BREXIT:
The Security Dimension

Dr Charles Tannock MEP
Acknowledgments

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About the Author

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A former medical doctor and NHS Consultant Psychiatrist and Hon Senior Lecturer at UCL Medical School, London. He was first elected to the European Parliament in 1999 representing London for the Conservative Party and re-elected for the fourth time in 2014. Former Vice-President of the EP Delegation to the NATO Parliamentary Assembly 2009-14. Currently UK Conservative Foreign Affairs Spokesman and ECR Coordinator (Spokesman) on the Foreign Affairs Committee. He is a Commissioner for Human Rights of the Conservative Party. Educated at Balliol College, Oxford, and Middlesex Hospital Medical School, London University. He is married with three children. He has been decorated by several foreign governments for services to international relations.

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Eight months after the UK electorate decided on June 23rd by referendum to leave the European Union we are now, following the February 2nd Government White Paper and the Vote in the UK Parliament to authorise triggering Article 50, somewhat wiser to the shape the two year Brexit negotiations will take as far as the UK’s main objectives are for future UK relations with the EU27.

I have been a long-time proponent of the underlying purpose of the European Union and campaigned strongly for a Remain vote. It is by no means perfect but it has brought peace and prosperity to Europe for the last half century and is a force for good in a modern world in which globalisation makes cross-border cooperation ever more necessary. Its reversal or disintegration does not augur well for good global governance or long term stability.

The referendum, whilst not legally binding, was clearly conducted on an understanding that its result would be respected. There was, however, no accepted view of what leaving the EU would look like and the terms for leaving were poorly outlined and no single message has since emerged from the fractious Leave campaigners. In particular, little debate was seen on the issues of security and foreign or defence concerns beyond the exaggerated threat of a standing “EU army” which is most unlikely to see the light of day any time soon as my paper makes very clear.

I have represented London as a Conservative Member of the European Parliament for almost eighteen years and I hope to continue to do so for as long as the UK remains an EU member. That there was a clear majority in London for the UK to remain a member of the European Union emboldens me to oppose the hard-line Brexiteers that are seeking to interpret the referendum as a means to completely detach Britain from Europe and all vestiges of political cooperation with the EU, and thus reject continued coordination on the Common Foreign and Security Policy (CFSP) and the Common Security and Defence Policy (CSDP).

Very shortly, probably in March 2017, the Government will trigger Article 50 and the starting gun to the complex and potentially adversarial negotiations with the EU 27 will commence. Therefore, this paper is aimed at better informing the wider public, media and opinion formers about the key issues, often little understood surrounding Brexit and security. This is an area I can meaningfully contribute to after sixteen years as Conservative Spokesman on the subject and I hope this paper helps make the case to the British Government.

Whatever the future relationship between Britain and the EU, the Government has some very tough choices to make that will affect Britain for future generations.
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## Brexit and internal security

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Despite the Prime Minister’s public pronouncement that Britain is to leave the EU and will not retain “bits of membership” ¹; very few people – and certainly not Mrs May – publicly state that it is in Britain’s interests to abandon the European internal and external security structures in order to act entirely independently in an ever more dangerous world. As Ministers and officials both in Britain and the EU make clear, the principal security threats facing the UK are trans-national and cross-border in nature, whether it be international terrorism or the action of hostile states from North Korea to Russia.

From Europol to the CSDP, security has been interwoven into the European machinery – and that means that it will indeed have to be one of the ‘bits’ of membership or as close to membership as possible that the UK should seek to retain. While it may be seen as ‘throwing the baby out with the bathwater’ to abandon the Single Market, making Britain explicitly less safe in the service of Brexit would be considered an act of gross negligence by any responsible government committed to “defence of the realm” as its top priority.

The Government White Paper² published on February 2nd “The UK’s exit and new partnership with the EU” makes reassuring statements about staying engaged on security matters both in the fight against international crime and terrorism and supporting the CFSP and CSDP but doesn’t specify a detailed course of action or negotiation objectives in this respect. It merely states it wishes to get the best deal possible.

This report therefore tries to highlight the priorities and the various options that the UK can consider to mitigate the potential damage to foreign and security policy from Brexit. As a consequence, it offers the following recommendations:

1. Keep internal security, as far as possible, separate from the most contentious items on the Brexit agenda.

   Particularly on such issues as Europol, Schengen Information System etc., it will be in nobody’s interest to risk an abrupt (“cliff-edge”) British withdrawal. Working negotiation groups can establish the main frameworks for continued association, which may then be agreed early on. Internal security should not be seen as either a “bargaining chip” or negotiating tool by either side. There is a risk that the EU will take the attitude that ‘nothing is agreed until everything is agreed’: this could prove disastrous to UK security if the talks break down in acrimony during the two year Article 50 period. The UK must consequently seek to build goodwill at every stage of the process and settle this priority policy area as early as possible.

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2. Given that so far the UK shoulders proportionally less of the CSDP burden than other Member States, it should counter-intuitively offer to go further after Brexit, and actually increase its funding and supply of personnel. This may help to earn it some of the decision-shaping and making capacity that would otherwise be lost; and also, earn it goodwill in the negotiations and after Brexit – even if it cannot yield quid-pro-quo in other areas. It could even encourage new developments – such as the deployment of the EU rapid-reaction forces (under the control of individual Member States). Certainly, it should offer to assist and participate in CSDP missions whenever NATO chooses not to become involved, or when NATO (as is often the case in Africa or Non Aligned Movement countries) is not wanted. This greater involvement is in the British national interest and it would be counter-productive to put it in question as part of the Article 50 negotiations. Our ‘security surplus’ only exists insofar as British commitment is thought to be reliable. The UK should routinely attend the six monthly informal Gymnich meetings of EU Foreign Ministers and the informal meetings of Defence Ministers, in order to stay closely involved with the decision making process.

3. Seek to remain as a permanent observer in the Political and Security Committee. As the key decision-shaping and making body of the CFSP/CSDP, the UK should attempt to remain as close to it as possible. If this status is not possible, the UK should attempt both formal and informal approaches, such as associate membership, or to arrange weekly meetings with senior EEAS staff. Certainly, the UK should retain a permanent PSC diplomat of ambassadorial rank and consider posting high ranking military liaison officers stationed permanently in Brussels at the EU Military Staff and attached to the post-Brexit UK mission to the EU. The NATO “Partnership for Peace” model is a good one in that it provides for senior diplomats from non-NATO countries like Russia and Ukraine to be stationed in the NATO HQ for ready consultation and access. The offer of a continued Operation Headquarter (OHQ) in Northwood for EUNAVFOR ATALANTA post Brexit and other future CSDP missions should be actively considered. The UK should maintain seconded liaison staff at the EU Intelligence and Situation Centre (INTCEN) and negotiate a deal similar to that enjoyed by the US with the EU for the sharing of confidential intelligence and planning documents.

4. Seek the closest cooperation in the defence industries – which, like the car industry, ideally means membership of both the EU Single Market and Customs Union. The UK Government has regrettably indicated it will take the position in its White Paper of 2nd February that it is necessary to leave the Single Market, and, most probably, the EU Customs Union in order for the UK to regain control of immigration from the EU and be outside the jurisdiction of the ECJ. This, in the author’s view, would have major economic costs for the UK and threaten both its prosperity and thus ability to continue to easily fund its commitment to spend 2% of GDP on defence and potentially its unity, given Scotland’s strong preference for remaining in the EU. The UK should instead conclude a Customs Union arrangement like Turkey’s, rejoin EFTA and sign the EEA treaty. This would give it a status similar to Norway or Iceland. It would provide full membership of the Single Market but would put the UK under the jurisdiction of the EFTA Court, which is far less intrusive than the ECJ because its judgements lack direct effect. It would furthermore allow the UK to unilaterally apply an emergency migration cap under Article 112 of the EEA Treaty thus meeting the concerns of Leave voters about unchecked freedom of movement for EU citizens.

5. The UK should make a declaration that it will honour or replicate Articles 42.7 and 222 of the Lisbon Treaty, which guarantee mutual assistance and military assistance during a natural disaster, terrorist attack, or is the victim of armed aggression on its territory. This follows the Swedish model, whereby Sweden albeit not in NATO, guarantees to come to the aid of its neighbours, as a substitute for NATO’s Article 5. This would not only be an important gesture of goodwill for Britain, but also a useful vehicle if, in future, the CSDP does move more closely towards a collective defence model, and NATO’s significance wanes. Indeed, if President Trump really does enact radical isolationist or anti NATO polices as he has threatened, the EU might have to replace the US as guarantor of security – in which case the UK, with its military capacity, could gain in importance, rather than diminish.

6. The UK could in fact propose formally resurrecting the defunct Western European Union in order to complement NATO. This could give additional assurances to non-NATO EU countries such as Finland and Austria that the UK, and other countries, would protect them if they were attacked (although they could also join NATO as Sweden is considering). It would also ensure that an element of the CSDP was able to continue outside of an explicitly EU membership only framework. Certainly, however, the move would not be popular in Brussels, and the UK would need to persuade EU partners that it was not seeking to undermine or diminish the current CSDP, which they are attempting to strengthen. It would also need EU Treaty changes so would
be very lengthy to implement, but a future bilateral UK-EU Treaty on CFSP/CSDP might include an automatic right of first refusal by the UK to participate in all CSDP missions, analogous to the EU-NATO Berlin Plus arrangements.

7. The UK should maintain its contributions until at least 2020 to the European Development Fund (EDF).

This would not only be in the UK’s interests – continuing to support the world’s poorest people, and having UK contributions reinforced by added EU funds providing economy of scale for projects and audit – but it would also be an important way to foster goodwill among the EU27. Britain’s European allies fear a black hole emerging in the European Neighbourhood and thus right that the least developed countries should not have to bear the brunt. Development is also tied to human rights and indeed global security, which will remain key UK interests after Brexit. It will also ensure that Anglophone Commonwealth countries do not lose out to Francophone ACP ones post Brexit.

The EDF is not part of the EU Budget and works on the basis of 7 year programmes. Currently the 11th European Development Fund for the period 2014-2020 is active. The fund is intergovernmental and so this should be easy to arrange without treaty change. In 2020 the ACP EDF Cotonou Agreement expires when the UK could review its position regarding continued participation. The UK is unusual amongst developed countries in fully delivering on the Millennium Development Goals in spending 0.7% of its GDP in Overseas aid and thus spending it multilaterally through EU programmes offers huge economy of scale advantages. This is particularly relevant in preventing resources being shifted from the Horn of Africa to the Sahel, as both need continued assistance. The UK may wish to continue participating in other multilateral programmes of the EU, like the European Neighbourhood and Partnership Instrument (ENPI). The UK may wish to follow the example practiced by Norway and not handover a blank cheque from the UK Official Development Assistance budget to the EU Commission but instead negotiate on individual programmes on a case by case basis in order to maximise influence.

Similarly, ongoing participation in the European Investment Bank’s (EIB) multilateral loan funding for infrastructure projects in the European Neighbourhood and beyond should be continued. This would, however, require changes to the EIB's founding statute which restricts participation to EU Member States only. The EIB invests in over 150 non-EU States, allocating 10% of its loan capital, which had reached nearly €80 billion in 2015, to such non-EU projects. These loans are offered at extremely competitive interest rates, afforded by the combined critical mass of the EU constituting the world's largest economic bloc, rates which the UK acting unilaterally would be unlikely to match. The UK acting alone would also involve additional expense due to the loss of the economy of scale provided by the EIB. Given the EIB’s long track record of good corporate-social responsibility and governance overall there is little to be gained by the UK managing a separate loan portfolio.

8. In order to retain access to CFSP/CSDP decision-making, the UK could contribute to a specific budget.

Much like paying for Single Market access, the UK could pay into a fund earmarked to deliver on foreign and defence policy goals. For example, Jean-Claude Juncker has mooted an EU Defence Research Fund in November 2016 under the European Defence Action Plan. This would make it easier for the EU to accept a larger role for the UK as a financial contributor than would normally be afforded a third country. Another issue is to ensure continued participation in the European Defence Agency (EDA) as an associate member, a status currently being sought by the USA. The UK is amongst a minority of countries which spends the NATO 2% of GDP target on defence and thus can well afford to stay committed after Brexit to EU Defence initiatives.

