.

Other of the problems of the EU is that its members knowingly and recurrently have undertaken actions that run counter to the EU's collective policy. For instance, individual member States publish or adopt positions at the NPT Review Conferences (RevCon) which contradict or detract from the common position adopted in the Council of the EU. In this regard, the Non-Proliferation Strategy has highlighted the limitations of the EU in agreeing its position and action in this area. These limitations derive from two factors: the first is the existence of one member State within the EU (France) with nuclear weapons, and the second is the transatlantic link as a fracturing element of a common

[The need for a new approach to European non-proliferation policy?](#)

security policy⁷; making the adoption of common positions on a particular issue very complicated and sometimes resulting in documents that are empty of practical content.

2.4 Beyond the Non-Proliferation Strategy: The 2016 Global Strategy

In order to solve these conceptual and operational shortcomings, minor revisions to the strategy were undertaken. In particular, 2008 saw the publication of the New Lines of Action which, rather than a substantial change in the EU's non-proliferation policy, represented a reaffirmation of the norms, values and principles introduced in the 2003 Strategy. It was not until 2016 that the EU, realizing the changing environment of international relations, decided to undertake an in-depth review of its external action strategy and published the Global Strategy.

The Global Strategy was drafted in a dramatically deteriorating environment, which undermined the EU's liberal values *ad extram*, as pointed out by the strategic assessment leading to the draft of the new strategy⁸. Natalie Tocci argues that *“the Global Strategy stands firm on the affirmation of the EU's internal values and its firmness on this point is all the more important given that those values are being questioned within, as evident with the rise of extreme-right populism across the continent. But this does not mean that the EU expects its internal liberal values to be adopted externally too”*⁹. This represents a significant change in the EU's self-conception with respect to the 2003 Security Strategy. Now we can see a more defensive EU, based on security threats, the diminishment of internal cohesion and a unstable internal and external environment, which also reveals a consciousness that the *“world did not want to be like*

⁷ Portela, C. “The Role of the EU in the Non-Proliferation of Nuclear Weapons: The Way to Thessaloniki and Beyond”. Peace Research Institute Frankfurt: Frankfurt/Main 2003 pp.3-4

⁸ European External Action Service “The European Union in a changing global environment A more connected, contested and complex world”. Brussels 2015 pp. 1-3

⁹ Tocci, N. “Framing the EU global strategy: a stronger Europe in a fragile world”. Cham, Switzerland Palgrave Macmillan Published by Springer Nature 2019. p.61

*us Europeans anymore*¹⁰, framing like that the Global Strategy around the contestation of traditional normative discourses and the evolution of the EU's narrative from a universal and transformative vision to a more demarcated and securitized one. The Global Strategy opts for "*principled pragmatism*"¹¹ as a way to "*move away from the outwards looking idealism of the early 2000s, without swinging all the way to the opposite end of realpolitik*"¹², which means that there is still room or scope for the dissemination of EU norms, but this process will have to be done in a different way and through different instruments than those used so far.

The main conclusion to be drawn from the Global Strategy is that multilateralism and EU normative diffusion approaches will need to be pragmatic. In this respect, the overall strategy signals its willingness to pursuing a new framework of global governance for the twenty-first century, replacing the concept of effective multilateralism¹³. This, in turn, downscales the EU's normative approach to foreign policy, which now rests on the more ordinary principle of sovereignty. All in all, the framing of the Global Strategy represents a less universalistic and more pragmatic approach towards EU's foreign policy and international relations. This is largely due to the resistance to normative understandings of the EU as a global actor, or in other words, the lack of acceptance of EU norms by third parties. In adopting this new strategic narrative, the EU reduces its transformative ambitions.

¹⁰ Morillas, P. "Strategy-making in the EU: from foreign and security policy to external action". Cham: Palgrave Macmillan 2019. p.135

¹¹ European External Action Service. "Shared Vision, Common Action: A Stronger Europe. A Global Strategy for the European Union's Foreign and Security Policy". Brussels 2016 p. 16

¹² Tocci, N. *Op Cit* p.55

¹³ Barbé, E. et al. "Contending metaphors of the European Union as a global actor. Norms and power in the European discourse on multilateralism". *Journal of Language and Politics*, 14(1), 2015 pp.18-40.

3. EU Normative Power in Practice

3.1 The case of the non-proliferation clause: India

As we have already seen, a number of events catalyzed the drafting of the EU Non-Proliferation Strategy in 2003. On the basis of these events, the EU Council Secretariat and the European Commission produced two documents in mid-2003: "*Basic Principles for an EU Strategy against the Proliferation of Weapons of Mass Destruction*" and an "*Action Plan for the implementation of the basic principles for an EU Strategy against the Proliferation of Weapons of Mass Destruction*". These documents stressed the need for strong and credible multilateral regimes and favored political solutions to problems that could lead countries and non-state actors to seek WMD capabilities¹⁴. It was thus conceived that in the relationship with third parties non-proliferation is a key element for the EU when considering the decision to enter into negotiations or assessing the desirability of moving towards a contractual relationship¹⁵, and that in the future a non-proliferation clause should be included in all mixed agreements between the EU and third parties. As a consequence, in November 2003, the EU Council adopted the non-proliferation clause as a mechanism to promote the non-proliferation of WMD through EU external relations. The clause makes respect for non-proliferation an essential element of bilateral relations: if one party deems the other party to have failed in this regard it can take appropriate measures including suspension of agreements. The clause was seen as an effective way to influence the behavior of partners¹⁶. The non-proliferation clause was developed as part of a comprehensive reform of the EU's efforts to promote the non-proliferation of nuclear, biological, radiological and chemical weapons and their means of delivery. By including the non-proliferation clause in agreements with third parties, it is possible (in theory) to condition elements of the European Commission agenda (e.g. trade or development cooperation) on the fulfilment

¹⁴ Council of the European Union. "Basic Principles for an EU Strategy against Proliferation of Weapons of Mass Destruction". Brussels 2003

¹⁵ Council of the European Union. "Fight against the Proliferation of Weapons of Mass Destruction - EU Strategy against Proliferation of Weapons of Mass Destruction" Brussels 2003

¹⁶ Portela, C "The EU and the NPT: testing the European nonproliferation strategy" *Disarmament Diplomacy* no. 78. 2004

or achievement of objectives in the field of non-proliferation. A central novelty of this instrument is the introduction of conditionality in the form of the clause.

