Chaillot Papers

- 24 -

May 1996

EUROPE AND THE CHALLENGE OF PROLIFERATION

Yves Boyer, Christophe Carle, Joachim Krause, Harald Müller and Geoffrey Van Orden

Edited by Paul Cornish, Peter van Ham and Joachim Krause

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ISSN 1017-7566

TABLE OF CONTENTS

LIST OF ABBREVIATIONS

ACRS	(Middle East) Arms Control and Regional Security
APM	anti-personnel mine(s)
BW	biological warfare/weapons
CAT	Conventional Arms Transfer
CD	Conference on Disarmament in Europe
CEP	circular error probable (a measure of missile accuracy)
CFSP	Common Foreign and Security Policy
CIS	Commonwealth of Independent States
COCOM	Coordinating Committee for Multilateral Export Controls
COREPER	Committee of member states' Permanent Representatives to the European Community
COREU	European Union communications
CTBT	Comprehensive Test-Ban Treaty
CW	chemical warfare/weapons
CWC	Chemical Weapons Convention
EPC	European Political Cooperation
EURATOM	European Atomic Energy Community
G-11	Australia, Austria, Canada, Denmark, Finland, Hungary, Irland, the Netherlands, New Zealand, Norway and Sweden
HE	high explosive
HEU	highly enriched uranium
IAEA	International Atomic Energy Agency
JA	Joint Action
MEP	Member of the European Parliament
MTCR	Missile Technology Control Regime
NNWS	non-nuclear weapons states
NPT	Treaty on the Non-Proliferation of Nuclear Weapons
NSG	Nuclear Suppliers Group
NWS	nuclear-weapons states
OSCE	Organisation for Security and Cooperation in Europe
P-5	the five permanent members of the UN Security Council
PUNE	peaceful uses of nuclear energy
SEA	Single European Act
TEC	Treaty establishing the European Economic Community
UNCRO	UN Confidence Restoration Operation in Croatia
UNPROFOR	UN Protection Force (in former Yugoslavia)
WEAG	Western European Armaments Group
WMD	weapons of mass destruction

EUROPE AND THE CHALLENGE OF PROLIFERATION

INTRODUCTION

Paul Cornish, Peter van Ham and Joachim Krause

With the end of the Cold War, concerns about the proliferation of weapons of mass destruction (WMD) and their means of delivery have increased considerably. Concerns have been caused principally by the recent experiences with Iraq and North Korea, and, following the disintegration of the Soviet Union, by the smuggling of fissile material and the spread of nuclear weapons technology and know-how. The protracted negotiations over a successor regime to COCOM, which have so far only led to the non-committal Wassenaar Arrangement, also highlight the difficulty of finding a balance between security and commercial concerns.

This *Chaillot Paper* focuses on the main proliferation challenges facing Europe as a whole, and examines the policies which have been formulated by the main West European countries and their security organizations. It addresses a number of key aspects of the challenge posed to Europe by the proliferation of conventional and non-conventional weapons and sensitive technologies. Particular attention is paid to the following questions: (1) what are the main proliferation risks and challenges for Europe? (2) what is the current state of affairs in Europe's response to these challenges? and (3) how can or should effective European non-proliferation policies be formulated?

This volume brings together papers which were presented at a conference held in Paris in June 1995, jointly organized by the WEU Institute, the Deutsche Gesellschaft für Auswärtige Politik, Bonn and the Royal Institute of International Affairs, London. They have since been updated, and a German language version will be published in the DGAP's *Arbeitspapiere*series.

The paper begins with a study by Joachim Krause of the potential proliferation risks and threats to Europe, in which he argues that Western Europe's security is not *immediately*threatened by the proliferation of WMD. He suggests that Europe should develop a policy aimed at: *preventing*proliferation actually occurring, in particular focusing on the dangers posed by nuclear weapons material on the territory of the former Soviet Union; trying to improve passive and active defence against WMD for European troops operating in various trouble spots as peacekeepers; paying special attention to regional developments in the Middle East, East Asia and the Commonwealth of Independent States (CIS); and maintaining a high standard of export controls.

Yves Boyer argues in chapter 2 that most post-Cold War conflicts have been civil wars in which generally only light conventional weapons were used. The end of the Cold War has also resulted in a decline in demand (and hence exports) for conventional weapons: in 1994, exports of conventional weapons had halved compared with the late 1980s. Part of the problem of controlling high-technology

conventional weapons and dual-use technology (technology that can be used for both civil and military purposes) is that in most cases the motor of technological innovation is within civil industry but has militarily relevant spin-offs. He further stresses the importance of maintaining export controls on dual-use technologies, arguing that Europe, and the West in general, should only control those dual-use technologies (and materials) that ensure the qualitative superiority of Western armaments.

In chapter 3 attention turns to the role of the European Union in developing a European (nuclear) non-proliferation policy. Harald Müller starts by providing a historical overview of the EC's involvement in non-proliferation (among other things through EURATOM), and sketches the evolution of the EC's non-proliferation policy since 1981. He discusses in more detail the EU's performance during the NPT Review and Extension Conference in April-May 1995 in New York, and argues that the EU has conducted an efficient and protracted diplomatic campaign to convince other parties of the benefits and necessity of the indefinite extension option. Müller further argues that even though great progress has been made during the fifteen years of European non-proliferation policy, the EU falls short of having a joint European approach. This can be explained mainly by the differences of approach between nuclear and non-nuclear weapons states and the differing attitudes concerning nuclear energy among the Fifteen. He also argues that the EU still lacks the instruments of a fully-fledged non-proliferation policy, which require the routine pooling of information and intelligence, as well as surveillance satellites with a proliferation-optimized array of sensor techniques.

chapter 4, by Christophe Carle, adds another important perspective by examining Europe's role as a major exporter of conventional weapons. The author recognizes the dilemma facing European countries in maintaining a credible defence-industrial base to sustain their military capabilities, while at the same time conducting a responsible non-proliferation policy. He argues that conventional weapons transfers should not be considered in isolation from the potential spread of WMD, since transfers of conventional weapons may well encourage states to acquire non-conventional weapons as a `great equalizer'. Carle recognizes that, despite the efforts of the UN Register of Conventional Arms, there is a wide reluctance to control conventional weapons transfers, and concludes that there is little reason for optimism in this area, in particular since the `prevailing mood towards the close of the century has largely shifted to disillusionment with the hopes vested in cooperative multilateralism.'