9. Support Germany as a non-veto holding permanent member of the UNSC.

Given that the UK’s departure from the EU will reduce the EU presence on the UN Security Council by 50% leaving only France, a renewed consideration should be given by Britain to campaign strongly for enlarging the UNSC to include Germany as a permanent non-veto wielding member (and at the same time enlarge the UNSC to also include Brazil, India and Japan). This would generate enormous goodwill and be a serious indication the UK wished to remain a European player and close ally of the CFSP. The UK should consider supporting certain US policymakers who are reportedly pushing to incorporate Germany into the Five Eyes (FVEY) close intelligence sharing alliance. These moves would also foster good will among other allies outside of Europe at a time when the UK is seeking to project itself as a globally minded player.

10. The UK should seek to agree an enhanced Working Agreement with FRONTEX, the European Border and Coast Guard Agency

This suggestion could be easily achieved using a model already agreed with other third countries such as the USA and Canada. This should involve the ability for UK Border Agency staff to participate in FRONTEX operations, recognising the mutual challenge to the UK and the EU from increasing irregular migration. Notes that such support would be even more important and necessary to the UK in the event of the Le Touquet Treaty ceasing to be enforced or abrogated, which seems likely post Brexit.

The UK has actively participated through the EU CSDP Mediterranean naval operation SOPHIA in destroying people trafficking boats off the coast of Libya as part of the UK’s wider migration policy and thus it clearly wishes to help defend the EU’s external border. It is also relevant in the longer term that the increasing Climate Change threats over coming decades (which might even accelerate if the new Trump administration withdraws as expected from the Paris Climate Change agreement) are a major concern. Any substantial change in rainfall patterns will cause devastation to sub-Saharan economies and in all likelihood, generate sizable economic migratory fluxes towards the EU and also to the UK.

1 Official Development Assistance 2015, OECD 2016
3 http://www.eib.org/about/key_figures/index.htm, EIB, February 2017
4 ‘Defence Expenditure of NATO Countries’, NATO, July 2016
When British voters chose on 23rd June 2016 whether or not the United Kingdom should remain a member of the European Union, foreign and security policy was unlikely to have been a major factor in the decision. During the protracted and divisive referendum campaign, immigration, the economy and sovereignty dominated the political exchanges; the only time security or foreign affairs significantly intervened was in the story that the EU was to commission a European Army, and that the UK would be forced to accept and participate in it – both of which were false.  

The strong impression is that the British people have neither been fully and objectively informed about the UK’s role in the EU’s CFSP/CSDP, nor invited to deliver a clear verdict on its merits. Equally, there was no apparent move by the Vote Leave camp to associate the UK’s departure with a withdrawal from the internal security frameworks that assist law enforcement and counter-terrorism. Brexit may mean Brexit, as the Prime Minister is keen on insisting, but Brexit was never clearly intended to signify a loss of British influence, nor, for the majority of voters, a total withdrawal from the European foreign policy and security apparatus. This framework is not only comprehensive but has in fact also been spearheaded and championed by successive UK governments. Indeed, the framework has served to extend and project UK power through the EU institutions. Leaving it will diminish rather than enhance UK sovereignty at a time when as a state, it faces a growing range of security threats.

What, then, is security in the EU sphere, and how might Brexit impact upon it?

The former British Prime Minister David Cameron often said that the first duty of any Prime Minister was to ensure the country’s security. In recent years, this has come to be understood as guarding against domestic or international terrorism, or at a lower level, preventing and combating serious crime, but, as state actors have demonstrated, hostile governments also continue to pose threats. North Korea is perhaps the most extreme example, but Iran, China and Russia have, in recent years, also alarmed other countries with, respectively, the threat of acquiring nuclear weaponry, alleged government-sponsored cyber-hacking, territorial and maritime expansion, and overt and covert military aggression in Ukraine. Security has also long been interpreted as not merely defending against direct and tangible threats to one’s own polity, but promoting regional peace and stability, and assisting UN Chapter 7 sanctioned foreign interventions in both a military and civilian capacity.

We can therefore understand ‘security’ as falling under three brackets:

1) Internal law enforcement and security services and other judicial actions in the prevention and fight against terrorism and major domestic crime;

2) A combination of internal and external defence from states or pseudo-states;

3) A more globally-oriented system of military and/or civilian intervention.

The United Kingdom has for a number of years been cooperating with the European Union in all three spheres.

In the first, counter-terrorism operations have depended on formal and informal networks of intelligence and data-sharing – not least through the institution of Europol, established in 1998 and employing over 900 people, but also through such instruments as the Schengen Information System, the Prüm Convention, Passenger Name Record data and the European Arrest Warrant, as well as Eurojust set-up to promote judicial cooperation in criminal matters.

In the second area of defence against state and non-state actors NATO remains the cornerstone and bulwark against overt military aggression but EU states have greatly increased their soft-power diplomatic coordination and integration under the CFSP. This was started by the Thatcher Government in the Single European Act and “European Political Cooperation” in 1986 and developed into more hard-power military cooperation in recent years under the CSDP, and increased coordination with NATO in such ‘hybrid threats’ as cyber-hacking have also contributed to this. As a key plank of this integration, the EU has implemented targeted and effective sanctions against major states such as Iran and Russia; this tool has functioned both diplomatically and defensively to combat apparent or overt threats by those countries to their neighbours and EU countries themselves.
Finally, in the third area, the CSDP has in recent years undertaken civilian and, increasingly, military missions, in the so-called EU Neighbourhood and beyond; these have included missions to help stabilise conflict zones, tackle piracy and people-smuggling, and help build military and civilian state capacity.

Regrettably Britain voted to leave the EU at a time of rising international tension. Russia as a major example had been extending its influence in Europe through cyber-attacks, violated international law by annexing Crimea, and continues to foment unrest in Eastern Ukraine through proxies in the Donbass that it created, supports with equipment and personnel and uses to undermine the democratic government in Kiev. Since then it has become clear that it also seeks to influence the politics of our most important allies, in Europe and abroad. The election of Donald Trump as President has thrown the United States foreign policy into disarray, challenging diplomatic norms and previously understood western strategic positions and policies. We will not now automatically be able to rely on benevolent American attention to protect security in Europe. It is therefore strongly in the national interest of the United Kingdom that as we leave the EU we continue to play an active and essential part in European defence, security and foreign policy structures. The Government White Paper published on February 2nd 2017 broadly supports this general policy strategy.

While the UK does indeed have interests beyond the European continent, and in which it should continue to pursue an independent sovereign course, there is little overlap or duplication with the CFSP in those discrete areas. Participating in future in the CFSP does not prejudice the UK's role defending the Falklands against Argentine aggression, and legacy unsettled issues arising from the Commonwealth and former colonies, such as the rights of the Chagossians to return home, independence for Somaliland, the democratic and civil rights of Hong Kong citizens, and maintaining our rights and territorial claims under the Antarctic Treaty, etc. These are an addition and not a substitute for engagement in Europe.

A far more ominous outcome would be for the UK to consider the EU's foreign and security policy as a competitor to UK interests. This should be rejected and opposed. It would play into the hands of our adversaries and would mean many radical changes to our long standing foreign policies of opposing Russian and Chinese expansionism, abandoning support for a two-state solution between Israel and the Palestinians, acting against tyrants like Assad in Syria attempting to prosecute their wars with impunity from criticism of human rights violations and accountability for war crimes.

Finally, there is the important matter of values. Britain is a democracy that shares and cherishes its common values with the EU. As such, we should work together to promote this positive agenda globally and promote enduring peace, stability and the more prosperous world that a rules based international order provides.

This report aims to explore these security dimensions in greater detail, and the impact of Brexit upon them. It will:

1. Examine the potential for Britain to retain its connections and influence within all the relevant institutional frameworks;
2. Assess the grave implications of a full British withdrawal from EU internal security mechanisms, and the external CSDP and CFSP (both from the perspective of the UK and EU);
3. Analyse the future of both British and EU foreign and security policy in the wake of Brexit;
4. Offer concrete recommendations for Brexit negotiations with the EU27 following the triggering of Article 50 by the UK;
5. Explore the changing global foreign policy and security landscape following the election of Donald Trump as President on the United States and the impact this will have on security considerations in Europe given his controversial foreign and trade policies;

The UK Parliament has voted now to authorise the government to trigger Article 50 of the Lisbon Treaty and commence Brexit negotiations to leave the EU. The triggering and commencement of negotiations is likely to start in March 2017. The hope of this paper is that the chosen “Hard Brexit” option of the UK exiting the Single Market and the Customs Union laid out in the recent Government White Paper will not become an “aggressive Brexit”, radically cutting the UK off from its neighbours and natural allies during the two year Brexit negotiations period.
Chapter One
Brexit and internal security

Introduction

During the EU referendum campaign of June 2016, the current Prime Minister but then Home Secretary Theresa May’s biggest contribution to the debate was to emphasise the importance of cross-border cooperation among EU Member States in fighting international crime and terrorism. When, in 2014, David Cameron used the Lisbon Treaty right to opt out of 130 Justice and Home Affairs protocols, May, in the face of huge criticism from British Eurosceptics, opted back into 35 of them, including the Prüm Convention on cross-border information sharing and the European Arrest Warrant. The new Prime Minister thus has a strong record of advocating European cooperation against security threats, having the experience of attending numerous Council meetings of EU Interior Ministers as a very long serving Home Secretary between 2010-16. The case for British involvement in EU security is also shored up by the post-Brexit appointment of Sir Julian King as EU Commissioner for the ‘Security Union’, working to combat such threats as cyber-crime and terrorist propaganda and preventing the radicalisation of young EU citizens. However, in a post-Brexit Europe, the question must be asked whether the future of cross-border cooperation between the UK and EU Member States will now change – and if so, how.

This chapter shall address internal security and counterterrorism arrangements developed under EU institutions as well as bilateral arrangements the UK has separately negotiated with EU Member States. The EU-level arrangements include, in particular, Europol, the European Arrest Warrant, the Passenger Name Record system, and the Schengen Information system (which the UK is part of despite not being in the Schengen travel area) and the European Criminal Records System. The bilateral arrangements addressed will be the Le Touquet agreement on the Franco/Belgian/British border, cooperation between intelligence agencies, and the arrangements that will impact on the UK’s border with the Republic of Ireland.

The UK Government’s February 2nd White Paper in Chapter 11 makes it clear that the UK will “continue to work with the EU to preserve UK and European security, and to fight terrorism and uphold justice across Europe.”

EU-LEVEL AGREEMENTS

Europol

Europol is the European Union’s law enforcement agency, comprised (only) of the 28 EU Member States. Headquartered in The Hague, it works with Member States and non-EU partners to tackle terrorism, drug trafficking, international fraud and currency counterfeiting, and is adapting to counter emerging threats including radicalisation and people-smuggling. It has successfully worked to further integrate and coordinate much of the work of Member States’ police, security and law enforcement forces, and is generally considered invaluable both at an intelligence-sharing and operational level.

The UK Government has recently signalled that it may seek to continue an enhanced relationship with Europol after Brexit. Europol’s new protocol comes into force in May 2017, and the UK had (ideally) to notify the European Commission by 1st January if it wished to opt in – although realistically it can do so closer to the 1st May starting date. After a considerable delay in declaring its position – which had caused significant alarm in EU ‘seucorocrat’ circles – the Government declared its intention to opt in in November 2016. Had it not done so, it would have been frozen out of all Europol operations, in what senior Europol officials termed a ‘cliff-edge’ scenario, long before Brexit.

National Crime Agency Deputy Director-General David Armond has suggested that the UK could retain its influence and continue to participate in joint international security operations through associating with Europol as an operational cooperation-only nation. This may be considered post Brexit a ‘best-case’ scenario.