Formal relations between the EU and India have progressed very slowly. For instance, today's relations between the two blocs continue to be governed by the 1994 Cooperation Agreement between the European Community and the Republic of India on Partnership and Development, essentially a standard economic cooperation agreement. In fact, the bulk of EU-India relations are more economic than political. Since 2000, the EU has sought to advance the relationship with regular annual EU-India Summits, where the two sides exchange views at the highest level on a range of issues of mutual interest, including non-proliferation. At the EU-India Summit in The Hague in 2004, the EU-India Strategic Partnership was launched with the aim of enhancing existing trade relations with a more explicit political dimension in the field of peace and security and strengthening links in research, technology and culture. The following year, both sides adopted the so-called Joint Action Plan to launch the Strategic Partnership. However, the tangible results in the field of international security have been rather modest. One notable failure was India's refusal to negotiate a formal bilateral political agreement with the EU, including EU conditionality clauses, inter alia on non-proliferation. The negotiation of a political agreement was launched in parallel with the negotiations for an EU-India free trade agreement (FTA), which have been ongoing since 2007.

Inevitably, the question of the inclusion of the non-proliferation clause and the use of conditionality to persuade India to accede to major nuclear arms control agreements has been a subject of considerable debate. India has nuclear weapons but is not a party to the NPT. It is also one of the nine remaining states that must ratify the 1996 Comprehensive Test Ban Treaty (CTBT) for it to enter into force. In addition, India's stated positions on aspects of the international non-proliferation regime, its proliferation record, its likely limited ability to enforce export controls on nuclear materials and technologies, along with its 2005 agreement with the United States on civil nuclear cooperation and its special exemption from Nuclear Suppliers Group (NSG)

rules, make it a controversial case from the point of view of non-proliferation^{17 18}, since it is not *a priori* a state that is part of the non-proliferation regime but is *de facto* part of several of the informal agreements or mechanisms of the nuclear non-proliferation regime.

It is understandable that there have been intense discussions among EU Member States since the FTA was first proposed and that the EU has made several approaches to the Government of India in relation to non-proliferation¹⁹. On the basis of a request from India, the EU Council authorized the Commission in 2007 to negotiate a free trade agreement²⁰. The June 2009 progress report on the implementation of the Non-Proliferation Strategy confirmed that it would not include the clause. The EU's idea was to create legal links between an FTA and the renewed framework agreement, so that failure to comply with the essential elements of the framework agreement could ultimately lead to the suspension of the FTA. However, India completely rejected this approach. This led to speculation that the EU, in the interests of trade, was going to abandon the normative principle that all new agreements with third countries should be linked to non-proliferation commitments. Annalisa Giannella, former Personal Representative on Non-Proliferation of WMD to the EU High Representative, publicly stated that allowing the non-proliferation clause to be dropped, as requested by some Member States in the Council, would create a "*terrible double standard*" and that "*if we were to take a different approach to India from the one we took with other countries, I think we would abandon the idea of having a non-proliferation clause altogether*"²¹. This position was finally ignored, causing the EU to give up any discussion of including its non-proliferation clause in a bilateral agreement with India. In its most basic form, this clause

¹⁷ Anthony, I. and Bauer, S. "Controls on security related international transfers" In: *SIPRI Yearbook 2009: Armaments, Disarmament and International Security*. Oxford University Press: Oxford 2009 pp. 467–471.

¹⁸ Anthony, I. et al. "Reforming Nuclear Export Controls: The Future of the Nuclear Suppliers Group" SIPRI Research Report no.22 Oxford University Press: Oxford 2007

¹⁹ Grip, L. "The EU Non-proliferation Clause: a preliminary assessment". *SIPRI Background Paper*, 2009 p.10

²⁰ *Ibidem* p.10

²¹ bilaterals.org. "EU aide worried by calls to drop India WMD clause". 2007 [online] Available at: <https://bilaterals.org/?eu-aide-worried-by-calls-to-drop&lang=en> [Accessed 4 Apr. 2020].

would have introduced a binding element committing the contracting parties to observe existing non-proliferation agreements and a non-binding element urging the parties to sign and ratify agreements to which they are not party. However, in the face of India's categorical rejection of any political conditionality clause, the EU Member States and the European Commission refrained from pushing for a comprehensive partnership and cooperation agreement that would legally require the non-proliferation clause and decided to take the easy route, (i.e. the negotiation of a free trade agreement that would not provide for the inclusion of the clause), thus ignoring their own rules and norms. This approach has recently been reaffirmed with the publication of the 2018 EU - India Strategy where, despite aiming to change the scope of the relation from only trade to security cooperation, the approach adopted by the Commission is one focused on geopolitical developments, particularly the rise of China, instead of normative promotion²².

3.2 The use of sanctions: Iran

The Non-Proliferation Strategy provided a useful general policy framework without overly constraining the EU and its member states' response to the Iranian nuclear crisis. At the beginning of the negotiations on the Iranian nuclear programme, the European initiative for rapprochement with Teheran had very good results: the E3 reached an initial agreement with Iran on its nuclear activities, the Teheran Agreement. A year later the EU/E3 and Iran negotiated the more comprehensive Paris Agreement where in exchange for economic benefits and the negotiation of a long-term agreement, Iran compromised on two notable outcomes. First, Iran decided on a voluntary basis, to continue and extend its suspension to include all enrichment related and reprocessing activities; second, it continued with the voluntary implementation of the IAEA Additional Protocol, which foresees particularly strict nuclear inspections by the IAEA²³. So,

²² European Commission "EU India Strategy" Brussels 2018 pp. 3-21

²³ International Atomic Energy Agency. "Communication dated 26 November 2004 received from the Permanent Representatives of France, Germany, the Islamic Republic of Iran and the United Kingdom concerning the agreement signed in Paris on 15 November 2004". 2004 pp.1-4.

between 2002 and 2005 the EU sought to moderate Iran's behaviour by including economic incentives as essential political clauses in a comprehensive trade and cooperation agreement²⁴.