The final chapter of this volume, by Geoffrey Van Orden, focuses on the European (and, more specifically, EU) role in harmonizing dual-use export controls. The author analyses the EU regulation on dual-use goods that entered into force on 1 July 1995, which aims to facilitate the extension of the single European market to encompass trade in nearly all dual-use technologies in such a way that policies to prevent the proliferation of WMD and high-technology conventional weapons are not compromised. In his paper, Van Orden stresses the importance of dual-use export controls as an instrument of foreign and security policy, and argues that these controls could be used for three purposes: (1) to deny an adversary access to high technology and strategic materials; (2) for ethical and/or moral objectives (i.e. the moratorium on exports of anti-personnel mines); and (3) for commercial reasons.

The object of this *Chaillot Paper*, like that of the conference from which it stems, is to stimulate a debate on Europe's role in managing the risks of proliferation, and, by doing so, contribute to strengthening the existing mechanisms and regimes which have until now served well in keeping the proliferation of WMD at bay.

THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION: THE RISKS FOR EUROPE

Joachim Krause

In the many recent debates on a common European defence policy, more time and resources have been devoted to questions of principles, institutional arrangements and organizational reforms than to the issue of risks, threats and contingencies.Coping with risks, threats and contingencies, however, is the main substance of security and defence policy, and demonstrating an ability to cope with certain risks, threats or contingencies is usually the best way of gaining public support for security and defence policy.

Risks associated with the proliferation of weapons of mass destruction have usually been defined by US authors or by US authorities. Some of these analyses are excellent, some are not. There have been very few European voices pointing to the risks with which Europe could be faced as a consequence of the proliferation of weapons of mass destruction. Usually there is a broad understanding that the proliferation of weapons of mass destruction is something bad and dangerous, but what this means in detail is often not debated. What is the nature of this threat? What is its strategic relevance? What kinds of risks will Europeans have to face in the coming years? And how would they be affected by such risks? This author, in a recent publication, has argued that there is no unified threat of proliferation, but has identified seven categories of risk:

- the possibility that *armed forces of Western states operating in various theatres* on different multilateral missions (peacekeeping; the enforcement of UN trade sanctions; the enforcement of UN Security Council resolutions) could face opponents armed with weapons of mass destruction and ballistic missiles;

- *direct military threats* against the territories and population of Western countries by `rogue' states that have acquired missile capabilities and nuclear weapons;

- risks arising from *shifts in regional power balances with global implications* that have resulted from or been accelerated by a proliferation of nuclear weapons and missiles;

- the possibility that *regional instabilities*fuelled by the proliferation of nuclear weapons or other weapons of mass destruction might adversely affect Western security;

- negative consequences of the *erosion of international norms and international or regional order*;

- the danger of *accidents involving nuclear, chemical or biological weapons*, or events leading to the unauthorized use of nuclear weapons;

- new types of *terrorism.*

While NATO has already started to look at the first two of these categories, the most relevant risks might be those where the proliferation of weapons of mass destruction is changing regional balances in a way that affects Western security more widely. In this chapter, these risks are further spelled out as they affect Western Europe.

Threats to West European armed forces in out-of-area missions

This risk category is the one that has so far been at the centre of attention. The possibility that Western armed forces could encounter adversaries armed with weapons of mass destruction during various kinds of missions in different regions has appeared as a real danger, at least since the liberation of Kuwait in early 1991. Not only did the allied troops that eventually liberated Kuwait have to face an adversary armed with chemical weapons; Iraq also had available biological weapons capable of disseminating anthrax spores and botulinum toxin. Nor could the possibility that the Iraqi armed forces possessed nuclear devices be excluded at that time.

The Kuwait mission might forbode further cases of the same type. There are various kinds of missions imaginable where the threat of weapons of mass destruction could become a reality: UN-mandated peacekeeping, peacemaking or peace enforcement, the military enforcement of trade sanctions and embargoes, or even intervention. The strategic rationale for the use of weapons of mass destruction by regional actors would lie mainly in their value as a deterrent. In such scenarios, open confrontation with intervening forces is not sought. Rather, the aim is to create and speed up a process by which the dispatch of these troops is called into question Cboth within the countries providing them and within the international body mandating their mission Cwith the eventual goal of causing abandonment of the mission.

One possibility might have been of West European armed forces serving as part of a UN or other international force in former Yugoslavia facing chemical weapons (CW) threats. The Federal Armed Forces of former Yugoslavia most likely had chemical weapons in their inventories and there were various cases of alleged chemical weapons use. None of these cases, however, has been proven. There were many attempts by the various Serbian forces to test the resolve of UNPROFOR, and especially to defy the troops dispatched by major Western countries such as France and the United Kingdom. While British and French troops are certainly trained to survive and even operate in a CW environment, the political controversy in Paris and London that would have followed any chemical weapons attack (especially if it was difficult to determine who had actually fired them) would have been considerable.