According to most officials, the UK’s future in Europol is mixed. Certainly, it will not be able to influence European security and policing after Brexit to anywhere near the extent that it does at the moment as an EU state full member. Following Brexit, officials estimate that the UK could


1 See the Europol website: https://www.europol.europa.eu/content/page/about-us
2 Ibid

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realistically achieve roughly 80% of the benefits that it currently enjoys in Europol (on a par with Norway’s status as a third-country partner). There are operational agreements with a number of countries including USA, Australia and Canada and “strategic partnerships” with Turkey, Russia and Ukraine but these take years to negotiate. The main impediments will be the lack of direct access to databases, and the inability to initiate or lead intelligence operations. It goes without saying that there will also be no UK officials in positions of influence or authority to shape future Europol policy or security priorities. (The current Director of Europol, Rob Wainwright, is a British Citizen but his term will expire before the anticipated conclusion of the Article 50 Brexit negotiations.)

The UK will also have to leave the Europol Management Board, and while it is conceivable that it could request to remain perhaps with a special non-voting observer status, officials agree that consent for this would be extremely unlikely. One senior Europol official suggested that the US, which has more global clout than the UK in security matters, has a ‘negligible influence’ in Europol despite a large delegation, and that the UK is guilty of over-stating its own influence and impact.

Nevertheless, the ‘Norway model’ does offer key advantages, with no direct budgetary contributions to Europol, and positions for numerous ‘liaison officers’, who are seconded from national law enforcement agencies. The British Embassy in The Hague could diplomatically attach a formal or semi-formal UK Europol delegation of seconded national police and intelligence liaison officers post Brexit. As a point of contrast, the UK currently has 15 liaison officers, and the US – while obviously lacking national members of Europol EU institutional career staff – boasts 20.

Senior EU officials are clear that an amicable separation deal with Europol is achievable – and point to the British police forces’ increasing dependence on the organisation. Clearly, a full withdrawal from Europol structures would be deeply, and mutually, counter-productive. The problem, therefore, is a technical one. Once Britain has opted in to the new protocol as it intends to do, it has a springboard to negotiate a long-term status – but how it can do that within the Article 50 Brexit negotiations time frame will be a challenge. Discussions with Europol officials confirm that the EU27 agreement will be subject to qualified majority voting (QMV) and does not thus require the consent of all the 27 remaining Member States, Europol membership will demand unanimity, plus the agreement of the European Parliament for protocol change. This is far from assured given the potentially acrimonious political climate. The UK must acknowledge in these circumstances that its powers are limited and that ultimately its relationship will be determined by the EU27 rather than solely on its own terms.

**Eurojust**

Established in 2002 as the EU’s Judicial Cooperation Unit, Eurojust seeks to bring together police officers, magistrates, and prosecutors from across the 28 EU Member States. Based in The Hague, it works across the EU and has established so-called contact points in a further 23 non-EU third-countries. Its competences are similar to those of Europol and it works to aide investigations and prosecutions across state boundaries. In 2008, it signed a Memorandum of Understanding with the European Judicial Training Network (EJTN) to cooperate in the field of judicial training, particularly by means of secondments to Eurojust in order to familiarise judges with the workings of the organisation.

Norway and the USA boast particularly close links with Eurojust and have staff based permanently at its headquarters. Ideally, the UK should seek to establish a similar relationship with Eurojust, as well as becoming an Observer member of the EJTN in line with the precedent of existing non-EU countries that enjoy this status.

**European Arrest Warrant**

The European Arrest Warrant (EAW) was enacted in the UK in 2004 to make extradition of criminal suspects simpler, replacing several pre-existing but separate extradition systems, largely through bi-lateral treaties that created difficulties as individuals exploited the benefits of free movement and Schengen to change jurisdiction unchecked.
The UK’s National Crime Agency (NCA) cooperates with the EAW System, acting as a gateway between EU authorities requesting an arrest and those executing the arrest. The NCA’s role is to assess the legality of EAW requests it receives from external authorities, and places valid requests onto national systems. On the other hand, the NCA does not examine the evidence that a warrant is based on and only surrenders (extradites) suspects if ordered to by a UK court.

The EAW has significantly benefited the UK’s ability to streamline the process of extradition. According to the NCA, fewer than 60 people per year were extradited from the UK prior to the UK enactment of the EAW. Yet since 2010, the UK has successfully made over 9,000 arrests, including the surrenders (extradited) of 6,514 suspects to requesting EU states. Additionally, since 2010 the UK has successfully requested the extradition of a significant number of suspects from EU states.

Indeed, the intelligence community has (with the sole significant exception of Sir Richard Dearlove) been united in stressing that the EU’s legal and data framework has been beneficial in effectively tackling international crime and terrorism threats. John Sawers, former head of MI6, highlighted this when remarking that:

When the Belgians thought they’d arrested one of the Paris bombers, the French were able to pass DNA and fingerprints to them in 15 minutes. It used to take two months. We extradited from Italy a terror suspect in eight weeks. Before the new EU arrangements, it could take up to 10 years.

Evidently, the EAW has assisted and improved the efficiency, speed and cost of the UK’s judicial extradition system. The Republic of Ireland is a key example. Prior to the introduction of the EAW, extradition proceedings between Ireland and the UK were based on the Council of Europe Convention on Extradition (1957), which permitted Member States to refuse to extradite suspects on the grounds that their offences were deemed political, a caveat often used by suspected terrorists to prevent extradition. The EAW, however, enables authorities to treat politically claimed offences in the same way as criminal offences, facilitating the extradition process.

Given the EAW’s clear advantages, it is likely that the UK Government will prioritise negotiations on criminal justice procedures. Theresa May when Home Secretary has frequently argued in favour of UK access to and use of the EAW, telling the British House of Commons on 19th December 2016 as Prime Minister that she will pursue a deal that suits the UK’s security interests.

In the event of a clean break with the EU, UK courts would no longer be bound by the EAW (and EU courts including Irish or Spanish, where many wanted British fugitives from British justice have taken up residence, would no longer have reciprocal obligations). This would not only prove politically damaging but compromise national security in some instances.

NCA Deputy Director-General David Armond has suggested:

We could theoretically, if the Government decided it was a sensible approach, start with saying ‘We are so interlinked in relation to our security, we would like to continue to be members of that particular aspect of the EU’. Then out of that negotiation will come a sensible set of arrangements.

Certainly, if the UK wished to retain full use of the EAW it would have to break precedent. As with Europol, continued UK use of the EAW post Brexit could prove more complex than imagined. Norway and Iceland, for example, reached an outline agreement to join in 2006, but the accords have still not been ratified by all Member State parliaments over ten years later. Clearly the process can be expedited by the EU27, but it remains highly doubtful that such an endeavour can be achieved in just two years, particularly when topics such as the EAW will feature much less prominently than the headline-grabbing issues of access to the EU’s Single Market, rights of the existing 3 million EU citizens in Britain and 1.2 million British citizens in the EU, but controlling the future free movement of people and the future level of EU budget contributions. It could also fall victim to a unilateral dissent – for example a Spanish objection to Gibraltar’s inclusion. Nevertheless, UK legal opinion might stress that the fundamental tenets of the EAW will persist under a UK Act of Parliament, the Extradition Act 2003 (although the effects on binding mutual recognition of each other’s judicial authorities are less certain).

An alternative would be for the UK to work towards a new agreement with the EU as a whole, similar to the Council of Europe Convention on Extradition. However, it is probable that any agreement reached will be less effective than the current EAW system, exemplified by the limitations of the Council of Europe agreement, which unlike the EAW, allows contracting states to refuse to extradite their own nationals such as was the constitutional case for Germany in the past.

A further alternative is to sign 27 bilateral agreements – but senior officials have described this as ‘fanciful’ and a process that would take years. Certainly, as Ireland has repealed the use of the 1957 Convention, a new bilateral extradition procedure would have to be agreed quickly between these two states as a priority given the Common Travel Area arrangements and a commitment by both governments to continue it after Brexit. Taking account of the politics involved, this would likely be a long and arduous negotiation that would run the risk of straining strong political relations which have taken decades to build across the continent. One feature and problem of bilateral arrangements for extradition is that suspects can evade capture by hopping across borders to states which are not

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yet observant of such agreements or have different standards or exclusions and of course Schengen with a border free Europe facilitates this process so unless the whole Schengen area is covered by multiple bilateral agreements it is ineffective. Furthermore, even if all Schengen states individually ratify a bilateral treaty with the UK presumably it would have to be executed by a local court taking time in which the suspect could move next door and the process has to start again.

The Government’s White Paper seems to recognise the added value of the EAW in fighting international crime and terrorism and doesn’t suggest it wishes to discontinue it though provides no details as to precisely how it will achieve this beyond the statement “we will therefore look to negotiate the best deal we can with the EU to cooperate in the fight against crime and terrorism”.

**Passenger Names Record Directive**

Passed by the Council of the European Union in April 2016, the Passenger Names Record Directive obliges airlines to hand over their passenger records to EU Member States for the purpose of preventing terrorism and serious crime, including trafficking in drugs, people or weapons, cybercrime, and sexual exploitation of children. It aims to create a more comprehensive data-sharing system by giving Member States the ability to share alerts and request information in order to identify suspicious patterns of behaviour.

The PNR Directive’s efficiency rests in its comprehensive implementation in each Member State’s national legal system, and its simplification of data protection rules. Nevertheless, some aspects of the directive remain problematic, which presents difficulties for police authorities seeking to use it in order to make arrests. Furthermore, the Directive leaves room for Member States broadly to interpret and implement it as they see fit, due to the simplification of data protection rules and the low level of data protection required. The level of harmonisation that the Directive brings is therefore likely to be minimal as Member States interpret the rules according to their own needs.

Nevertheless, since the Council of the EU passed the Directive, there has been little opposition from the UK Government. The Directive was last raised in the Commons on 26th November 2015 by Theresa May, who reiterated “the importance of progress on the Passenger Name Records Directive”, and supported “actions to strengthen the external border and stated that proactive sharing of criminal records data could improve Member States’ intelligence picture”.

This, consequently, appears to be a somewhat problematic but still a useful initiative, which the Government would probably want to continue. The level to which this will be possible – along with participation in Eurodac (European fingerprint database for registering asylum seekers and illegal migrants as part of the Dublin convention package in 2003) – will, again, be a matter for the negotiations as it will otherwise lapse post Brexit.

**Schengen Information System II and European Criminal Records Information System (ECRIS)**

The Schengen Information System II (SIS) addresses border control, law enforcement and vehicle registration cooperation. The fact that the UK has signed up to it, despite not being a member of the Schengen zone, demonstrates its practical utility. Literally thousands of both EU27 SIS issued and UK issued alerts have been accessed by law enforcement and border agencies yearly. One official suggested that it was the only way for an official at Heathrow Airport, for example, to determine whether an EU visitor was a convicted paedophile. Retaining the UK’s involvement in the system – which senior officials have labelled ‘essential’ – will again require goodwill, and possible legal changes, as currently Member States are either in the EU or Schengen. As with Europol and the EAW, unanimity must be secured. Retaining this crime fighting tool must be a top priority for the British Government. The complimentary system the European Criminal Records Information System (ECRIS) is an invaluable tool for the British police in accessing detailed criminal records from EU Member States on their nationals and in turn providing details on request by the EU27 states of EU nationals convicted of crimes in the UK.

**Prüm Convention**

The Prüm Convention is a treaty signed in 2005 between Belgium, Germany, Spain, France, Luxembourg, the Netherlands and Austria on the increasing of cross-border cooperation, particularly in combating terrorism, cross-border crime and illegal migration including provisions for sky marshals and joint police patrols. Some of the provisions within the convention which relate to police and judicial cooperation in areas like DNA data, fingerprints, vehicle registrations, joint were later partly subsumed into EU law, and therefore adopted by other Member States including the UK. These provisions later became collectively known as the Prüm Decision.