Nevertheless, by January 2005 negotiations began to fall apart as a result of the negotiations calendar: Iran wanted to finalise the negotiations in March 2005, while the EU pointed out the necessity to expand them at least one or two years. As well, by that time EU's efforts of engaging with Teheran did not had the desired effect: Annalisa Giannella stated that the goal was to acquire an objective guarantee and final assurance of the non-proliferation of nuclear weapons in Iran²⁵, none of this was achieved by 2005. This was basically due to the fact that the EU was not able to grant the necessary incentives to Iran in security terms, incentives that only could be granted by the U.S.²⁶. As a consequence, Washington became the key actor in order for the negotiations to be brought to a successful conclusion. This fact threw the EU into the arms of the U.S. asking it to offer some kind of incentive to the Iranians for not leaving the negotiation table (i.e. WTO accession). This portrayed EU's incapability to confront the situation and it reinforced the perception that the European initiative was a failure. For example, U.S. senior officials argued that EU goals were unattainable and that prospects for successful talks with Iran were small, perhaps even non-existent, from the outset. Avis Bohlen, former Assistant Secretary of State for Arms Control, remarked that "*clearly there was very little chance of successful EU negotiations without U.S. involvement*"²⁷. Other factor that propelled the impasse in the negotiations was the election of Mahmoud Ahmadinejad as president of Iran in August 2005. His announcement that would pull out

²⁴ Harnisch, S. "Minilateral Cooperation and Transatlantic Coalition-Building: The E3/EU-3 Iran Initiative". *European Security*, 16(1) 2007 pp.1–27

²⁵ Meier, O. "Interview with Annalisa Giannella, Personal Representative on Nonproliferation of WMD to EU High Representative Javier Solana | Arms Control Association". 2005 [online] www.armscontrol.org. Available at: <https://www.armscontrol.org/interviews/2005-07/interview-annalisa-giannella-personal-representative-nonproliferation-wmd-eu-high> [Accessed 27 Feb. 2020].

²⁶ Tocci, N. & Voltolini, B. "Europe, the Mediterranean, and the Middle East: A Story of Concentric Circles". In: *European Foreign Policies Does Europe Still Matter?* Lanham, Maryland: Rowman & Littlefield Publishers. 2010 pp.107–133.

²⁷ Bergenäs, J. "The European Union's evolving engagement with Iran". *The Nonproliferation Review*, 17(3). 2010 p 3

Iran from the Paris Agreement knocked down the European initiative for the resolution of the Iranian crisis²⁸. From the beginning of his mandate, he made it clear that Iran had the right to have its own fuel cycle. As a consequence, he announced the reopening of uranium conversion facilities in Isfahan and announced that would resume uranium enrichment by 2006²⁹. Iran began to disengage from talks with the EU, and as a consequence the EU broke the negotiations with Iran. Faced with this situation, EU's initiative to reach a diplomatic solution to the Iranian crisis was formally labelled as a failure.

Iran's exit from the Paris Agreement made the American position of adopting a harsh approach towards Teheran to gain prominence. The EU moved closer towards the U.S. position regarding how to deal with Iran, which led it to take a second place, in favour of the U.S., in the negotiations (or lack of it) from now onwards³⁰. For instance, the EU, pressured by the U.S., promoted the sending of the Iranian dossier to the UNSC^{31 32}. The following initiatives at the UNSC derived in the adoption by the EU of the American approach towards the resolution of the Iranian crisis, subordinating its role of leading negotiator to the U.S.³³. So, the period that goes from 2006 to 2013 was characterized by an alignment of EU's position with the one of the U.S. The EU could hardly be regarded as a neutral broker. Instead it followed the American lead and tried to force Iran back to the negotiation table with negative manipulation in form of sanctions³⁴. This

²⁸ Windt, A. "The participation of the EU in the negotiation and implementation of the Iran nuclear agreement". *EU Non-proliferation and Disarmament Consortium Next Generation Papers*. 2017 pp.1-36

²⁹ Sauer, T. "Struggling on the World Scene: An Over-ambitious EU versus a Committed Iran". *European Security*, 17(2-3) 2009 pp.273-293

³⁰ Portela, C. "EU strategies to tackle the Iranian and North Korean Nuclear issues". In: *The EU and the Non-Proliferation of Nuclear Weapons Strategies, Policies, Actions*. New York: Palgrave Macmillan 2015 pp.188-205.

³¹ Meier, O. "European efforts to solve the conflict over Iran's nuclear programme: How has the European Union performed?" *EU Non-proliferation and Disarmament Consortium*, 2013 pp.1-22.

³² Portela, C. "The EU's Evolving Response to Nuclear Proliferation Crises: from Incentives to Sanctions". *EU Non-Proliferation and Disarmament Consortium*, 2015 pp.1-17

³³ *Ibidem*

³⁴ Jessen, E. "European Diplomacy in the Iran Nuclear Negotiations: What Impact Did It Have?" *Bruges Political Research Papers*, 2017 pp.1-60.

meant a reduction of EU's independence vis-à-vis U.S. This materialized during the following years where the U.S. preference for coercive diplomacy would be held back by the EU³⁵.

Sending the file to the UNSC opened a new scenario on how the EU normative power was to be operationalized, if it was at all, because as we have seen, since 2005/6 onwards, the EU lost its pre-eminence in the negotiations. The new fora expanded the scope of actors involved from the EU to the P5+1. The initiative to go against Iran incorporated the U.S., China and Russia, which meant the end of EU's monopoly on the negotiations and evidenced in front of these powers the need of foreign assistance by the EU in order to exercise leverage and conditionality on Iran. On April 2006, Iran announced that it had succeeded in enriching uranium up to 3.65%^{36 37}. As a result of such an announcement, the first UNSC resolution against Teheran was passed and asked to suspend the uranium enrichment process by August 2006. Iran did not comply with the resolution and the U.S. demanded the immediate drafting of a resolution that would include sanctions against the regime. In response to these demands, the EU decided to initiate negotiations inside the UNSC in order to impose sanctions on Iran³⁸. These negotiations became difficult due to the fact that traditional backers of the EU (Russia and China) opposed to implement sanctions against Iran, criticised the EU decision, and threatened with the use of veto for stalling the Iranian nuclear program³⁹. Nevertheless, the first UN sanctions resolution, UNSC Resolution 1737, was passed on December 2006 after weeks of angry debate, between the U.S. on one side and China and Russia on the other. The direct implication of all three powers in the sanction's adoption process