Things might even get worse if biological weapons were used in a way that made it difficult to trace their source. If, for instance, members of a peacekeeping force consisting of British, Canadian or Finnish soldiers were to contract rare and dangerous diseases, this might be a case of biological warfare. However, it would be extremely difficult to identify the perpetrator with any degree of certainty in a situation of relatively widespread confusion Cas is the case in most peacekeeping operations. Sometimes, more than one actor might have an interest in driving foreign troops out. Some might rather have an interest in alienating their respective foes and the intervening forces by blaming a BW or CW attack directed at foreign troops on their adversary.

A related threat is the danger that Western naval forces in the Mediterranean or in the Gulf could become the target of anti-ship missiles with ranges of up to 200-300 km (such as an upgraded *Silkworm* missile that Iran is obviously developing in order to threaten US and other Western naval forces in the Gulf). If possession of such missiles were to spread further, this would reduce the room for manoeuvre of most navies, making the implementation of arms and trade embargoes extremely difficult and hazardous.

Direct military threats against West European states

Direct military threats resulting from the proliferation of both ballistic missiles and weapons of mass destruction are a possibility some Western states may have to face in the near future; Japan might be the first.

But what is the situation with respect to Western Europe? For the time being, it could be described as follows:

- The only country able to threaten the whole of Western Europe with ballistic missiles is *Russia*; Ukraine theoretically has the means available, however, their ballistic missile inventory is shrinking and operational control is questionable;

- *Saudi Arabia* possesses about 40 (some sources indicate 60-120) Chinese CSS-2 missiles; if launched from the extreme north-west of Saudi Arabia, they could reach targets in the Balkans and most of Italy (theoretically as far north as Venice); their warheads are HE with a weight of 2,150 kg. The CSS-2 is liquid-fuelled and thus very difficult to handle, and it has a CEP of more than one kilometre. The military value this missile would have for the current Saudi-Arabian leadership is questionable.

- There is currently no state in the Mediterranean that could successfully launch ballistic missile attacks against major strategic or population centres in Western Europe. Algeria, Libya and Syria possess short-range missiles of the *Scud* or even the *Frog* type that could hardly cross the Mediterranean. The quantities held by these countries are so small that even if they reached their target their effect would not be significant. The only problematic state in Europe CSerbia Cdoes not currently possess ballistic missiles that would allow it to pose a threat to major strategic centres in Western Europe.

There are two reasons why the current ballistic missile situation can be viewed with relative optimism. First, no possible `rogue' nations in the regions adjacent to Europe have the means to build operational ballistic missiles with a range greater than 600 to 900 km. Most of them operate and modernize *Scud* A, *Scud* B and sometimes also *Scud* C missiles (which are based on German V-2 technology dating back to the Second World War). For new missile builders the 1,000 km range presents a technological threshold that most of them are unable to cross using their own means. Secondly, even if they could, without nuclear warheads this threat would be militarily rather pointless. To arm ballistic missiles with chemical agents, as it is often surmised, gives no additional advantage, since most of the filling will be spoiled and burnt on impact; the liquid agent also might contribute to lowering the accuracy of the missile.

Fitting missiles with biological warheads only makes sense militarily if the missile is equipped with a special submunition device that allows the dispersal of capsules containing germs and viruses before impact. It is not known that any threshold state has so far invested in this technology. The technological challenge becomes the more difficult the greater the range of a missile is (because of the missile's higher velocity).

Some analysts, however, are treating the ballistic missile threat as a *fait accompli*. According to their estimates, in a few years Europe will face a growing threat of missiles fitted with nuclear, biological or chemical warheads from Iran, Iraq, Libya and other radical states. As was stated earlier, this conclusion is not necessarily compelling. There is no automaticity in ballistic missile proliferation, nor are these countries capable of overcoming all the technological difficulties. However, four scenarios are imaginable that Ceither alone or in combination Ccould drastically change the threat situation for Western Europe:

- *Political change* in countries of the Mediterranean and the Middle East such as Saudi-Arabia, Egypt or Algeria, resulting in radical or fundamentalist forces coming to power. In the case of Algeria, this would not necessarily lead to an increased military danger, since Algeria's military capabilities would be exhausted. However, if the huge Saudi arsenal were in the hands of Muslim extremists, this would come close to a strategic nightmare Calthough their ability to cause havoc in Europe would be limited.

- *Instant proliferation* of nuclear weapons, nuclear weapons material or ballistic missiles, as a consequence of a further decline of central political authority and control in Russia and other former Soviet states. This possibility cannot be excluded; on the contrary, there are daunting reports of the further deterioration of nuclear material security and inadequate material accountability systems in Russia and other successor states of the former Soviet Union. As a consequence, states with nuclear ambitions that otherwise would need ten to fifteen years to enrich uranium or build plutonium reactors might get a chance to acquire enough material to construct a few bombs within the space of weeks. It is often disputed whether there is a demand side for nuclear weapons materials. American reports seem to indicate that Iran has repeatedly tried to acquire HEU and plutonium in Kazakhstan and Russia. Libya's Muhammad Gaddafi tried to buy nuclear weapons in the 1970s. He was not successful at that time, but may now be tempted to profit from the confused situation in Russia and other parts of the former Soviet Union.