During his tour of EU Member States in the summer of 2014, Prime Minister David Cameron initiated an opt-out of the Prüm Decision. However, following an intervention from the then Home Secretary, Theresa May, the UK resumed participation in May 2016, and the Government once again signalled its intention to participate in November 2016. This
appears an entirely uncontroversial and essential scheme, backed by the UK Prime Minister, with clear mutual interest for both the UK and the EU. Certainly, it will not be to either side’s advantage to make it a bargaining chip in negotiations, and remaining in the Convention will prevent the UK having to renegotiate vital information-sharing rules.

FRONTEX

FRONTEX is the EU Border Agency and Coast Guard. Continued UK support and future participation is important and it will remain very much in British interests to prevent large uncontrolled migratory flows, which may increase in size if climate change in future years has the predicted devastation on sub Saharan African economies. Again, the threat by President Trump to pull out of the 2016 Climate Change Paris Agreement will be catastrophic in this respect with significant impact on the southern EU Neighbourhood. The idea that many migrants will not wish to head for the Channel ports to cross into the UK is clearly wrong and abrogation of the Le Touquet Trilateral Treaty would allow migrants to more easily cross from France and Belgium to the UK than is currently the case.

BILATERAL/NON-EU AGREEMENTS

Le Touquet

Outside of the Prüm Convention, the UK is party to a number of bilateral agreements with other EU Member States relating to security. Perhaps the most famous, the Le Touquet accord, is a trilateral agreement on juxtaposed border controls enacted in 2003 between the UK, Belgium and France, whereby the UK has its border checks in Calais for ferries (Paris and Brussels for Eurostar) while France has its in Dover or at St Pancras station. Trilateral agreements such as this are not directly connected to EU law, but in the case of Le Touquet, Britain’s membership of the EU brought a strong element of mutual trust and interest to the agreement, which the Brexit vote has politically challenged.

Following the referendum, the head of the Hauts-de-France region that represents Calais, Xavier Bertrand, remarked that “the British people have chosen to take back their freedom, they must take back their borders”, and called for the agreement to be “denounced”. President Francois Hollande insisted that Brexit did not mean that the UK could “waive its obligations”, but that it must “play its part” in resolving the crisis.1

Bertrand and Hollande were not alone in issuing warnings to the UK. The French MEP Arnaud Danjean told the BBC that the French Government “will definitely” move the border post-Brexit.2 Bertrand has since called for “a new type of bilateral relationship at the regional level” between England’s South-East and the Northern France region to prevent “migrant jungles” appearing on either side of the Channel. This would, in his words, “replace” the Le Touquet agreement.2 French Presidential candidate Francois Fillon has stated that he would insist Britain take back its border if elected.

The UK’s border checks in Calais are important from a security perspective as they screen people arriving into the country before they land on British soil where they can then under the 1951 U.N. Geneva Convention claim asylum and again if refused they can be returned to France under the EU’s Dublin III regulation, which will lapse after Brexit unless separately agreed during the Brexit negotiations. For France, the bilateral deal provides them with financial assistance and greater security and intelligence cooperation from Britain.3 Numerous politicians and commentators have expressed the fear that if the Le Touquet agreement is scrapped or not replaced, and contrary to Leave campaign promises new migrant camps could emerge on the English side of the Channel.

Intelligence Services Cooperation

Brexit has consequences not only for the UK, but for other Member States in their ability to adequately counter security threats. Speaking in light of the terrorist attacks in Paris and Brussels, former French Justice Minister Rachida Dati, now an MEP, remarked:

In a globalised world, where capital, humans, and merchandise can go nearly anywhere, it is not feasible to fight alone. All security experts agree: we need to go towards a systematic exchange of information; our secret services need to work hand in hand with each other.4

EU Member States, including the UK, benefit not only from European cooperation but also world-wide intelligence sharing. ‘Five Eyes’ is a very long established (founded in 1941) close intelligence alliance between the UK, USA, Australia, Canada and New Zealand, and dwarfs the capabilities of China and Russia. Five Eyes presumably working in the looser 14 Eyes arrangements which include EU Member States; Denmark, France, Holland, Germany, Belgium, Italy, Sweden and non-EU but EEA Norway is believed to have played a crucial role in tracking those involved in the Paris and Brussels attacks, and continues to disrupt terrorist activity in Europe. The UK Intelligence Community Mi6 (SIS), Mi5, (Security Service), Defence


Intelligence and GCHQ have contact with Europol and the EU Council of Ministers EU Counter Terrorism Coordinator, currently the Belgian Gilles de Kerchove, and presumably also with the UK Security Union Commissioner Julian King and it is essential that this networking between intelligence communities continues post Brexit, and is in line with the Government White Paper.

Though how this situation is affected by President Donald Trump’s new administration remains to be seen. It is certain that no EU Member State will stop sharing data with the UK that could prevent a terrorist attack, and nor will the UK with European partners. Nevertheless, as discussed earlier, withdrawal from or reduced access to specific EU security initiatives could inadvertently hinder the flow of information and make successful attacks more likely.

The UK-Irish border

Joint membership of the EU has undoubtedly helped heal historically rancorous relations between Dublin and London since the “Troubles” began in Northern Ireland. As members of the EU, the security of both Ireland and the UK has benefited from the European Arrest Warrant and a disbanded hard border between the six UK counties of Ulster and the Republic.

The Republic of Ireland is the only other EU Member State with which the UK shares a land border (The British Sovereign bases in Cyprus are not part of the UK and are subject to a separate protocol). This has had an historic importance for security within the UK throughout most of the 20th Century, as an internal UK border in 1921 and as an international border between Northern Ireland with the 26 counties following the establishment of the Irish Free State in 1922.

Nevertheless, the Anglo-Irish Common Travel Area agreed in 1923 allowed freedom of movement between Northern Ireland and the Republic of Ireland and the UK mainland without restrictions, though wartime Britain carried out ID checks on travellers from Northern Ireland during the “Emergency” of 1939-45, only finally ending in 1952.

Customs controls were established from 1923. During the Troubles (starting in 1969), the UK Government implemented military checkpoints to carry out intelligence led identity checks. Custom checks were abandoned following the UK and Ireland’s entry into the EU Customs Union in 1973. Following the Good Friday Agreement (1998), identity checks were also eventually abolished in 2005.

In 2008, a memorandum was signed between the Irish and UK Government’s allowing for a common visa system whereby visitors outside the EU could travel to Britain and Ireland on a single visa. Frances Fitzgerald, Irish Minister for Justice and Equality, said:

It is truly remarkable, and a potent symbol of the transformation in British Irish relations, that the [UK] Home Secretary and I are today jointly launching an initiative of unprecedented cooperation between our countries... something that but a few years ago would have seemed an impossibility... The agreement to introduce this landmark Scheme is an historic development in the operation of the Common Travel Area which for almost the past one hundred years has been of immense political, social and economic importance to both countries.1

The virtual disappearance of the border has helped heal the wounds created by decades of strife, and enabled both nationalists and unionists to reach across the divide. However, despite the efforts of politicians and community leaders, Northern Ireland remains scarred by the Troubles. If Brexit leads to the reinstatement of a hard border, the region will face the real possibility of renewed sectarian violence from those opposed to the peace process.2 There are also concerns about the 1998 Good Friday Belfast Agreement as it formally incorporates the European Convention of Human Rights into Northern Irish law. Although the Convention is not part of the EU acquis, there are calls for the UK to denounce the Convention post Brexit as part of the “taking back control” agenda of the Leave campaign.

Conclusion

The future of UK involvement in EU internal security initiatives remains obscured by post-Brexit uncertainty. Nevertheless, Theresa May has been a vocal advocate for UK cooperation on security since her days between 2010-16 as Home Secretary, demonstrating clear support from the UK Government to continue its current membership and obligations within the major EU-wide security initiatives as far as possible. It is worth pointing out, too, that the Government does not posit the free movement of people for EU citizens primarily as a security issue but as a political and economic one, as the UK, outside of Schengen, already checks the security risk of all arrivals into the country, whether from the EU or not.

The willingness of the EU and its Member States to keep the UK as a full actor in security institutions will, unfortunately, depend not only on individual merit, but on political priorities and the course of events as Brexit negotiations develop. Certainly, neither Britain nor the EU27 will wish to see security compromised – but if political relationships and trust during the complex negotiations break down, this could be a disastrous unintended consequence.

The UK must acknowledge in these circumstances that its powers are limited in these areas in particular, and that ultimately the outcome will be largely determined by the EU27 unless the UK demonstrates a spirit of compromise and a willingness to bring assets to the table, such as good intelligence and criminal records data sharing at a comparable level to which it has hitherto restricted to its traditional “Five Eyes” Anglosphere partners.

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Chapter Two
CFSP/CSDP: the impact of Brexit on UK and European foreign and security policy

Introduction
Contrary to what many British politicians and commentators declare or assume, the EU Common Foreign and Security Policy has been an essential element of British grand strategy. Indeed, despite David Cameron’s occasional public and private hostility, successive UK governments have endorsed the CFSP and much of the CSDP agenda. They have allowed the UK to increase its influence and power by pushing its own agenda at a European level, and having its foreign policy goals frequently amplified by the enhanced military and economic status and clout of the EU acting collectively at a global level in an ever increasingly inter-connected world.

With an increasingly unpredictable United States under President Trump, and an increasingly aggressive Russia, it now becomes even more essential to build strong security links with our closest neighbours. Though the UK is leaving the EU, it must now build upon the decades of foreign policy cooperation that arose from its 44 years of membership, echoing the Government’s mantra that while Britain might be leaving the EU; it is not leaving Europe.

It is worth recalling that foreign policy decisions under the EU Treaties always require unanimity among Member States, and so the UK was never forced into any position with which it disagreed; indeed, it frequently persuaded other countries round to its own position, particularly given its relative size in the EU and accepted global role in the field of foreign policy as one of only five permanent members of the UNSC. Many high-ranking diplomats in Brussels credit Britain, for example, with pushing for the sanctions imposed on Russia after the annexation of Crimea in 2014. In addition, it was a British EU Commissioner, Baroness Ashton, who as High Representative advanced major foreign policy achievements in areas such as the Kosovo/Serbia dialogue and the Iran nuclear deal – both of which were closely aligned to stated British interests.

The speed with which the UK Government provided assurances following the June 2016 EU referendum that Britain would continue to play a key role in the CFSP and CSDP until Brexit, indicates the importance and relatively uncontroversial nature of the UK’s involvement in this particular field of European integration. Indeed, just four days after the vote, the then still Prime Minister David Cameron stressed that “whatever the precise nature of our future relationship, we will want to continue with a great deal of our extensive security co-operation”. The Brexit White Paper spells out in some detail how the UK has participated in the CFSP and CSDP and suggests that post Brexit the Government “will continue to work with the EU on foreign policy, security and defence”.

The CFSP and CSDP therefore represent two areas in which Britain after exiting the EU has much to offer. Britain – as one of two major military powers within the EU, alongside France – has what is commonly identified as a ‘security surplus’, which is considered highly valuable to the EU, both in material and symbolic terms. Nevertheless, a Britain cut adrift and operating totally separately from the EU’s foreign and security apparatus could leave both British and European policy and power substantially weaker, a ‘lose-lose’ scenario. Indeed, some EU officials have privately expressed fears that foreign policy could be seen by some hard-line British eurosceptics as a zero-sum game, in which the EU has to fail (and be seen to fail) in order for the UK to succeed.

The challenge then, is to identify how Britain can continue after leaving the EU to exercise influence and to participate in EU security structures, both within the realms of the CSDP and NATO, while also considering what might be the implications of a total withdrawal from the EU structures.