³⁵ *Ibidem*

³⁶ Sauer, T. "Coercive diplomacy by the EU". Netherlands Institute of International Relations Clingendael, 2007 pp .1-29

³⁷ Garrido Rebolledo, V. "El programa nuclear iraní y las implicaciones del Plan de Acción Integral Conjunto (PAIC)". Cursos de derecho internacional y relaciones internacionales de Vitoria-Gasteiz ISSN 1577-533X, Nº. 1 2017, págs. 349-434

³⁸ Sauer, T. 2007 *Op Cit*

³⁹ Kondapalli, S. "China and the Iranian Nuclear Issue—Converting Challenges into Opportunities". *Contemporary Review of the Middle East*, 3(1), 2016 pp.63–76

showed that the EU had totally lost control and relevance over the Iranian nuclear dossier and was perceived as totally relegated to the decisions adopted by the U.S.⁴⁰.

It was in 2009 when the U.S. position towards the negotiation process changed radically. With the arrival of Barack Obama to the white house it seemed that the coercive diplomacy approach came to an end. Obama signalled his willingness to enter into a dialogue that would “*not be advanced by threats*” but by honesty and “*mutual respect*”⁴¹. The Obama administration announced its will to participate in a more active way in the negotiations and as well it aimed to solve the crisis through diplomatic means, endorsing like that the 2003 European initiative under U.S. leadership⁴². As a result, the U.S. initiated a diplomatic offensive in order to reach a negotiated solution to the Iranian crisis⁴³. By announcing its readiness to led open and direct negotiations with Iran, the U.S. challenged the EU because it copied the 2003 EU initiative, that was highly criticised by the U.S. back then⁴⁴. According to Einhorn and Nephew⁴⁵, this was done in order to bypass the EU through direct bilateral negotiations with Iran. European concerns about the decreasing importance of EU’s role increased⁴⁶. In October 2009, Iran’s top nuclear negotiator, Saeed Jalili, and U.S. Undersecretary of State, William Burns, held the highest level of direct U.S.–Iran talks since the 1979 revolution. However, Iran rejected the U.S. offer and the U.S. cancelled further negotiations when it was discovered that Iran had secretly built an enrichment plant in Qom and that it had accumulated 1000 kg of LEU

⁴⁰ Hanau Santini, R. “European Union discourses and practices on the Iranian nuclear programme”. *European Security*, 19(3), 2010 pp.467–489

⁴¹ Stein, S. “Obama Sends Iran Direct Message On Nowruz: It’s Time For A New Beginning”. 2009 [online] HuffPost. Available at: http://www.huffingtonpost.com/entry/obama-addresses-irandire_n_177202.html?guccounter=1 [Accessed 27 Feb. 2020].

⁴² Windt, A. 2017 *Op Cit*

⁴³ Jessen, E. 2017 *Op Cit*

⁴⁴ Stephens, P “Europe and the United States: The Obama Era and the Weight of History. In: *European Foreign Policies Does Europe Still Matter?* Lanham. Maryland: Rowman & Littlefield Publishers, 2010 pp.43–69.

⁴⁵ Einhorn, R. & Nephew, R. “The Iran Nuclear Deal: Prelude to Proliferation in the Middle East?” *Brookings Arms Control and Non-Proliferation Series*, 2016 pp.1–74.

⁴⁶ Meier, O. 2013 *Op Cit*

and 3000 centrifuges were installed in Natanz⁴⁷. U.S. position was reinforced thanks to the second electoral victory of Mahmoud Ahmadinejad in 2009 and the lack of political will by Iranian authorities to reach any kind of agreement. As a consequence, the Obama administration started again to make emphasis on the adoption of coercive measures.

As a result of both American failures (sanctions and diplomatic engagement), the EU regained prominence by 2010. UNSC Resolution 1929 adopted on June 2010 included something quite new: The resolution explicitly acknowledged EU's diplomatic lead by encouraging the EU High Representative *"to continue communication with Iran in support of political and diplomatic efforts to find a negotiated solution"*⁴⁸. This resolution not only granted to the EU the role of chief negotiator, but it considered it an essential actor in order to solve the Iranian crisis. In front of this generalized acceptance of EU's role, the EU did not decide to go back immediately to the 2003 strategy of engagement. Instead it adopted new coercive measures against Iran with the aim to force it to come back to the negotiation table. It was therefore decided to adopt an EU Council Decision where the export and import of weapons and enrichment technology were constrained; investment, particularly in oil and gas were limited; and the financial sector was sanctioned⁴⁹.

The release on November 2011 of the IAEA's report on Iran's nuclear activities further worsened the already bad relations with Iran. The report contained a 15-page annex devoted entirely to the suspected military dimension of Iran's nuclear programme. The agency concluded that it found information on weaponization efforts to be overall, credible⁵⁰. The report provided the last impetus for the EU to break with its policy of keeping its own sanctions generally within the scope of trade restrictions imposed by the UNSC. On January 2012, the EU Foreign Affairs Council imposed an import ban on

⁴⁷ Windt, A. 2017 *Op Cit*

⁴⁸ United Nations Security Council "Resolution 1929". New York: United Nations, 2010 pp.1-15.

⁴⁹ Council of the European Union "COUNCIL DECISION of 26 July 2010 concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP". 2010 Brussels pp. 1-35

⁵⁰ International Atomic Energy Agency. "Implementation of the NPT Safeguards Agreement and relevant provisions of Security Council resolutions in the Islamic Republic of Iran". 2011 Vienna, pp.1-25.

Iranian crude oil and froze the assets of the Iranian Central Bank within the EU. The goal of these unprecedented sanctions was *“to undermine the regime’s ability to fund its nuclear programme, and to demonstrate the cost of a path that threatens the peace and security of us all”*⁵¹. Finally, the oil embargo forced Iran to come back on the negotiating table in 2012.