- *Failure of arms control regimes*of either a unilateral (aimed at Iraq) or multilateral character (MTCR, NSG, the Australia Group). This could lead to the transfer of technology that regional states in the Mediterranean or the Middle East might need to overcome the technological problems mentioned above in order to extend the range of missiles or enrich uranium. Curbing the trade in dual-use items in the nuclear and missile-related areas need not be one hundred per cent watertight; however, it is important that some critical items and areas are covered. The greatest challenge for the MTCR would be further Chinese and/or North Korean sales of medium-range (above 1,000 km) missiles to the Mediterranean region, the Middle East or the Balkans. With the sale of CSS-2 missiles to Saudi Arabia in 1988, the Chinese proved that they were able to deliver. Since then no more such deliveries have taken place Cmainly as a result of massive Western political

pressure on Peking. China has promised to stick to the rules of MTCR, but, as recent reports about Chinese missile component deliveries to Pakistan indicate, such promises cannot always be taken at face value. North Korea has also delivered missiles into the Gulf area and other parts of the Arab world (probably Syria), however it has not so far been able to build missiles with a range considerably greater than 1,500 km. The *Nodong* 1 missile Ca modernized version of the *Scud* C Cwas tested between 1991 and 1994 and had a range of about 1,000 km. *Nodong* 2 is said to have a range of 1,500 km, but with a considerably smaller payload and a concomitant loss in accuracy. The existence of further programmes (*Taepo Dong* 1 and *Taepo Dong* 2) is assumed in the West, since two mock-ups of these larger missiles have been reported. Whether or not the North Koreans would be able to overcome successfully the technological difficulties in developing a missile with a range of 2,000 - 3,500 km remains open to question. Given the current plight of the North Korean economy, it is hard to imagine that a country that is no longer able to feed its citizens or to satisfy its energy needs would be able to surmount such complex technological difficulties in the missile field. So far, only China, India and Israel have been able to overcome these difficulties Cand only then with considerable technology transfers. Mere rumours of the existence of such programmes, however, seem to have been enough to cause a few Mediterranean and Gulf states to seek cooperation with the North Koreans. Whether or not North Korea's efforts are successful and there is a transfer of technology and knowledge from North Korea to the Middle East will have a decisive effect on the security situation in that region and in Europe. At present, this scenario is unlikely Cbut nothing is really certain in this field.

- *Serbia acquiring and modernizing*Scud *missiles*. This would allow it to threaten large parts of Central Europe (and most of Germany). Serbia does not yet possess *Scud* missiles, but there are reports that there is a development programme for ballistic missiles at the Belgrade Military Technical College that concerns missiles with ranges of 400 to 1,000 km. Nor can it be excluded that through a more or less unofficial Cpan-Slavic Cchannel, Serbia or, even worse, one of the self-appointed Serbian state-like entities is receiving a small number of nuclear weapons from inadequately guarded stockpiles on Russian territory.

Even if these negative trends prevailed, what would be the nature of the threat and what would be the strategic implications of the fact that states like Algeria, Iraq, Iran, Libya, North Korea or Serbia could threaten individual Western countries?

In terms of *military options*there is not too much proliferant states can expect from aiming missiles at targets in Western states. In case these missiles were charged with high explosives their military value would be limited, measured in terms of destructiveness and if compared to other means. The destructive power of conventionally armed missiles Coften with poor accuracy Cis small in comparison with modern aircraft. Yet not only quality but also quantities are counting. Given the limited arsenals of missiles of Third World countries, it is hard to imagine how anything close to a strategically relevant threat could result if no nuclear weapons were involved. The numbers of *Scud* B or C type missiles held by Third World countries do not exceed 300-400. To put this figure into perspective, during World War II, Germany fired more than 4,000 V-2 missiles (which are comparable to this generation of missile) at targets in Great Britain, and the effect was in no way decisive

for the outcome of the war. Their main strategic value lies in their psychological impact and the horror they inflict on the civilian population: they are hard to detect in advance and they arrive without warning. However, the only power with a major inventory of ballistic missiles (about 1,000) was Iraq before it lost the Gulf war. Since that time, no state has attempted to build up a missile arsenal of any appreciable size. Things would not change very much if such missiles were used to deliver chemical agents Csomething Iraq admits to having done prior to 1990 Cor biological agents. Only ballistic missiles with nuclear warheads would offer an unparalleled opportunity to intimidate and threaten Western countries.

From the standpoint of states engaged in proliferation, the strategic value of WMD can be considerably reduced by the accompanying risks; the risks associated with their deployment and even possession might more than outweigh their military utility. Those who start to use, or threaten to use, weapons of mass destruction against member states of the North Atlantic Alliance, Japan or Israel are likely to encounter a considerable response. These states are weaker than the United States and most Western coalition forces, so that for them, crossing the threshold of non-conventional warfare from a position of weakness and strategic vulnerability would usually have disastrous consequences. The risks are especially high concerning nuclear weapons. As long as such a state cannot be sure that its nuclear weapons are relatively immune to pre-emptive strikes by superior Western forces, it will live under the constant threat of military action by its potential victims or their allies. Even acknowledging possession of these weapons could become dangerous. This situation would, however, change from the moment a state had built up a nuclear posture, with long-range missiles and a sufficiently broad nuclear weapons-related infrastructure, including hardened weapons storage and launch sites; command and control systems; early warning systems; a workable and effective air defence system; and survivable nuclear weapons research, development and production facilities that could withstand armed attacks. However, it is unlikely that any state apart from India will have reached that stage in the foreseeable future.

Shifts in regional power balances with global implications

The proliferation of weapons of mass destruction, especially nuclear weapons, and of modern conventional arms, might lead to shifts in the balance of power in strategically critical regions, and could have adverse consequences for the military and economic security of Western Europe. This logic is applicable only to regions that are of strategic importance either as a source of crude oil or other raw materials, as an integral part of an economically interdependent world, or simply due to their geographical proximity. In this respect, particular attention must be paid to two regions: the *Middle East* (especially the Arabian peninsula and the Gulf region, where more than half of the world's oil reserves are located); and *East Asia*which is the fastest growing and most dynamic region of the world and is therefore of increasing importance for the rest of the world.