What is – and isn’t – the CSDP?
The Common Security and Defence Policy stands under the umbrella of the Common Foreign and Security Policy. It is currently overseen by a former Foreign Minister of Italy, Federica Mogherini, the High Representative for Foreign and Security Policy and Vice-President of the European Commission, and administered chiefly through the European External Action Service (EEAS), the quasi-autonomous European institution which she heads. The EEAS also operates diplomatic missions around the world. The CSDP concerns itself exclusively with external security – in its own words, “peace-keeping operations, conflict prevention ...
international security [and] ... crisis management”.¹

CSDP missions are designated as either civilian or military, and they currently number 17, operating in the Western Balkans, the former Soviet space, several regions of Africa, and parts of Asia.² Eleven of these missions are civilian (dedicated to post-conflict monitoring, border and police and judicial training assistance, and/or capacity-building), and six are classed as military; training missions (EUTM) in Mali, Central African Republic and Somalia, in addition to the anti-piracy operation EU Naval Force (NAVFOR) ATALANTA off the Horn of Africa, the anti-people-smuggling EU NAVFOR MED in the Mediterranean (also called ‘Operation Sophia’), and the longest-operating mission, EUFOR ALTHEA, which has been assisting the armed forces of Bosnia-Herzegovina since 2004. A further six military operations have now been completed.

As officials from both the EU and NATO routinely make clear, there is no desire in either organisation to copy or hinder the other, and indeed, the stated ambition of both institutions is to prove mutually reinforcing, recognising the right of first refusal to undertake a military action to NATO under the “Berlin Plus” arrangement.

Britain and the CSDP: who gains?

Despite laying claim to be one of the pioneers of the CSDP, Britain has what is commonly regarded as a mixed or ambivalent relationship with the policy. These might be summarised as under-investment in terms of manpower (and perhaps funding), but demonstrating some key successes when resources have been carefully targeted. There can be no doubt that what the UK has lacked in size of numbers contributed, the quality has been warmly welcomed by its EU partners.

In factual terms:

- The UK is only the fifth-largest contributor to CSDP military operations, and seventh-largest to civilian missions.² This is despite the UK running the world’s fifth-largest defence budget.² In 2014, the bulk of the UK’s CSDP personnel active on the ground were then attached to EUFOR ALTHEA which the UK has supported since its start in December 2004 to stabilise Bosnia-Herzegovina post Dayton.³ Most recently, as well as the antipiracy EUNAVFOR ATALANTA mission off the Horn of Africa, the UK has had military and civilian roles in the EU Assistance Mission in Ukraine, the civilian Rule of Law CSDP Mission in Kosovo, and the EU Policing Mission in Afghanistan.

- By June 2016, the total number of UK service personnel still numbered just 120, deployed across five EU missions – principally Operation Sophia.⁴ The UK Government has considered this deployment a success: HMS Enterprise has been deployed since 4 July 2015 (joined by a Merlin helicopter and HMS Richmond for shorter periods),⁵ and according to Minister of State Earl Howe, in May 2016 UK ships had picked up almost a third of the total number of migrants rescued under Operation Sophia, which by July 2016 had saved more than 16,400 lives.⁶

- Perhaps the defining UK CSDP contribution has been to EU NAVFOR ATALANTA. Its Operation Headquarters Facilities (OHQ) have been based in Northwood, London, since the start in 2008 and the UK provides the Operation Commander and

⁵ House of Commons, ‘Written Question: EU Common Foreign and Security Policy’, 1 December 2014, 214602
⁶ House of Commons, ‘Written Question: Armed Forces: Deployment’, 6 June 2016, 38800
⁸ ibid; and HC Hansard, 12 July 2016, col 158
around 70 members of staff (approximately 60 percent of the total OHQ). The UK also provided a frigate for five months in both 2009 and 2011, with some additional vessels at other points. The Government has described the mission as “successful”—considering between 2008 and 2011 over 130 vessels were taken by pirates and many more attacked in the area, but since May 2012 there has not been a single new successful pirate attack. Somalia, while still suffering from an al-Shabab insurgency, is far more stable than a few years ago, and has a functioning government — perhaps partly thanks to the additional EU assistance in stabilisation and capacity-building and preventing Somali piracy ransom money being diverted to organised crime and terrorism.

- The UK has also participated in initiatives intended to improve the military assets and capabilities of EU Member States, not least the European Defence Agency (EDA), which has assisted, for example, in the harmonisation of military airworthiness. The EDA’s general budget for 2016 is €30.5 million, unchanged from 2015. The UK’s EDA contribution in 2014–15 was just over £3.3 million, roughly in line with the UK’s share of the EU population. Ongoing cooperation by associate membership of the EDA is something that the UK should pursue, as is currently an objective of the USA.

- In 2004, the UK and France, supported by Germany, put forward the ‘Battlegroup Concept’, intended to ensure the EU had the capability to deploy forces rapidly for short periods. A Battlegroup is commanded by a Lead Nation on stand-by for six month periods. The UK was most recently on rotation as Lead Nation from July to December 2016. Although it involves 2,330 UK personnel, an EU Battlegroup has never to date been deployed in combat.

Nevertheless, the numbers of British troops compare poorly overall with the other key EU military power, France, which has a similar-sized population and economy. Between 2003 and 2010, France provided 26 percent of the forces to CSDP military missions, compared to just 6.7 percent for the UK and 20 percent for Italy. France provided 26 percent of the forces to CSDP, which has a similar-sized population and economy. Between 2003 and 2010, France provided 26 percent of the forces to CSDP military missions, compared to just 6.7 percent for the UK and 20 percent for Italy. Given that Member States are not compelled to participate in military operations, one can infer that the UK considered, perhaps unsurprisingly, that involvement in what were largely Francophone regions and French ‘zones of influence’ was not overwhelmingly in its national interest and thus not a priority. Potentially after Brexit, with Britain excluded from the development stage, the UK will figure even less in such military operations. Given that NATO and the CSDP are not in direct competition – and NATO has little to no presence in Africa – it might also be inferred that the UK will lose what little influence it has in areas outside its traditional, largely Commonwealth and Anglophone areas of interest.

Although many Leavers would no doubt be pleased to see a total withdrawal from the CSDP, EDA and EU Battlegroups, UK Governments of both the left and the right have, at least in public, emphasised their added value over the years, in spite of contributing in reality very little by way of military assets. Danish officials report that they frequently regret the loss of influence from their lack of participation in the EDA and military aspects of the CSDP — a product of the 1992 Edinburgh Agreement. Given the radically altered security infrastructure twenty-five years on, this decision is now generally considered a missed opportunity for Denmark to contribute more meaningfully to neighbourhood and global security (although it remains a member of NATO). The EDA also enables and coordinates key research on a value-added continent wide basis, which could prove a boon to the UK’s defence industries.

Despite the clear success that Britain has achieved when it has become engaged in CSDP missions, and the somewhat obvious point that the UK has only contributed when it has chosen to, (all Member States can veto a mission, and no state is ever compelled to participate), many EU officials have expressed disappointment with Britain’s overall role in the CSDP to date. Some diplomats, for example, complain that the UK under-invests both in funds and personnel, and drags its feet in the planning stages of operations and, to the irritation of the EU27 partners even after the Brexit Referendum decision, actively opposes a permanent military HQ for CSDP. One senior official pointed out that there were over 60 Georgians and Moldovans soldiers (i.e. neither country being in the EU nor NATO) participating in the CSDP mission in Central African Republic, but the UK had contributed no money or personnel at all. This is matched by an aversion in the UK media — and some mainstream political quarters — to anything even remotely appearing to challenge NATO, or suggests an ‘EU army’. The fact that the UK was one

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1 HM Government, ‘The UK’s Cooperation with the EU on Justice and Home Affairs, and on Foreign Policy and Security Issues’, 9 May 2016, p 10
2 Ibid
3 European Defence Agency: https://www.eda.europa.eu/Aboutus/who-we-are/Finance
4 House of Commons, ‘Written Question: European Defence Agency’, 18 December 2015, 2010
5 House of Commons, ‘Written Question: EU Battlegroups’, 28 June 2016, 40712
of the pioneers of the CSDP and before that the WEU, which long predated the EU, is an irony sadly lost on most.

Conversely, other officials point to the UK’s pro-active stance on supporting the integrity of Ukraine as a signatory to the 1994 Budapest Memorandum, being keen on the European Neighbourhood Policy, and pushing for sanctions against Russia. Indeed, many officials suggest that Russian sanctions only exist in their current form thanks to the strong efforts of the UK, and that without the British exerting strong pressure, they may end prematurely – particularly if the EU comes under pressure from a potentially Pro-Putin agenda in the US under the Trump Administration. For instance, the East Stratcom Team established by the EU to counter Russian disinformation over its Ukraine policies was set-up under British leadership by the Council in 2015. Although opinion is divided, many officials consider that the UK, when it has expressed genuine interest, not only pulls its weight in terms of manpower and money towards the CSDP, but also in terms of expertise, strategy and human resources. Certainly, the British role in Operation Atalanta is universally acclaimed by all those interviewed in the preparation of this paper.

Though as mentioned UK involvement, specifically in the CSDP, may not compare with that of France or Germany in quantitative terms, what Britain does contribute is praised for its quality and focus. This must be borne in mind when assessing how Britain’s “security surplus” could affect the Article 50 Brexit negotiations process.

Some commentators have speculated that Britain’s semi-detachment from the CSDP could now prove advantageous in the Article 50 process, as it provides the UK with a “bargaining chip” as something the EU wants, and currently does not have enough of.

This idea of the security surplus – particularly when drawn widely to include the range of British security capabilities beyond narrow counter-terrorism – is encapsulated by the recent remarks of Jonathan Faull, a leading British EU official who expressed the idea that “the UK is absolutely crucial to the defence and security of Europe”, and that this might prove attractive to the EU (in particular to the Commission Chief EU Brexit negotiator Michel Barnier). However, the problem with this reasoning is that for UK security guarantees to be credible, they need to be seen to be grounded in British interests directly. If the UK is to send troops to the Baltics, it is unlikely to want those countries, or the world, to believe that it does not make an absolute commitment to security or solidarity or respecting NATO Article 5, or the need to counter Russian aggression, but rather to secure, say, more preferential access to the EU Single Market.

In any case, even if it was investing in collective defence for purely transactional reasons, the Baltic States have indicated that it would not be a successful strategy. Estonia will not automatically give Britain a good Brexit deal just because it sends a Framework Battalion of 800 UK troops to the Baltic States under NATO’s enhanced Forward Presence which also sends 150 military personnel to Poland, and nor will a general commitment to security guarantee automatically offer the UK specific reciprocal economic benefits either, unless as part of a dedicated attempt to foster more goodwill.

It is surely true that the UK could not allow EU states to fall victim to Russian aggression under any circumstances and the UK for instance to buttress its eastern European allies’ defences recently contributed to the NATO Southern Air Policing Mission in Romania, let alone because of a perceived failure in the Brexit negotiations. Moreover, Britain remains dedicated to NATO, which remains the ultimate guarantor of European nations’ security. The security surplus is, however, something that it is in the Government’s interests to use, as the UK would also suffer were there a direct attack on an EU state – and so the potential advantage from deploying it as a bargaining chip is questionable.

All of which neatly answers the question of who gains from Britain’s involvement in the CSDP: both parties. The UK, in particular, gains greater influence in foreign and security policy, and is able to implement its policies more effectively, while the rest of the EU gains its expertise and resources, if not always hard cash or troops.

CSDP vs NATO?

One of the great misconceptions of Britain’s engagement in the CSDP is that it somehow hinders or challenges NATO. Indeed the 3 Ds of “duplication” of effort when budgets are tight, “decoupling” (from the USA) and “discrimination” against non-EU states were the cry a few years ago against the CSDP. Successive NATO Secretary-Generals, however, have corrected this myth and been clear about the value-added of the CSDP, and the two bodies have been careful to enhance one another’s work, rather than duplicate it. It is quite possible to support the two institutions actively. While for many countries it may be true that there is one defence pot, and so supporting one may come at the expense of the other, other states manage active participation across the board. Notably, France, which in British eyes has traditionally shunned NATO, contributes more to the NATO budget than the UK, as does Germany – even though its personnel deployments are frequently lower than Britain’s.1

The CSDP and NATO operate on a system, therefore, of

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‘complementarity’. Eastern European countries, who perceive themselves to be most at risk, certainly consider that they need both. The CSDP and NATO are not simply a binary of soft and hard power, but in fact a careful balance of directions and imperatives working, for the most part, in harmony. Indeed, NATO doesn’t have any nation building capacity or soft power abilities such as the EU has in trade and aid, while the CSDP is underwritten by them. Secondly, NATO, unlike the EU, is not a global actor, and does not readily operate in, for instance African Theatres. The CSDP in contrast is supported by the EU’s global network of diplomatic missions which NATO lacks. CSDP also can bring additional resources as it formally involves traditional EU neutrals like Austria, and Ireland and non-NATO European EU states like Finland, Sweden, Cyprus and Malta. It is also open to added participation by non-EU states including EU candidate countries.