As a result of the 2013 Iranian presidential elections, Hassan Rouhani became the new president of Iran. The election of Rouhani meant a turning point in the negotiations with Iran. In one of his first speeches, he stated that *“negotiations with the P5+1 regarding Iran’s nuclear program should be taken more seriously to find a solution”*⁵². These elections were perceived as an opportunity by the EU in order to look again for a diplomatic solution to the Iranian crisis. So, it was also thanks to the change in the Iranian administration that it was possible to reach a first agreement that same year, the JPOA, which established the guidelines for the upcoming negotiations.

By the end of 2013, the policy of the EU towards Iran was perceived positively across the board⁵³. The European External Action Service acted as the convening power for negotiations between the EU, Russia, China, the U.S. and Iran. This helped to preserve a unified front between the great powers, who recognised the job done by the EU in this field⁵⁴. Between 2013 and 2015 several rounds of both multilateral (P5+1) and bilateral negotiations (Iran-U.S.) took place. The major challenge was to reconcile the differing positions of the U.S. and Iran. The distrust between the two affected the details of the draft agreement. The agreement had to simultaneously guarantee that Iran would not pursue nuclear weapons and that it could exercise all its rights under the NPT. This meant balancing on a thin line, which required compromises from all parties. The U.S.

⁵¹ Gov. UK. “PM, Chancellor Merkel and President Sarkozy statement on Iran sanctions”. 2012 [online] Available at: <https://www.gov.uk/government/news/pm-chancellor-merkel-and-president-sarkozy-statement-on-iran-sanctions> [Accessed 27 Feb. 2020].

⁵² Davenport, K. “Timeline of Nuclear Diplomacy With Iran | Arms Control Association”. 2018 [online] Armscontrol.org. Available at: <https://www.armscontrol.org/factsheet/Timeline-of-Nuclear-Diplomacy-With-Iran>.

⁵³ Adebahr, C. “A Plan B, C and D for an EU policy towards Iran”. European Policy Centre, (*Policy brief*), 2013 pp.1-4.

⁵⁴ *Ibidem*

had to accept the lifting of sanctions relating to the nuclear issue, as well as allowing Iran to pursue some nuclear activities. Iran had to accept that its enrichment activities would be severely curbed, and that the IAEA would have a broad authority to conduct inspections.

The EU negotiation team, led by the High Representative and her deputy played a vital role in reaching the final agreement. Catherine Ashton went from “zero to hero” already by the successful adoption of the JPOA, which was nicknamed “Ashton Accord”, earning the praise of John Kerry and Javad Zarif⁵⁵. As a “*chosen representative of the world’s six most powerful countries*” she played “*the most important role in world diplomacy*”, “*negotiating a solution to one of the world’s most dangerous and complex problems*”⁵⁶. The EU team drafted “*technical bridging proposals*” to bring differing positions closer, which could then be accepted by all the parties⁵⁷. Diplomatic negotiations continued, with the EU remaining a pivotal negotiator. EU’s efforts were successful, and on July 14, 2015, the Joint Comprehensive Plan of Action (JCPOA) was reached as a final deal. Ultimately, in 2015, the crisis was settled through a multilateral approach and respecting international law and regulations, therefore, through a purely EU Normative Power approach. In this respect, Iran may be seen as a positive case with regard to the use of conditionality instruments to enforce the rules of the non-proliferation regime, the ultimate goal of the EU Non-Proliferation Strategy.

3.3 EU Normative Power performance: An assessment

Admittedly, the results of the EU external action in the field of non-proliferation have not been entirely clear. Regarding the case of the non-proliferation clause, this one has already been included in more than 100 bilateral and multilateral agreement⁵⁸, including

⁵⁵ Blair, D. “Iran nuclear deal takes Catherine Ashton from “zero” to hero”. 2013 www.telegraph.co.uk. [online] 24 Nov. Available at: <https://www.telegraph.co.uk/news/worldnews/europe/eu/10471355/Iran-nuclear-deal-takes-Catherine-Ashton-from-zero-to-hero.html> [Accessed 27 Feb. 2020].

⁵⁶ *Ibidem*

⁵⁷ Windt, A. *Op Cit* 2017 pp. 17-18

⁵⁸ Council of the European Union. “Six-monthly progress report on the implementation of the EU strategy against proliferation of weapons of mass destruction (2010/II)”. 2010 Brussels

those with significant countries such as South Korea. Modified versions of the clause have also been integrated into the so-called action plans with neighbouring countries such as Egypt and Israel. In the short term, this has raised at least the awareness of the importance of international non-proliferation agreements in a large number of countries. In the long term, it may also strengthen the continued adherence to international non-proliferation agreements of those States that are already members because the potential suspension of a partnership agreement with the EU increases the costs of non-compliance⁵⁹.

Now, there are, however, several explanations in order to understand EU's failure to convince India on adopting the non-proliferation clause. One of them is that the EU's firm commitment to the official non-proliferation regime is not shared by India in many respects. Apart from its membership to the IAEA, India has not joined any of the institutions or agreements that are generally considered to be part of the regime. Other issue, related with India's rejection of the clause, is the fact that the cumbersome security interaction between India and the EU is a reflection of the perceived mismatch between two very different actors, with very different interests. In Indian policy circles, the visibility of the EU as an international actor is generally low⁶⁰. The EU is seen as a trading bloc without a meaningful foreign and security policy of its own. The EU's soft power approach to international affairs is also perceived by India as a way of preserving the *status quo*⁶¹ in the regime. Moreover, the EU's emerging relationship with India's Asian rival, China, has led to New Delhi's discontent⁶². Even more important from the perspective of the non-proliferation regime are the different views India and the EU have on multilateralism and its future. Like other rising powers, India emphasizes the

⁵⁹ Kienzle, B. "A European contribution to non-proliferation? The EU WMD Strategy at ten". *International Affairs*, 89(5), 2013 pp.1143–1159

⁶⁰ Jain, R. K. and Pandey, S. "The European Union in the eyes of India", *Asia Europe Journal*, 8(2) 2010, p. 207

⁶¹ Kienzle, B. "Integration without quite breaking the rules: The EU and India's acceptance within the Non-Proliferation Regime", *EU Non-Proliferation and Disarmament Consortium*, 2015 p 9.