Even a small number of nuclear weapons in the hands of a regional power might give that power an excellent opportunity to strive for regional hegemony or to change the regional order through military means. This does not imply that the possession of nuclear weapons alone would result in regional hegemony. Rather, the possession of nuclear weapons could be the umbrella under which traditional military means could

be employed to intimidate or suppress others, or to conquer other states or parts of their territory. It would give such a state an insurance policy against intervention by external powers Cexcept in very exceptional circumstances. In some cases this might have global implications. If, for instance, in August 1990 Iraq had possessed nuclear weapons, most likely there would have been no Operation DESERT STORM or DESERT SHIELD. As a consequence, the Gulf sheikhdoms and the other states on the Arabian peninsula (including Saudi Arabia) would have been tempted by appeasement, accommodation and eventual adaptation that would have brought them Cor their successor states Cinto Baghdad's orbit. Within a matter of weeks, Iraq would have been able to control most of the Arabian peninsula and thus more than half of the world's petroleum reserves, and would have become a new strategic actor due to this combination of control over oil resources and possession of nuclear weapons.

As this example indicates, the proliferation of conventional arms is as important as the proliferation of nuclear weapons or missiles. Without the excess of conventional weapons that Iraq received from the Soviet Union, France, the United States and the United Kingdom during its eight-year war with Iran, Saddam Hussein would never had been able to pose such a threat to the region. It is in particular the combination of the potential of conventional and non-conventional weapons that presents the largest risk for regional equilibrium.

*East Asia*is another region of significant strategic importance. Here, however, the situation is quite different. Dynamic economic development in that region provides a good chance that cooperative, integrative international structures become prevalent Cas was the case in Western Europe. Yet there is no guarantee that this will actually happen. There are many unresolved regional conflicts, territorial disputes and irreconcilable political ambitions that might be aggravated rather than being resolved. Nuclear proliferation Cboth horizontal and vertical Cmight play a crucial role in this process.

The country that will have the greatest decisive impact on whether or not there is a wave of nuclear proliferation is China. If, for instance, China continues to modernize its nuclear weapons Cboth qualitatively and quantitatively Cwhile refurbishing its military apparatus as a whole, this might set in motion a wave of rearmament in the region and could even force some countries (Japan, South Korea and Taiwan) to reconsider their current stance towards nuclear weapons.

Given the growing resources available through the process of economic development, the possibility of a regional arms race involving nuclear weapons in East Asia cannot be excluded. If this happened, it might have many serious drawbacks for the region itself and for the rest of the world. Not only would it aggravate domestic or economic instabilities in some countries of the region: it could also impede the development of a cooperative international structure in the region, and it could lead to armed conflict and wars on a limited scale in the region. This could present indirect security threats to Western Europe, given the high degree of dependence of West European countries on supplies of modern information technology from Japan, South Korea and Taiwan.

Regional instabilities exacerbated by proliferation

While in the Gulf region and in East Asia nuclear proliferation could bring about shifts in the regional balance, with disastrous consequences for Western security, there are other regions where the proliferation of weapons of mass destruction could contribute to instability. Such instability would not necessarily bring about a transformation of world politics, but it might have very undesirable consequences for Western security.

One such region is the *former Soviet Union*. The strategic consequences of conflicts fuelled by the proliferation of nuclear weapons or other weapons of mass destruction in this region do not need to be spelt out, since possible scenarios have been under discussion since the early 1990s. Two scenarios need to be mentioned here.

In the first, a regional system within the CIS develops in which, in addition to Russia, *Ukraine and Kazakhstan might go back on their undertakings given as non-nuclear weapons states in the NPT*. Neither Ukraine nor Kazakhstan would be a fully-fledged nuclear weapons state, and nuclear installations (including launching sites and storage for nuclear weapons) would be highly vulnerable to Russian pre-emptive measures. No direct threat to the West would result from such a development, and neither of the new nuclear states would be hostile to the West. Yet it would make a big difference for European countries, whether or not they are adjacent to a region which is marked by such extreme internal instabilities, in terms of economic security.

The second scenario involves the danger that, as a consequence of further disintegration of Russia and other CIS states, *nuclear weapons or nuclear weapons material might no longer be under the control of the Russian military*, and could be used in local armed conflicts or conflicts between successor states of the Soviet Union. If, for instance, the Chechens had had access to nuclear weapons, they surely would have threatened to use them to bring about the withdrawal of Russian troops. Interestingly enough, in 1992 the US administration received reports that the Chechens had seized three small nuclear weapons about the size of footballs from former Soviet *Spetsnaz* arsenals. The Russian leadership revealed that these were mock-ups used for training purposes.

There are other regions Cfor instance *South Asia and the Near East* Cin which nuclear weapons proliferation might lead to a gradual worsening of relations between regional or local adversaries that could have consequences beyond the region in question.

South Asia is certainly not the strategically most important part of the world. However, any armed conflict involving nuclear weapons would have effects beyond the region, as would any fierce nuclear arms race. The greatest danger is that the nuclear competition between Pakistan and India might somehow extend to the Middle East Cfor instance through cooperation between Pakistan and Arab states. There are many ways in which the fragile peace process between Israel and the PLO and neighbouring states could be impeded or interrupted as a result of radical forces in the Arab world acquiring nuclear weapons. None of these developments would leave Western European security unaffected. If, for instance, Israel faced the threat of nuclear annihilation by individual Arab states or Iran, this would totally change the

nature of the Middle East conflict and most likely lead to a major readjustment of Western strategy in that region.

The erosion of international norms

The proliferation of weapons of mass destruction Cespecially nuclear weapons Cwould contribute to the erosion of internationally accepted norms and international order. International norms and international order today are indispensable elements of the new structure of international politics that was formed after World War II and which in itself has become a precondition for the functioning of modern Western economies and societies. Today's highly integrated and interdependent economies and societies would not work if international politics were structured according to the concepts and norms of the nineteenth century balance of power system. The emergence after World War II of a new kind of international affairs was a prerequisite for the type of social and economic change that has taken place during the last fifty years, and any damage to that structure, which could be caused by the proliferation of weapons of mass destruction, would endanger the international environment that open and dynamic societies need in order to progress further.