That these features are complementary is evidenced by EU and NATO cooperation in practice. The EU and NATO recently cemented their cooperation at the Warsaw Summit, resolving to enhance their relationship. In practice, this could be both political and military, and focus in particular on ‘hybrid threats’ such as cyber-warfare. Notwithstanding the difficulties in this relationship due to the situation in Cyprus impeding cooperation in the alliance between the EU and NATO that has both Turkey and Cyprus as members, this situation could improve if the long-standing ‘Cyprus question’ is finally resolved shortly. In this connection, it is worth noting that the UK Sovereign Bases located in Cyprus could find themselves on the other side of a “hard border” with the rest of the island which is EU territory in the event of a hard Brexit (they had joined the EU Customs Union specifically to avoid this fate).

It is clear therefore that Britain would lose out if it were to refocus all its efforts from the CSDP into NATO, not least when it can comfortably afford to invest in both, and derive benefits from doing so. Indeed, the CSDP offers in some cases an advantage over NATO in that it does not include the United States. This is particularly the case in some missions in Africa and Asia, where the host or non-aligned countries (NAM) have explicitly rejected a US led NATO involvement (a convention that has its roots in the Cold War but still persists) including for India, which had difficulties coordinating with the NATO Ocean Shield mission in the Indian Ocean against piracy but was more readily willing to do so with EU NAVFOR ATALANTA.

Ultimately, the two institutions are not rivals. The EU, for example, will currently not enter a theatre of war before other parties and always requires a UN Security Council Resolution dispensation first, whereas NATO may; but it can provide the soft power NATO traditionally lacks, and indeed, on numerous occasions, the hard power as well. Although NATO membership remains the UK Government priority it would do well to remember the value of both after Brexit.

A model along the lines of Finland and Sweden in NATO, or Norway in CSDP?

In order to assess the possibilities for the UK to remain outside the CSDP but cooperate with (or operate within) it, it is instructive to consider the examples of states who form part of either the CSDP or NATO, but not both – and how they succeed in dealing with the other organisation from outside.

There are six EU Member States who are not part of NATO. Four are states who remain outside for specific historical and/or geopolitical reasons: Sweden and Finland do not consider themselves ‘neutral’, whereas Ireland and Austria do. Cyprus, too, would be blocked from joining by Turkey in the current circumstances. Malta, the sixth country, is generally considered too small, and officials remark that there is little domestic appetite to join, or general debate on the subject. In contrast size alone hasn’t stopped Montenegro from proceeding with NATO membership as a dual track process with its current EU accession negotiations. Albania is in NATO and an EU candidate country like Turkey. Serbia is an EU candidate country but not seeking to join NATO and under heavy pressure from Russia not to do so but in contrast to Macedonia, which is an EU candidate country but blocked from joining NATO by Greece for name reasons.

Whereas Ireland and Austria’s involvement in NATO structures is very limited, Sweden and Finland participate actively, both internally and in operations. Indeed, both countries, along with Australia, Georgia and Jordan, are termed ‘enhanced opportunities partners’. Swedish and Finnish officials describe this as ‘decision-shaping but not making’: as will be the case for Britain post Brexit vis-a-vis EU CSDP matters, a NATO non-member cannot actively participate in determining (still less blocking) a course of action. Nevertheless, priority is given to regular dialogue, information-sharing and participation in military joint exercises, in order to deepen cooperation. One Swedish official commented that the country is seen by many in NATO as being more integrated than some of the laggard NATO Member States and militarily more evident than the very small ones like Luxembourg or Iceland. An additional advantage is that no payments are made into the central NATO budget, and payment is instead rendered ‘in kind’ by means of experts and troops.

The principal drawbacks of the Swedish and Finnish position, as identified by officials, are the inability to participate in all scheduled meetings (although they do in the most important ones), and the difficulty at times in accessing relevant information. Most significantly, non-NATO members are not protected by the Article 5 collective defence guarantee clause. Sweden counters this with a ‘solidarity clause’ in its military doctrine, which commits itself to act if another NATO Member State is attacked (although this, of course, does not guarantee reciprocity). Officials and commentators alike question whether NATO would really just stand by if Sweden or Finland were attacked, regardless of Article 5. Both of course benefit from the Article 42.7 mutual defence clause of the Lisbon Treaty anyway.

This Nordic model of strong integration without actual NATO membership could be a highly appealing model for the UK.
post Brexit – as would the motto ‘nothing about us discussed without us’, which could serve as an informal guide for how Britain might interact with the EU CSDP when it comes to organising operations. Difficulties can emerge in NATO in the early stages of operation-planning, when non-members are excluded, but the fact remains that they are non-members, and cannot realistically achieve all the benefits of membership. But if Finland and Sweden can ultimately help to shape operations in NATO, and avoid receiving faits accomplis, then the UK out of the EU should aim to achieve the same in the CSDP.

Officials suggest that Norway has a more difficult time as a non-EU Member State in the CFSP/CSDP than Sweden and Finland manage in NATO (although these countries’ diplomats do exchange information from the respective institutions on an informal basis). Norway appears to have little impact on either the decision-making or shaping process, despite a willingness in principle and ability to contribute to CSDP military missions. One official termed it as ‘frustrating’, and noted that Norway had been in the Western European Union until it folded, but now had little influence and little means of participating in non-NATO security initiatives. Anecdotally, it seems as though Norway may find it harder to access information in the CFSP/CSDP than Finland and Sweden do with the equivalent NATO structures, and it is notable that Norway currently has no troops on military CSDP missions. One Norwegian official commented that there was little advantage to being outside the CSDP apparatus, and his country would ideally like to be much closer to it. On the issue of EU CFSP targeted Russian sanctions, the Norwegian Government endorsed them in spite of a large land border with Russia but had no say at all in composing them.

Despite the difficulties, Norway – like the UK will continue to enjoy in future – retains the security guarantee of NATO Article 5. Nevertheless, it seems clear that the UK ought to engineer a more fulfilling role for itself in the CFSP/CSDP than Norway has so far managed in spite of its clear wishes to the contrary.

How far can Britain stay linked to the CSDP – and what does it lose from withdrawing?

Technically, the UK is welcome to participate as a third party in CSDP missions after Brexit as many countries already do, such as Ukraine and Georgia. Even the United States, for example, participated in CSDP missions in Kosovo and Congo, and in 2011 the EU and the US concluded a framework agreement facilitating US participation in EU-led crisis management operations. Of course the new Trump Administration may seek to rescind this agreement or seek to make little use of its provisions.

As already discussed, most EU Member States greatly value the UK’s contribution to the CSDP, whether in terms of expertise, manpower or both. It will be in everyone’s interests to be constructive. Defence Secretary, Sir Michael Fallon, has stated that Britain “remains committed” to European security, and recently announced plans to bolster its defence cooperation with Germany on a bilateral level. British officials are unanimous that the UK will remain a key partner in all circumstances, and that the EU will continue to enlist the UK’s help to counter key shared threats such as international jihadism and managing the migration crises.

Nevertheless, senior EU officials emphasise that it will not be 27 states on one side and one on the other in a position of equality. Regardless of its military clout and expertise, the UK is not more militarily powerful than the rest of the EU combined. The risk for the UK, then, is that in future attempts to emulate its recent foreign-policy successes without any EU involvement may be more limited.

The main CFSP/CSDP successes of recent years – the Iran deal which halted nuclear proliferation, sanctions against Putin, the Serbia/Kosovo agreement, and key African anti-terrorist and anti-piracy missions – could not have been achieved by Britain acting alone, nor might they have been as successful without British involvement. It has been an evolving feature of world diplomacy that Brussels is now a much more common first port-of-call for foreign leaders and dignitaries than London, and EU missions anecdotally carry more clout than standalone UK embassies in many parts of the world. The UK outside the CFSP, in particular, will also lose its added voice in areas where the EU has a much greater one – such as in the Middle East and North Africa, two particularly crucial areas in current geopolitics. This is particularly salient given the imminent collapse predicted for ISIS in Iraq and Syria (US President Trump has staked his reputation on this promise) leading to their jihadists’ dispersal and regrouping in all probability mainly in the Sahel, Libya, Somalia, Sinai and Yemen; countries where the EU is present on the ground in various capacities. This is of course of immense interest to British national security as attack can be planned from these territories on the UK homeland.

Clearly, the UK will continue to pursue a strong national foreign and security policy after Brexit, just as it has always done. The 2016 UK Defence and Security Annual Report, by way of example, outlines unilateral as well as NATO and other multilateral activities, in addition to other defence initiatives which have always been the sole competence of individual national governments, such as the renewal of the Trident nuclear ICBM armed submarines. But the risks of marginalisation and isolation are grave. Britain is no longer an imperial power, and cannot project its military clout unilaterally globally. Indeed, with the substantial budget cuts to the military in recent years, some commentators doubt whether the actions of the late 1990s and early 2000s could be easily replicated today, let alone the 1982 recapture of the Falklands from Argentina.

As with so much, the UK’s recent stance so far has been less than promising, despite some positive remarks. Michael

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Fallon has made remarks about blocking deeper EU military integration, including talk of an EU army 1 – which is a personal pipe-dream of Commission President Jean-Claude Juncker but is flatly rejected by all the Member States including Germany, and indeed, by High Representative Federica Mogherini. Not only is this UK obstructionist approach not generating good-will among the EU27 given that the UK is leaving the EU, but it also illustrates the UK’s relative powerlessness: after Brexit, the UK will not be able to change EU decisions. If the CSDP becomes a more powerful military instrument, Britain will simply have to accept it – and accept, too, that this will almost certainly not compromise or undermine NATO, even though it may lead to changes to the assignment of roles within the alliance (it has been suggested for instance that the post of DSACEUR might be given to France, which has traditionally always been assigned to a British officer).

British officials acknowledge that the UK will lose influence in the CFSP and CSDP, but are optimistic that the UK and EU will be able to negotiate a beneficial arrangement that keeps them working closely. If relationships were not possible to formalise, they could also proceed on an informal, ad-hoc basis, and through more bilateral arrangements with individual Member States. Other mechanisms could hopefully be extended rather than renegotiated. One promising step during the Brexit negotiations would be to offer to retain Northwood as the OHQ for EU NAVFOR ATALANTA – although many EU officials strongly doubt that such a move could be acceptable, even on a single mission basis let alone as a longer-term commitment on Operating HQs.

Defence is also a key area of British industry, which depends on both the EU Customs Union and Single Market to thrive and these sadly now would appear to have been firmly rejected in the recent Government White paper from the imminent Brexit negotiations as UK objectives. If the UK is excluded, the EU27 could well capitalise, and build their arms and related industries further. Naturally both sides would lose out, but a frozen-out UK would seem the bigger loser.

Certainly, the UK Government will attempt to find numerous opportunities to build influence outside of the EU frameworks – such as investing in the UN and OSCE, deepening the foreign policy dimension of the G7 or G20, building and recalibrating networks, and pushing more initiatives on less prominent global problems, such as the political crises in Somalia. Officials, however, recognise that Britain will lose the ‘multiplying’ effect of the EU, and it should be noted that in many of these more global organisations the shared strategic and policy outlooks based on common values that EU Member States share is diminished or lacking.