⁶² Allen, D. "The EU and India: strategic partners but not a strategic partnership". In: T. Christiansen, E. Kirchner and P. B. Murray, *The Palgrave Handbook of EU-Asia Relations* Palgrave Macmillan: Basingstoke 2013, pp. 571–586.

need for greater representation and therefore greater power in the main international institutions, while the EU is more concerned with the well-functioning of those institutions, which often results in the preservation of the institution instead of adapting it to the new international realities.

Other key issue in EU-India relations is the NPT. Since the treaty is very specific with regard to which States can be recognized as NWS and India's specific reforms of the treaty can be excluded, India will never join as a NWS, even if it wishes to do so⁶³. At the same time, India's unilateral nuclear disarmament to join the NPT is equally unthinkable⁶⁴. The only way out is a key new treaty to replace the NPT, for example, a nuclear weapons convention similar to the Chemical Weapons Convention that prohibits the development, production, acquisition, stockpiling, retention, transfer or use of chemical weapons. However, such a convention is also unfeasible. In short, India will remain outside the mainstream of the international nuclear non-proliferation regime for the foreseeable future.

From a European perspective, India's strategy of selective inclusion in the non-proliferation regime is highly problematic. India is eager to join export control groups, where it can expect significant economic gains, but is much more cautious about joining other agreements, such as the CTBT, which imposes political conditionality. This has led to lengthy discussions between EU Member States that are generally in favor of India's strategy and those that are largely opposed to it.

Supporters of India's strategy and integration into the non-proliferation regime emphasize the growing power of New Delhi⁶⁵. India's political, economic and cultural weight has made it a relevant international actor that is increasingly difficult to ignore⁶⁶.

⁶³ Fidler, D. P. and Ganguly, S. "India wants to join the Non-Proliferation Treaty as a weapon state" 2010 YaleGlobal [Online] Available at: <http://yaleglobal.yale.edu/content/india-wants-join-nonproliferation-treaty> [Accessed 04 Apr. 2020].

⁶⁴ Nayan, R. "The NPT and India: accommodating the exception" *Strategic Analysis* 34(2) 2010, pp. 309–321.

⁶⁵ Kienzle, B. *Op Cit* 2015 p.7

⁶⁶ Narlikar, A. "Is India a responsible great power?" *Third World Quarterly*, 32(9) 2011, p. 1607

Unlike other rising powers, India has never been part of the non-proliferation regime and has means at its disposal that make it difficult for the regime to function properly, as evidenced by its nuclear tests in 1974 and 1998. Supporters can also point to India's own arguments that this is an exceptional case compared to other NWS that are not part of the nuclear non-proliferation regime. In addition to being a rising power, India is an established democracy with a consistent record of control over its nuclear facilities, material and technology. In other words, it has behaved as a regular member of the regime and should therefore be included.

Skeptical states highlight the fact that it is not possible to integrate India into the nuclear non-proliferation regime without breaking the basic rules of the regime, as enshrined in the NPT⁶⁷. In essence, the NPT is a large trade-off whereby NNWS give up their nuclear weapons options and, in turn, NWS guarantee their right to civil nuclear energy and promise to initiate long-term nuclear disarmament processes. Any deviation from this commitment could jeopardize the delicate balance on which the NPT is based. In other words, including India in the key elements of the non-proliferation regime without renouncing to its nuclear arsenal may encourage NNWS to develop their own nuclear weapons programmes, as they can expect, over time, the acceptance of their status as nuclear powers by other States. It can also increase general dissatisfaction with the existing regime, which, let us remember, is the normative basis of the Non-Proliferation Strategy and of the EU's external action in this field.

The problem for the EU as a whole is that all sides use very convincing, but certainly not compatible, arguments. In other words, there is no common position that will solve the problem of India's integration into the non-proliferation regime. So, the EU faces two difficult choices. On the one hand, if India remains outside the regime, the effectiveness of the non-proliferation regime may be compromised by the exclusion of a key actor. Especially in the long term, India may conclude that it is no longer necessary to play by the rules of a regime from which it is continually excluded. On the other hand, if India becomes integrated, the basic compensation of the regime may become unbalanced with other unpredictable consequences. In other words, the EU faces a dilemma in the

⁶⁷ Kienzle, B. *Op Cit* 2015 p.7

implementation of the non-proliferation clause and its nuclear non-proliferation policy in general between strict adherence to the non-proliferation principles set out in the clause and the need to integrate an emerging power into multilateral structures, but ignoring its own rules and norms. While recent developments may look like Brussels has chosen the second option, India's *de jure* integration in the non-proliferation regime is not on the EU's agenda. It is more plausible to assume, on the basis of the 2018 strategy for India, that the EU has decided that it is better to avoid addressing WMD non-proliferation in future discussions with New Delhi.

Regarding the use of conditionality through the adoption of sanctions, the case of Iran shows us that sanctions are a useful instrument for conditioning the behavior of a State when it has material interests that depend in part or in whole on the external action of the State imposing those sanctions. However, as Iran's recent behavior is showing us, it is not a useful instrument for the dissemination of norms. Iran is in fact a critical case of the operationalization of EU's normative power and non-proliferation policy. The problem for the EU is not only the fact that the JCPOA has downgraded as a result of the abandonment of the agreement by the United States, but also the fact that it has not been able to change Iran's mindset with regard to compliance with non-proliferation norms, as the most recent IAEA reports on Iran's progressive violations of the JCPOA show us^{68 69}. For instance, since the U.S. abandoned the agreement Iran has enriched uranium above admissible standards and build up new centrifuges. In this regard, Iran has indicated that it will only return to the umbrella of the JCPOA when it receives the economic benefits promised by the agreement⁷⁰, thus, showing that there has not really been a change with respect to the acceptance of the rules of the non-proliferation regime as a result of the negotiation process (where we include the different rounds of

⁶⁸ International Atomic Energy Agency. "Verification and monitoring in the Islamic Republic of Iran in light of United Nations Security Council resolution 2231 (2015)". 2019 Vienna, pp.1–7.

⁶⁹ Wamsley, L. and Kwong, E. "Iran Abandons Nuclear Deal Limitations In Wake Of Soleimani Killing". 2020 [online] NPR.org. Available at: <https://www.npr.org/2020/01/05/793814276/iran-abandons-nuclear-deal-limitations-in-wake-of-soleimani-killing> [Accessed 27 Feb. 2020].