*Humanitarian law*would of course suffer first, as warfare Cthrough the use of weapons of mass destruction Cwould become increasingly ferocious and unconstrained by the concern to observe international law. More generally, the proliferation of weapons of mass destruction would run counter to *the tendency to curtail and constrain the use of military force*, which is seen in the gradual de-legitimation of nuclear weapons and the principle of the inviolability of borders or the abstention from the use of military force. Proliferation would also *compromise and impede the functioning of international cooperative security systems* such as the UN or OSCE that could provide for non-traditional forms of security.

The danger of accidents involving nuclear, chemical and biological weapons

The proliferation of weapons of mass destruction would increase the risk of accidents or the unauthorized use of these weapons.

First, there is the risk of *unintentional nuclear explosion*. In established nuclear weapons states this is a remote possibility, the probability that this might happen in the lifetime of a modern nuclear device being only one in ten million. In the case of new nuclear states with no experience of testing and insufficient technical knowledge, the probability might be considerably higher. Secondly, there is the danger of *unintentional conventional explosion* of a nuclear device. Again, as regards the established nuclear weapons powers, this danger is comparatively remote. Among new nuclear states, the probability of such an event would be much greater. The conventional explosion of a nuclear device, however, would only be disastrous if the device were a plutonium bomb, as it would result in plutonium scattering over a wide area. Thirdly, *unauthorized launching of a nuclear weapon* (for instance following the theft of a weapon) or detonation of a nuclear bomb in an act of sabotage should be mentioned here. New nuclear weapons states will most likely not possess sophisticated coding and blocking devices or other mechanism to prevent unauthorized launches. The associated risks for Western Europe are hard to assess at

this point. In some cases, the unintentional ground burst of a nuclear weapon will have ecological consequences.

New dimensions of terrorism

There is another possibility, which so far has mainly occupied the fantasy of authors of fiction and movie makers: the use of nuclear weapons for terrorist blackmail. In the current circumstances, the possibility cannot be excluded that terrorist groups might gain access to nuclear devices or to quantities of nuclear, biological or chemical weapons materials that would enable them to produce primitive devices. The sarin nerve gas attack on the Tokyo subway by the Aum sect has given a foretaste of what might lie ahead in this field.

There are other circumstances in which the use of such weapons for terrorist purposes can be imagined. A terrorist group could hide a nuclear device in a big city in an attempt to obtain the release of imprisoned members of the group or extort huge amounts of money from the government. It might also use blackmail to attain limited politico-military goals, such as the withdrawal of troops from certain areas (for instance, British troops from Northern Ireland or Spanish troops from the Basque region). Terrorists could try to use nuclear blackmail to bring about the general destabilization of a society and compromise the government in power.

The possibility that toxic chemical agents are used as a terrorist weapon was a theoretical one until the assault on the Tokyo subway in March 1995. It remains to be seen whether or not this was an isolated incident, or whether other groups will emulate the method used by the Aum sect. Usually, chemical, biological and nuclear weapons materials do not lend themselves to use by terrorists: there are other alternatives available that are less costly and less dangerous to the terrorists themselves. As the Oklahoma bombing of 1995 showed, even with commercial fertilizer and some basic knowledge in chemistry, an extremely effective explosive device can be produced. There are still so many other opportunities for terrorist groups to inflict terrible havoc on modern Western societies using `conventional' means (high explosives and toxic substances that can be purchased openly) that it is hard to see where the comparative advantage would lie in using chemical and biological weapons.

However, the danger cannot be excluded that terrorists use weapons of mass destruction to further their aims. Unfortunately, public debate on this subject might itself increase the risk: the more debate there is on how terrible all this might be, the more incentives will be created for terrorist groups to do what might be feared most.

Conclusions

Western Europe's security is surely not immediately threatened by the danger of proliferation, but awareness of developments that might have extremely detrimental consequences for its security in the near or medium term is called for. It also has to be stated that there are not only negative trends, but also many positive ones that work towards reducing or eliminating these risks (such as the recent extension of the NPT, which now has 179 members, and the peace process in the Middle East). Thus, there is room for preventive policy and there is reason to expect that it might be successful.

It also has to be acknowledged that there are different categories of proliferation, which need different approaches. Some risk categories are of a fairly traditional kind, i.e. they boil down to known military risks presented by identifiable actors. Some of these risks are obviously more serious than others; however, it would be difficult to devise a ranking order between them. There are certainly a few risks, especially the risk of Western forces being faced with opponents armed with WMD, that need to be tackled within the next few years. The risks arising from shifts in regional power balances, however, might deserve the most attention in the medium term, followed by the risks of direct WMD threats to Western countries' territories, and regional instabilities fuelled by the proliferation of WMD.

While it is necessary to spell out the possible risks the Western world might encounter in the coming years in the field of proliferation, there is no point in only addressing one or other risk category. Rather, a more comprehensive approach is needed that would allow all of these problems to be tackled at all, since many of these risks have the same origins or are subject to the same influencing factors. Any preventive policy that is risk-oriented should therefore aim, *inter alia*, to:

- *Deal with the dangers posed by nuclear weapons material on the territory of the successor states of the former Soviet Union*; recent reports have indicated that the state of fissile material control in Russia and the other CIS states is so deplorable that major diversions cannot be ruled out; here, technical assistance and additional political measures that could create a conducive environment are needed. So far, most activity in this area has been undertaken bilaterally (mostly by the United States under the so-called Nunn-Lugar legislation). While `Nunn-Lugar' was an excellent idea at a time of relaxed and generally problem-free US-Russian relations, this bilateralism has now become a liability rather than an asset. It would be advisable for the Europeans to consider different approaches seriously. This surely must involve new responsibilities (and costs).