Lord Ricketts, a former Ambassador to France with extensive EU and security experience, observes that we “always made the biggest calls ourselves ... [and] still have all our soft power assets, including our huge aid budget”, though acknowledges that Brexit might distract the UK from acting in the foreign policy and security arena. He poses, also, perhaps the central question about global security that the Government must ask itself:

Do we see Brexit as a step back from international entanglements, and concentrate on commercial diplomacy and protecting our homeland? Or will we see Brexit as an opportunity to use our unique set of assets to be active and engaged with others in tackling the world’s problems, because this is an essential part of creating the environment for being a successful trading nation? 1

The Political and Security Committee – how close can the UK’s links be?

As the UK develops its approach as to how it might engage with the CFSP and CSDP, it is faced with the immediate challenge of finding a vehicle for doing so.

Set up after the Amsterdam Treaty in 2001, The Political and Security Committee (PSC) is the main body for transmitting EU Member State foreign policy decisions to EU institutions and receives input from the European Union Military Committee (EUMC), the Committee for Civilian Aspects of Crisis Management (CIVCOM) as well as the European Union Institute for Security Studies.

The PSC is comprised of 28 Ambassadors from each of the Member States, who meet twice a week to deliberate on all items of foreign, security and defence policy on the EU agenda. They vote on issues, and their decisions act as advice then pass to the Foreign Affairs Council (FAC), where Member-State foreign ministers, and chaired by High Representative Federica Mogherini, gather to determine conclusions and actions on behalf of the EU. The FAC can over-rule PSC decisions, but in practice rarely do unless things have changed, as the PSC Ambassadors are following the directions of their ministers to begin with.

The UK can clearly not remain a member of the PSC after Brexit, but a full withdrawal from the workings of the committee would gravely hinder future cooperation and integration within the CFSP and CSDP. The PSC does have two other permutations, the PSC+7 (including EU candidate countries and non-EU European NATO states), and the

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1 Peter Ricketts, ‘What will Brexit mean for the UK as a foreign policy power?’, King’s College London, 12 September 2016: http://ukandeu.ac.uk/what-will-brexit-mean-for-the-uk-as-a-foreign-policy-power/
PSC+9, with the further addition of the US and Canada. However, PSC+ meetings are infrequent, often do not discuss the most important issues, and according to many officials, achieve little. The system as it exists is not, at the moment, being used as effectively as it could be. For instance there is already an informal Committee of the Contributors used for CSDP operations involving non-EU Member States, which could be expanded to routinely include the United Kingdom post-Brexit. The UK could also attend the informal meetings of the EU27 Foreign Ministers in the Gymnich format, as well as the informal meetings for Defence Ministers. The nerve centre of EU intelligence gathering and exchange is known as the EU Intelligence and Situation Centre (INTCEN), where it is essential that the UK posts embedded liaison officers and concludes a similar agreement to the one enjoyed by the USA for the sharing of confidential intelligence and planning documents with the EU.

Though the UK could seek a PSC+1 model, the idea has met little favour with the diplomats interviewed as part of the research for this paper. One senior EU official asked why the UK should have a special dispensation, and not Turkey, the US or even Montenegro. The UK’s military clout can only do so much to counter the fact that it is leaving the EU, and all the other clubs attached to it.

The constant tension for the EU seems to be between allowing Britain to ‘have its cake and eat it’ – by playing a full role in the CSDP and the PSC decision-making process – and ‘cutting off its nose to spite its face’, by denying Britain access to the European frameworks even though it would be self-evidently in the EU interest. When presented with this dilemma, another senior EU official responded that the ‘UK has cut off the EU’s nose, not us’: in European eyes, Britain has selfishly wrought the damage, and the fact that both sides will lose as a result is inevitable.

With this in mind, the UK can request permanent observer status or associate member status, but it is unlikely to find favour with the EU27. Some officials have also questioned whether Britain would want a junior status in the PSC. The Croatian representative prior to accession to the EU in 2013, for example, was not permitted to speak during meetings, or vote on conclusions, and was asked to leave the room when certain sensitive matters were raised. A British representative is unlikely to accept similar restraints.

Some representatives from other Member States have suggested that there could be a bespoke arrangement for the UK, but that Britain must expect less influence and fewer rights than at the moment. In terms of organising missions, informal arrangements can be made, but EU officials have signalled that Britain will still need to accept an element of fait accompli. Even a new process that determines when and how to involve third countries is unlikely to grant a perfect solution.

Most officials reject the idea of a formal arrangement with the PSC, such as observer status or a PSC+1. They consider it more likely that the UK will have to settle for an informal system of regular meetings at the level of FCO Political Director, and follow the American diplomatic style of sending a large number of more junior diplomats to seek information about relevant meetings – using ‘corridor diplomacy’ and backroom conversation to maximise influence.

The UK would do well to signal to its EU partners that it is serious about the PSC. To this extent, it should retain a dedicated PSC level Ambassador to liaise and shadow its work (in addition to the UK Ambassador to the EU), who may not attend the PSC meetings, but could, for example, have a formal regular dialogue with the PSC Chair. He or she could also be in the building when the PSC meetings take place, so as to gauge opinion and offer insight informally. This Ambassador could also have a NATO hat such as deputy Ambassador to the Atlantic Council, so as to establish a clear link between the two for British foreign engagement.

Part of the goodwill necessary to achieve progress on the PSC front will come from being a good partner. Contrary, then, to Michael Fallon’s insistence that the UK will block further defence integration, the Government should instead resolve to be Europe’s best possible partner. Certainly, if the UK continues to obstruct future EU defence integration until it leaves, it might a) end up with a worse deal than otherwise, and b) be unable to remain in or re-join the bloc if, for whatever political circumstances emerge down the line, the Government might eventually deem such a result desirable.

**EURATOM**

There was a surprise announcement by Brexit Secretary David Davis to secede from the 1957 EURATOM Treaty which deals with civilian nuclear safety and predates the EU. This is causing some disquiet in the UK nuclear industry ahead of a number of partnerships planned with France such as Hinkley Point C. There is also concern for the future of the Culham Centre for Fusion Energy, which is the research arm of the UK Atomic Energy Authority and runs the “Joint European Torus facility” with the help of EU Funding. This centre has a critical mass of EU scientists, which in all likelihood will be dispersed, which might have grave consequences in developing safe and clean nuclear energy from Hydrogen fusion, and therefore in the long term Britain’s (and Europe’s) energy security. The Government should therefore find some way of preserving this unique centre of research excellence.

EURATOM provides for the streamlining of regulations over nuclear personnel and nuclear fuels and any major delays will compromise UK national energy security. A third country cooperation deal will need to be concluded rapidly as currently exists for the USA and Japan with EURATOM to prevent this but as elsewhere will take time to negotiate.

**The future of the CSDP, and implication of a full British withdrawal**

The EU has in recent years begun a series of discussions about a broader and more comprehensive approach to global engagement. A major policy document, the ‘Global Strategy’\(^1\), was released just after the Brexit result. Certainly, it can be implemented without Britain’s consent, or indeed involvement.

Nevertheless, the common view among diplomats is that a hard CFSP Brexit would weaken the CSDP militarily and politically, just as it would the UK security apparatus. Senior officials speculate that the CFSP could become ‘much less powerful’ – whether through the loss of financing and

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resources, or global credibility. Brexit will also reduce the EU’s power in the UN Security Council, with one permanent member instead of two. (While some commentators have questioned the sustainability of the UK’s permanent seat, this is currently not up for discussion in any mainstream quarters, and is unlikely to arise unless Scotland becomes independent at some future date.)

Many European officials will also regret the loss of the EU’s most pro-Atlantic voice – which could drive the EU and US even further from one another. (Although EU officials insist that they, too, will be working hard to build bridges with the new US Trump Administration in spite of his openly Eurosceptic and pro-Brexit comments.) On a similar note, some diplomats and commentators have expressed the fear that sanctions against Russia could be diluted or abandoned altogether – although most accept that they will continue in the short term. Certainly, there is a widespread feeling in the EU that the UK ensures a balance between the Eastern and Southern Neighbourhoods, and some eastern European officials fear that there may be a shift away from the east towards the south after Brexit – something which non-eastern states have so far denied.

One likely consequence of Brexit is that the CSDP will evolve to become a far more German-French endeavour, and possibly more militarily integrated. Germany aims to “interlink armed forces … increase standardisation in the defence industry, harmonise procurement”, and believes that to strengthen and harmonise European defence will also strengthen NATO and its European pillar. German Defence Minister Ursula von der Leyen has called for the EU to modernise its military capabilities, and develop Europe’s ability to work independently of the United States.

Paolo Gentiloni, now Italian Prime Minister, has also called for a “more integrated European defence … [in] close coordination with NATO”, and there are plans to create a permanent EU civilian-military headquarters to deliver a ‘comprehensive approach’. The EU could also institute multinational forces with a unified strategic command, larger (and more centralised) than the current Battlegroups. These ambitions be achieved by the voluntary PESCO system, or a ‘Schengen of defence’, whereby Member States share capabilities. Once again, as von der Leyen has made clear, this is not the birth of an EU Army. The UK could seek to participate in such structures on an ad-hoc basis; it could, alternatively, find itself left behind in the long term.

Significantly, it could emerge that other EU states such as Poland will decline to support this integration after Brexit, and will no longer be able to ‘hide behind’ Britain’s opposition; if not, Britain’s exit could remove a key obstacle to deepening European defence cooperation. Some have even paradoxically suggested that the EU could streamline and attach itself more closely to the US, thereby isolating and weakening the UK further. The latter comments were made before the unexpected electoral victory of Trump, however.

Any boost to EU security instruments as a result of Brexit would be counter-balanced by the loss to the EU security and defence collective defence spending – and, consequently, the risk of lesser visibility for the CSDP. This increases the fear of some diplomats that Britain might use Brexit to enhance its own visibility at the EU’s expense and undermine the CSDP – a move which, as they see it, would dilute the strength and effectiveness of both parties, and in fact risk inflicting grave damage to the European security apparatus. One official remarked that ‘there has to be a penalty if Britain avoids its responsibilities’. Other EU diplomats are more relaxed; some wryly comment that the UK already seeks to undermine the EU frameworks, and that in fact it can cause less damage outside the instruments that it can inside. Ultimately it may be necessary for the United Kingdom to negotiate a formal treaty with the EU on CFSP/CSDP matters where it is important that the UK retains an automatic right of first refusal to participate in all CFSP/CSDP initiatives.

**The election of Donald Trump: weakened NATO and strengthened CSDP?**

The future of European security, and the CSDP specifically, has taken on a new urgency with the unexpected victory of Donald Trump in the US Presidential election. Trump has previously signalled that NATO countries who pay less than 2 percent of GDP towards defence should not necessarily expect to be assisted by the US in the event of an attack, and eastern European countries have been particularly alarmed by his overt warmth towards Putin – and apparent indifference to Russian aggression in Ukraine and illegal annexation of Crimea. It is worth noting that at his inauguration he promised, in ominous, but perhaps unintentional reflection of 1930s isolationists, to put “America First”. Some commentators have spoken of Trump’s apparently long-standing distrust and dislike of NATO going back to 2002, and the sense that the US is being exploited by ‘freeloaders’. Many officials have openly questioned whether Trump and Putin may institute a new era of spheres of influence, in which the US will not intervene to prevent or resist acts of Russian aggression in Europe.

Trump is unpredictable (as his recent comments on nuclear proliferation demonstrate), and it is now necessary to ask whether even he would commit American forces in the event of a full-scale Russian invasion of a NATO Member State, particularly those newly joined ones from the former Warsaw Pact countries or the Balkans (or even in a Ukraine-style incursion of ‘little green men’). The dangers, and questions, are manifold; and make European security cooperation more likely, or even necessary. The US Congress should, if it can summon the will, play its role in stabilising the Trump Administration, and limiting the radical changes to US foreign policy he appears to be planning. Broad US support for the EU project (which has been a continuous foreign policy position of the USA for more than six decades) is now in question.