⁷⁰ *Ibidem*

sanctions) and the signing of the agreement, but rather that its compliance with those rules only depends of material incentives and/or benefits. However, in order to prevent the Iranian dossier from being referred back to the UN Security Council, the EU this year put in place the snap back mechanism to force Iran to behave in accordance with the rules of the agreement

The case of Iran basically shows the problem that is created when trying to apply conditionality instruments such as the use of sanctions in order to diffuse norms. The strategy from the beginning was clearly to normalize a potential proliferator such as Iran⁷¹, and make it to accept EU's non-proliferation vision. Today, the question can be asked whether or not the Iranian case is a failed one as regards EU normative power, and if the answer is yes, if that can be held against the use of conditionality, particularly because of the fact that the use of sanctions against Iran was not a European but an American initiative, and it is therefore questionable whether it represents a practical application of EU's normative power. While Iran was the case that laid the basis for the Non-Proliferation Strategy, the Strategy is not perceived a policy option in the current context, particularly since its implementation has not led to a clear positive outcome from 2015 onwards.

In conclusion, based on the analyzed case studies we can observe that the real capacity of the EU for disseminating its non-proliferation norms is rather weak or inconsistent due to the fact that the norms have been adopted or accepted in a differentiated manner or in some cases were not accepted at all. Also, we can state that the EU is not always conceived by other States as a valid actor in this policy area because, as we have observed, there are States that have not accepted to negotiate agreements in which the non-proliferation clause was included, but there are States that have accepted the EU's negotiating role for the resolution of proliferation crises. This mismatch may be due to several reasons, including the expertise of European personnel in non-proliferation,

⁷¹ IFAS. "Iran : une crise accoucheuse de stabilité". François Géré dans le Figaro. – i f a s". [online] IFAS. Available at: <http://www.strato-analyse.org/fr/spip.php?breve15> [Accessed 23 Jan. 2020].

portraying like that an image of the EU as a conflict solver. But, the partial acceptance of the EU as a non-proliferation actor does not depend on its ability to disseminate norms. In this sense, there are a number of unclear issues regarding the future viability of conditionality as an effective tool for the dissemination of EU non-proliferation norms. As a consequence, Member States should clarify whether they really have the same interests in terms of non-proliferation and disarmament, especially in relation to other strategic, political and commercial interests, in their external relations, as this will ultimately affect the way in which the instruments analyzed above will be applied.

4. The New Strategic Environment and Policy Recommendation

The Non-Proliferation Strategy was a milestone in terms of non-proliferation policy output, but as Portela and Kienzle⁷² point out, it radiated continuity rather than change. It codified existing practices and broaden the geographic focus of the EU non-proliferation activities but without altering the cornerstones of the previous practices. Stemming from these key engagement principles, the EU strengthened its support on the global non-proliferation regime. Illustratively, the EU invested diplomatic and political capital for the indefinite extension of the NPT, financed extensively various multilateral assistance schemes run by the relevant international organizations, and advocated the use of multilateral negotiating frameworks rather than resorting to unilateral use of force for the handling of proliferation crises. This reflected the long-term horizon of the EU non-proliferation policy, in pursuit of eradicating the sources of proliferation and spreading the European norms on this matter. Finally, conditionality was an omnipresent guiding principle of the EU non-proliferation activities, notably in the form of the non-proliferation clause and sanctions.

⁷² Portela and Kienzle. “European Union Non-Proliferation Policies Before and After the 2003 Strategy: Continuity and Change”. In: *The EU and the Non-Proliferation of Nuclear Weapons Strategies, Policies, Actions*. Basingstoke: Palgrave Macmillan, 2015 pp.48–67.

However, from 2011 onwards, the European Union has had to deal with a continued deterioration in its security environment. The outbreak of war in Libya and Syria and the loss of control of their biological and chemical weapons arsenals in the absence of control and verification mechanisms have increased regional instability. The crisis in Ukraine has had an impact on the loss of credibility of the EU as an actor capable of developing a long-term operational security and defense policy, especially in the midst of the U.S. withdrawal to the Pacific⁷³. The international non-proliferation regime is at the limit of its capacity with the cooling of relations between Russia and the U.S. which have implemented massive programmes of nuclear modernization emptying important progress made towards the fulfilment of NPT's article VI. This new context has left the concept of EU Normative Power in a position of total practical irrelevance, with an EU unable to cope with the new risks and threats⁷⁴. The overall strategic environment has significantly changed since 2003. It is therefore relevant to ask, based on our previous assessment of EU's normative power in practice, whether a revision of this approach is required in order to define a new normative basis for the EU external action in this policy area.

4.1 The Global Strategy and the proliferation of WMD

As noted in section 2.4, the 2016 Global Strategy was drafted precisely to address the adverse international environment that the EU had to face. Regarding WMD non-proliferation, the 2016 Global Strategy contains several key paragraphs on the need to manage various dangers in the international system in a more comprehensive way, however, there are only a few explicit references to WMD in it. At the same time, the new strategy has not generated a clear link between the EU's areas of activity with WMD. For instance, chapter 4 of the Global Strategy prescribes a highly ambitious and differentiated set of measures to enhance the monitoring of sensitive material exports

⁷³ Biscop, S. "The state of defence in Europe: dependence, deterrence and deployment". *Global Affairs*, 1(2), 2015 pp.169–182.