- *Improve the passive and active defence of European troops that are involved in peacekeeping in various trouble spots*. Such efforts would accompany similar efforts undertaken by US armed forces under the Defense Counterproliferation Initiative (DCI).

- *Pay more attention to regional developments in the Middle East, East Asia and the CIS that are relevant to the proliferation of weapons of mass destruction.*Western Europe will have to face the need to deal with regions of strategic importance in a way that might entail its own involvement in regional security management Ceither as Europeans or within the framework of NATO.

- *Keep export controls tight*with the aim of avoiding indigenous missile and nuclear weapons developments. The fact that there are many bottlenecks in the WMD programme of every threshold country gives reason to assume that there is a good chance of success for export controls.

There are no quick solutions to all these proliferation risks and problems. Yet, at a moment when continued US leadership in this field cannot be counted on indefinitely, it is time that the West Europeans finally started to consider proliferation as a multi-layered, multifaceted threat to their security.

THE PROLIFERATION OF CONVENTIONAL ARMS AND DUAL-USE TECHNOLOGIES

Yves Boyer

The risks and challenges that the proliferation of conventional arms or dual-use technologies present for Europe can be considered in different ways, depending on whether one seeks to underline either a military threat that might result from the acquisition of sensitive technologies by states that are potentially hostile, or an economic threat to European high-technology industries as a result of the introduction of strict rules governing the spread of dual-use technologies.

A first approach is thus to stress the instability that could result from a regional imbalance of force caused by an accumulation of conventional weapons. If it led to armed confrontation, this instability could affect Western Europe directly. This could be because one of the belligerent states might try to impose strict neutrality on the European Union by threatening an attack, for example on the territory of an EU member country (a consequence of the proliferation of ballistic missiles) or against its maritime trade (by posing a submarine threat). Or again, in the course of direct European military involvement, European forces could find themselves facing sophisticated weapons bought from the West. The example of Iraq's use of weapons in service with Western or ex-Soviet armed forces is a recent memory. The same reasoning can be applied to dual-use technologies, the spread of which must not compromise the lead that the West has in military technology, and which represents a guarantee of stability, since it gives the community of democratic states the means to make offending states respect the international order, if necessary by force.

Another approach to proliferation consists in maintaining that these risks are marginal Cexcept, doubtless, where certain dual-use technologies in the nuclear domain in particular are concerned Cgiven the national and international regulations that already govern the control of the arms trade or dual-use technologies as a whole. Rather, since the major threat has disappeared, in this approach attempts to limit exports of conventional arms and dual-use technologies are viewed as instruments in a struggle between Western competitors to conquer new markets. Indeed, the high-technology industries in Western countries are engaged in fierce rivalry, in which the adversary is the economic and industrial competitor. The weapons used are those of economic competition, in which companies seek to invoke rules that could result in the more or less strict banning of exports.

The new problem of conventional arms proliferation

The question of conventional arms proliferation, and therefore its control, has changed since the end of the Cold War, because the nature of conflicts has been very largely transformed, with an increase in the number of intra-state wars. Between 1988 and the beginning of 1995, almost all thirty-four conflicts that took place, with the exception of Iraq's invasion of Kuwait, were civil wars. The weapons used by belligerents have generally been light (for instance, handguns, assault rifles like the Kalashnikov, mortars and portable rocket launchers of the RPG-7 type) and rarely

complex. Most if not all of these come from police or armed forces stocks. Thus, in Bosnia a significant part of the weapons used by the warring parties came from stocks built up by the former Yugoslav National Army for use in guerilla warfare against an invader. Sometimes, the unsophisticated nature of weapons is no bar to the perpetration of genocide, such as that seen in Rwanda. Moreover, this led to the idea of micro-disarmament raised by the Secretary-General of the United Nations in a report entitled *Supplement to an Agenda for Peace*.

On the supply side, since the 1980s there has been a marked change caused by the appearance, albeit still modest, of new producers. Many countries have become more independent in the production of certain military equipments. According to a study carried out by the Australian Defence Force Academy, whereas between 1983 and 1992 in the Asia-Pacific region there was a fall of 20%, in terms of value, of arms imports, during the same period there was a significant rise in defence budgets of nearly 42%. Despite the stagnation in their arms imports, the share of global expenditure on conventional weapons of the countries in this region rose from 12.8% in 1983 to 22.1% in 1992. In other words, their technological level and their defence industries' production capacity increased in direct proportion to the development of local economies. They are now capable of producing a wide range of weapons and munitions. The retrofit market, which is concerned with the modernisation of complex but obsolescent military equipment, is also now broadly open to them.

Similarly, a new threshold in defence production was crossed at the beginning of the 1990s by countries from the South, for example by India, which developed and produced a main battle tank (the *Arjun*) and a tactical missile (the *Prithvi*). The military R&D organisation in India employs 25,000 people, including 6,000 scientists and engineers. Both quantitatively and qualitatively, India is at a level comparable with many European countries. A significant proportion of weapons systems produced in India are, however, not yet entirely of Indian manufacture but this will decrease as the spread of dual-use technologies tends towards a greater independence of the arms industries of emerging countries.