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2. Ibid., p. 73

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http://www.politico.eu/article/italian-foreign-minister-eu-needs-schengen-for-defense
Officials mention the war in Ukraine as being a ‘game-changer’ for European policy, in that the EU was for the first time seen as a leading actor. Russian aggression has led numerous European officials to advocate boosting European defences – whether through the EU, NATO or both. It is clear that the CSDP and NATO have a role to play in this, and Britain must contribute fully. If NATO does weaken under the Trump Administration, either through deliberate US policy or by passive neglect – or if the European nightmare of a Putin-Trump understanding does materialise – then the CSDP will become even more significant. Indeed, for some eastern European states it could become the first and only line of defence.

The EU could in this case become more like NATO; indeed, it already offers an equivalent to NATO’s Article 5, which is Article 42.7 of the Lisbon Treaty – which was, in fact, invoked by France after the November 2015 Paris attacks. Although the article refers to ‘aid and assistance by all means in their power’, it could in the future gain a more explicitly military dimension. Indeed, without the UK’s veto, the CSDP could evolve as such not only without the UK, but potentially contrary to its wishes as well. Specifically, Article 222, covering assistance in terrorist attacks and natural disasters does mention possible military assistance.

For the UK, this could present an opportunity – or necessity – to involve itself closely in CSDP structures, even if it does require less decision-shaping and making abilities than at the moment. EU destabilisation poses a grave threat to British security, and neither the UK nor the EU wishes to see the other militarily weakened or compromised.

While some have speculated that Trump’s victory could improve the Brexit negotiations, by encouraging the EU to see Britain as a ‘bridge’ to the new administration (as was clearly the intention of the recent visit by Prime Minister Theresa May to Washington with US offers to conclude a rapid UK-US Free Trade Agreement) – Trump’s victory would appear to offer little hope at all of improving Europe’s security.
These collective reports called for and thus established regular meetings of the respective Member States’ Foreign Ministers so as to allow for discussions and the agreement of shared positions where possible. This cooperation by the mid-1980s had resulted in four annual meetings, the establishment of a small secretariat to aid the rotating presidency, and a forum for the coordination of foreign policy on an informal basis. In 1986 this establishment was given an official footing via the Single European Act and was termed European Political Cooperation (EPC).

Little more was to change until the adoption of the Maastricht Treaty of the European Union in 1992, which was primarily focussed on implementing Economic and Monetary Union, furthering the Single Market, and extending Qualified Majority Voting. Maastricht needed to reshape the European Community (EC), as it was by then known, into a body that could accommodate an enlarged Germany, led by a Chancellor that was determined to see Germany’s newly regained influence contained and diluted by a process of integration and closer cooperation with the other EC countries. Additionally, it sought to develop an institutional framework that could sustain enlargement for re-emerging independent democratic states in Eastern Europe. Set against the backdrop of the reunification of Germany, the fall of Communism and the dissolution of the Soviet Union, such a focus was unsurprising and strongly welcome by the UK.

Development in the areas of defence and foreign policy was conversely limited but for one small precedent. As part of the Edinburgh Agreements, Denmark received a permanent opt-out from joining the WEU and participating in any CFSP decisions that had a defence implication. This opt-out was later formally incorporated into the protocols in 1999 as part of the Treaty of Amsterdam and awarded Denmark a permanent derogation from defence cooperation.

Whilst in practice all Member States enjoy a de-facto opt out via the power of veto, Denmark’s position offered a more and pronounced position and excluded it from participating in any common funding or joining the European Defence Agency (EDA), when it was founded in 2004.

Iraq’s invasion of Kuwait in the summer of 1990 illustrated to many the limits of EC cooperation in the area of EPC. Whilst a joint statement of condemnation was issued and a coordinated embargo on oil from Iraq and occupied Kuwait implemented quickly, there was little else that could be done. France convened a meeting of the WEU to discuss further actions but the mismatched membership between the WEU and EC limited its potential for action. Maastricht subsequently established a formal link between the EU and the WEU, by stipulating that the latter could implement any decisions of the EU that had a defence implication.

Whereas the EC was united in its opposition to the Iraqi invasion of Kuwait, positions with regards to unfolding events closer to home in Yugoslavia proved to be less cohesive. A split in policy regarding the recognition of Slovenian and Croatian independence saw Germany publicly opposed to the position of the UK and France, a split that was to frustrate efforts at further coordination and was emblematic of the more general inability to resolve the Yugoslavian Wars at a European level. Ultimately, Germany unilaterally recognised the two countries on 23rd December 1991 following a fractious compromise reached during the previous week.
So soon after Germany’s reunification and with press reports making comparisons to Nazi Germany’s support of the Croatian fascists during World War Two, these events helped to entrench existing views against any further integration in the areas of foreign and security policy. Such ambivalence underwrote the eventual outcomes in 1992 of Maastricht in this regard.

EPC was formally re-packaged as the CFSP and became the second of the three pillars of the 1992 Maastricht Treaty of the European Union. Permission for Joint Actions under CFSP had to be signed off in the Council unanimously under the terms agreed but their implementation after this could be determined by qualified majority voting (QMV). Any actions agreed that had a defence implication, as described above, would be referred to the WEU.

In recognition of the new role and links afforded to the WEU as part of the Maastricht Treaty, the EC sought to agree the circumstances under which military units could be deployed. Agreed in June 1992 at a Council of Ministers Summit held at the Petersberg Hotel in Germany, these were soon to be dubbed the “Petersberg Tasks”. These tasks fell into three categories: humanitarian and rescue tasks; peacekeeping tasks; and finally, tasks of combat forces in crisis management, including peacekeeping.

As previously agreed, the CFSP was reassessed five years after Maastricht. The British Government’s White Paper of 1996 supported the general view that there was a need to further utilise the CFSP although it was clear in its view that NATO should remain the pillar of Europe’s territorial defence and that the WEU should remain a separate body from the EU, continuing to take responsibility for any defence implications of the EU’s CFSP decisions.

These talks concluded with the Treaty of Amsterdam in 1997. As well as setting up a policy planning unit and formally incorporating the Petersberg Tasks, the treaty’s most important step was to create the role of High Representative for the CFSP. The Spanish former politician and Secretary General of NATO, Javier Solana, became the de facto inaugural holder of this role, following Jürgen Trump’s very limited tenure of just one month in the job. The terms retained the status-quos on all major issues as set out in the 1996 White Paper.

By December 1998 the UK and French Governments had agreed on a bilateral basis the St. Malo Declaration. This sought to create a capability within the EU for autonomous decision-making and action, backed up by credible military forces that could respond to international crises. Fuelled by the perceived inadequacies of the EU in responding to the war in Kosovo and based on the foundations laid in the Treaty of Amsterdam, this Anglo-French axis set in motion what was to become known as European Security and Defence Policy (ESDP) and following Lisbon Treaty renamed the CSDP in 2009).

The 1999 Washington Summit of NATO was an opportunity to take account of the growing foreign policy and security role that the EU was gaining, particularly bearing in mind the heavy overlap of the two organisations in terms of their memberships. 22 of the NATO members are also EU Member States. Conclusions from the 1999 summit found more formal status in the 2002 Berlin Plus Agreement, which primarily allowed for the use of NATO military assets in ESDP missions.

The 1999 European Council Summit in Finland also saw EU Leaders agree to the Helsinki Headline Goal that set a target of 2003 for having formed a European Rapid Response unit of up to 60,000 personnel, capable of fulfilling the Petersberg Tasks. By 2003, however, little progress had been made in reaching this goal.

The creation of three standing bodies to aid the formulation and implement the CFSP and ESDP was another outcome of the Helsinki Summit. These consisted of the Political and Security Committee (PSC); the European Union Military Committee (EUMC); and the European Union Military Staff (EUMS). These bodies brought together senior diplomatic and military staff to help advise and inform the workings of ministerial meetings and remain an important part of the CFSP/CSDP workings today.

2003 was a key year for the EU in terms of foreign and security policy. Taking over from the original NATO mission, EUFOR Concordia deployed 300 troops to Macedonia in order to provide security for the monitoring mission that was overseeing the implementation of the Ohrid Agreement. Operation Artemis, a French led EU military mission to the Democratic Republic of the Congo followed very shortly after, becoming the EU’s first autonomous mission outside of European territory.

The success of these two missions, as well as the strong engagement between the UK and France as illustrated by the Le Touquet talks in 2003, saw the Helsinki Headline goal revisited in 2004 with a new deadline of 2010. Such moves were seen as complementary to the existing agreement in NATO to develop a strong European component for a Rapid Response Force. The timing also coincided with the post-conflict reconstruction efforts in Iraq, efforts that would see fifteen EU Member States contribute, helping to ease the earlier tensions and divisions hanging over the US-led invasion in 2003.

In order to meet the Helsinki target, EU Battlegroups were created, the first of which was active in 2005, the entire contingent of eighteen being in place by January 2007. Never deployed in harm’s way to date, two of the eighteen EU Battlegroups are on alert at all times. Since 2005 the UK has contributed on four occasions, twice independently and twice in cooperation with forces from other Member States. In one instance the Battlegroup was composed of UK/Dutch forces, which have worked in cooperation together since 1972 based on an existing bilateral agreement.

The Treaty of Lisbon, signed in 2007 and active since 2009, ushered in the biggest changes to the CFSP/ESDP. The most striking changes were the creation of the European External Action Service (EEAS), a new institution of the EU dedicated to the implementation the CFSP and what was now to be called the Common Security and Defence Policy (CSDP) of the EU. This was to be headed by the High Representative of the Union for Foreign Affairs and Security Policy, a newly created post who would jointly be given a role as Vice
President of the Commission. The British Labour Peer, Baroness Ashton, was the inaugural holder of this position and oversaw much of the establishment of the EEAS.

The Treaty of Lisbon also gave legal personality to the EU, which enabled it to gain Permanent Observer Status at a number of international organisations and groupings, including the UN, the WTO, and the G7, further highlighting its role in foreign and security policy on the international stage. As part of the treaty, the EU also took on the mutual defence clause Article 42.7 that had existed within the WEU in order to fully subsume the organisations responsibilities into the EU. In addition, article 222 provided for military assistance at the request of the civil authority in the event of a terrorist attack or man-made disaster.

The treaty also allowed for other means of cooperation, mechanisms that remain largely unused to date. The most prominent among these is a device known as Permanent Structured Cooperation (PESCO), which allows for willing Member States to more closely align their defence interests and spending under the coordination of the EDA in order to develop shared capabilities and military assets if they wish under a systematic policy framework. This would work on an entirely voluntary basis and no Member State can be compelled to participate.

What the emergence of the CFSP and CSDP illustrate is that this clear trajectory of closer cooperation and increasingly more formalised structures has been achieved by the will of EU Member State Governments at their own pace and largely in response to the changing geo-political environment, both within and outside of the European Union. Furthermore, it is important to note that the emergence of the CFSP and CSDP has taken place only after Britain’s joining of the EEC in 1973, and many of the biggest changes have not merely been agreed to by British Governments but also led by them such as Prime Minister Blair at the St Malo Declaration signed with President Chirac in 1998 and Prime Minister Thatcher’s support for EPC in the Single European Act in 1986.

Britain’s early involvement in the WUDO and WEU, prior even to the creation of the European Coal and Steel Community, is a further illustration of Britain’s long history of enthusiasm for cooperation on defence and foreign policy at the European level. It should also be considered that certain aspects of the CFSP and CSDP, such as the Mutual Defence Clause incorporated as part of the demise of the WEU, pre-date Britain’s membership of the EU.

The UK’s interest in this area is also demonstrated by the many British Commissioners who have taken on the responsibility over the years for the EU’s external relations, including Christopher Soames, Leon Brittan, Chris Patten, and finally Baroness Ashton as the EU’s first High Representative/Vice President.

Contrary, then, to the solely Atlanticised view of British foreign and security policy espoused by so many Leavers, Britain’s post-war security and defence cooperation in Europe has never focused exclusively on NATO – and in recent years, cooperation at the EU level has been viewed in London as a key complementary and leveraged foreign policy and defence benefit to the UK.

The views expressed in this paper are those of the author and not necessarily those collectively of the ECR Group.