⁷⁴ European Commission. "In Defence of Europe. Defence Integration as a Response to Europe's Strategic Moment". European Political Strategy Centre. Brussels 2015 pp. 1-12

flows in and out of the EU, using intelligence, research, training exercises and so on. It does not, however, spell out that such flows must involve WMD-related risks, including those linked to non-state actors. The only mention of non-proliferation in the Global Strategy refers to the Union's efforts to promote the wider application of international rules, regimes and institutions of global governance⁷⁵. Only in this context does it define proliferation as a “*growing threat to Europe and the rest of the world*”⁷⁶. However, and based on the previous assessment of the international and strategic environment, there are strong reasons for the EU to re-engage actively in non-proliferation affairs and to review its norms and instruments for doing so. A revision of these should seek a convergence of views among EU member States on the need for a more unified and comprehensive common framework of action that replaces the lengthy processes of negotiating joint positions, declarations and actions, in order to make EU's direct political action in non-proliferation affairs faster and more operational. This common framework for action should therefore define a set of assessed scenarios related to the risks of proliferation of WMD, arms control and disarmament and a specific action or set of actions for the resolution of each of these scenarios (e.g. taking specific actions to address the issue of disarmament or adopting an immediate common position with regard to the Treaty on the Prohibition of Nuclear Weapons). This implies that member States should be able to pool and agree on this set of assumptions and actions, even though many of them may be detrimental to their strategic and/or commercial interests. This proposal is not intended to be the “final proposal”. We acknowledge that there have already been several policy recommendations, and that these have become greater in number and harder to enforce even in the most cooperative relationships between the EU member States. Moreover, the conditions for effective implementation of WMD conditionality tools are extremely difficult to create, even if many consider Iran to be a successful case⁷⁷. But nevertheless, something more is needed beyond regular,

⁷⁵ European External Action Service. “Shared Vision, Common Action: A Stronger Europe. A Global Strategy for the European Union's Foreign and Security Policy”. 2016 Brussels pp. 1-60

⁷⁶ *Ibidem*. p. 33

⁷⁷ Macaluso, A. “The Apparent Success of Iran Sanctions: Iran, Rouhani, and the Nuclear Deal”. The Hague Institute for Global Justice, 2014 pp.1–30

routine follow-up through progress reports and lengthy discussions at the EU Council that downgrade policy content. In this sense, a more unified and defined approach towards non-proliferation and disarmament is required. There is a widespread perception that the EU is not doing enough to respond to current security and defense challenges.

In order to conclude this section, the multilateral and strategic environment of the second decade of the 21st century gives us sufficient reason to consider a new impulse and a different approach to non-proliferation: With a few exceptions, such as the New START treaty, there has been a remarkable reduction in the attention paid to multilateral negotiated processes, beyond individual cases such as Iran. In addition, whenever there has been a call for more arms control, the response from the U.S. and Russia has been skeptical. If the EU makes no effort to update its response and action mechanisms, adapting them to the new strategic environment, and a review of its direct policy action instruments such as the non-proliferation clause and the use of sanctions, something much more will be at stake than the effectiveness of EU programmes on non-proliferation, arms control and disarmament. The EU could cease to be a benchmark in terms of non-proliferation standards (if not already).

5. Conclusions

The EU Non-Proliferation Strategy has been a major step forward in the development of a European non-proliferation policy. Since the adoption of the Strategy in 2003, the EU has intensified its activity in the non-proliferation field and improved its performance in a significant way thanks to the increase of institutional and financial resources. This is not to say that the EU's non-proliferation policy has been without shortcomings. For instance, in terms of broader long-term outcomes, such as the ratification of major non-proliferation agreements or the prevention of acts of proliferation, the EU's impact has been notoriously difficult to establish. Likewise, it is more than questionable whether the EU can solve proliferation crisis by its own efforts.

[The need for a new approach to European non-proliferation policy?](#)

The European option for soft-power tools has defined a strategy of limited objectives, with a clear lack of prioritisation and a notable degree of ambiguity. The Strategy in no way envisages the disappearance of WMD and only considers their existence as a threat insofar as they can be acquired by proliferating States or terrorist groups. This has had serious practical implications since, as we have seen in the last two decades, the state of the nuclear non-proliferation regime has worsened in terms of the acceptance and legitimacy of the rules and norms that make it up. The proliferation of WMD continues to be a major issue for the Union but, there is a lack of concrete response measures to this threat. In this regard, it is striking that the EU's main strategic review and update document, the 2016 Global Strategy, pays little or no attention at all to the threats posed to the EU by the proliferation of WMD.

Based on this assessment, a revision of EU's approach towards non-proliferation is now in order because the non-proliferation norm is being openly questioned by the nuclear powers. It is therefore laudable that the EU is actively engaged in encouraging the universalization of this norm and that it helps to strengthen those organizations that are already set in place to do so⁷⁸. However, most EU support has been rather non-controversial and technical in nature, making the objectives of the Non-Proliferation Strategy largely unachieved, thus showing a lack of acceptance of EU norms in the field of non-proliferation by much of the international community, and by key players in the non-proliferation regime. For instance, as per the 2018 U.S. National Defense Strategy, the threshold for the use of nuclear weapons by the United States has significantly lowered in comparison with previous years. As well, and based on the absence of a clear and strong EU position on disarmament, new initiatives have emerged outside the NPT framework, sometimes supported by several EU States, which affect the EU's ability to take concerted positions and actions (e.g. Nuclear Weapons Ban Treaty and the Swedish stepping stones initiative). All these examples show us that the EU's political influence and operational capacity in the non-proliferation regime has not really increased and that the EU is still far from being a fully-fledged non-proliferation actor. In this sense,

⁷⁸ Ham, P.V. "The European Union's strategy on weapons of mass destruction: from ambition to disappointment". *Clingendael Paper*, 6. 2011 p.29

internal consistency of the EU needs to improve as well as strengthening of the instruments at its disposal. The level of coherence between the member States and the Union is hampered by the fragmentation of its regulatory framework. In this regard, and on the basis of section number 4 of this report, it would be appropriate to create a unified and comprehensive framework for common action that replaces the long processes of negotiating positions, declarations and joint actions.

As a final conclusion and based on the review and the shortcomings identified in this report, NPT continuity is the overriding goal of the EU and to this end the EU is willing to adopt a replacement' instrument and wrap it in questions of misguided demands. Any reformulation, both in conceptual terms and in terms of instruments for action and approaches to the non-proliferation regime, will entail an in-depth review of the EU non-proliferation policy, and probably adopting new approach in terms of decision-making mechanisms and instruments in line with the strategic environment identified in the Global Strategy of 2016. In this sense, the EU should conceptually review the rationale of conditionality in relation with the Global Strategy in order to develop a clear and unified framework of action covering how to deal with the non-proliferation threats in situations where it becomes an obstacle to promoting other interests. So, the EU needs to undertake a new dedicated effort to deal with WMD-related problems, including an in-depth review of the normative substrate and instruments for implementing its non-proliferation policy.