Elsewhere in South-East Asia, the development of regional transport aircraft, which demonstrates a good level of technology, is apparently within the reach of countries such as Indonesia (with its N-250 aircraft project) or South Korea, where the Daewoo group is in partnership with Dornier for production of the Do-328. Daewoo is now trying to set up a joint venture of the Airbus type in order to develop a medium-range transport, to be called the *Asian Express*, in partnership with Hindustan Aeronautics of India and Xian Aircraft of China. These projects show a determination to develop an aerospace industry, even if some of them, like the N-250, are proving difficult to carry through. The know-how necessary for subcontracting and production under licence is not yet sufficient to enable all aspects of aircraft manufacture to be mastered. None the less, these examples drawn from the aerospace sector indicate, as former US Defence Secretary Les Aspin has observed, that developing countries no longer have to import all of the necessary sophisticated technologies, they are developing them themselves. The growth of technological know-how in many countries could completely transform the non-proliferation equation.

In addition, regarding external sources of supply, these countries have open to them a much wider field, which enables them to diversify by increasingly taking advantage

of competition between suppliers. In this way, Malaysia bought MiG-29s from Russia and obtained a series of technology transfers in the field of aerospace construction into the bargain.

Regarding the arms trade and its control, too hasty conclusions should nevertheless not be drawn from the rise of the armaments industries in countries which had none at all ten to fifteen years ago. In effect, this trade is concentrated among a very small group of producers and buyers. In 1993, five countries, including the United States (48%) and Russia (21%), accounted for 86% of exports. Moreover, twenty-five countries absorbed 90% of equipments exported. This arms market has declined steeply, and in 1994 represented only 50% of its value at the end of the 1980s. The US industry's share rose from 16.8% of the world market in 1986 to 50% in 1993, whereas the Europeans' share fell from 28% to 14%. During the same period, the US defence industry underwent a rationalisation, with a series of mergers, takeovers and restructuring. One of the first results of this restructuring was the appearance of the giant Lockheed-Martin, whose annual turnover is equivalent to fifteen months' defence equipment budget in France. Not only is US primacy asserting itself, but Europe is now `confronted with a structural, cumulative weakening of the defence industrial, scientific and technological base which is bound to be extremely prejudicial to a sufficiently autonomous and effective achievement of the essential functions that defence and force projection represent.'

Western defence industries after the Cold War

The end of the direct threat of an armoured-mechanised invasion from the East has led the countries of Western Europe to reduce their defence effort considerably. Germany, for instance, has reduced the size of its armed forces by 40%, and the Dutch Army is no longer capable of conducting military operations above divisional level. Equipment expenditure has been hit head-on by this deflation: the equipment budget of the British armed forces fell in 1994 to 80% of that of France, which as from 1996 should fall appreciably, and that of Germany fell to 40%. In the United States the same trend can be seen: the equipment budget fell from $136 billion in 1985 to $39 billion in 1996, and industrial employment linked with defence equipment orders fell correspondingly by 35% between 1987 and 1995 Cfrom 3.5 to 2.3 million.

More generally, whereas from a military point of view Western Europe is drawing its own conclusions from the end of the threat posed by the Warsaw Pact and reducing its force levels, the opposite tendency can be seen in countries situated in areas of the world that are of vital importance for the security of Western Europe's supplies of raw materials or for its maritime trade.

At the same time, technological progress has led some analysts to foresee a radical transformation of the nature of military power and, correspondingly, the organisation of armed forces, particularly as a result of the revolution in the field of information technology.

The increase in the number of conflicts is also leading Western countries to reorganise their intelligence systems and means for managing crises by making use of space-based observation, communications and intercept, which require substantial investment and the massive employment of dual-use technologies.

Given these various phenomena, the way in which policy on conventional arms exports and dual-use technology develops will require a series of significant changes in the approach taken in Europe. Indeed it has to be asked whether there should not be a European strategy so that on the supply side of the defence industry Cthe high-technology industries Ca number of steps could be taken to restructure the European industry so as to make better use of military research and civil-military synergy in the field of dual-use technology.

International competition now makes the mastery of key technologies essential. The acquisition of scientific and technological advantage in the fields of aerospace, defence and the processing and communication of information gives those who have such expertise a dominant position on the international stage. According to an American analyst, if the United States were capable of developing and exploiting this knowledge, it would have `tremendous opportunities to shape the international economic and security environments'. It is therefore sensible to avoid measures to control exports that reinforce the handicaps that the European industry has compared with its Japanese and American competitors. The latter have moreover received useful support from the Clinton administration, since in its policy on conventional arms transfers announced in February 1995, the Administration recognised that arms sales are `a legitimate instrument of American foreign policy', and that the Federal authorities `can take into account the impact that refusal to allow a sale would have on the manufacturer.' In this competition, R&D investment becomes a factor of power. If one takes, as a criterion of comparison among OECD countries, the ratio national R&D expenditure to GDP, which gives an index of the R&D effort in relation to the economic weight of the main OECD countries, this results in the following order for 1991: Japan (2.86%), United States (2.78%), Germany after unification (2.58%), France (2.42%). If one takes the number of researchers as a proportion of the active working population, the order is: United States (7.6l), Japan (7.5l), Germany (5.9l), France (5.1l), United Kingdom (4.6l) and Italy (3.2l). These comparisons underline the considerable means at the disposal of the United States, which has the capability to cover all areas of science. Japan, too, has a very wide scientific and technological potential, and bases its industrial development on brainpower and products with high technological value. In France, four sectors are particularly active regarding R&D: aerospace (representing 20.9% of national R&D expenditure), electronics (28.2%), chemistry (14.4%) and land-based transport (12.9%).

Moreover, the spread and development of scientific and technological knowledge are of particular importance and priority, as was indicated in the European Commission's `White Paper' entitled `Growth, Competitiveness, Employment' and at the European Union's summit in Edinburgh in 1993. That priority is specifically mentioned in the Treaty on European Union, Title II, Article 130 G, `Research and Technological Development'. The Treaty includes provision for a specific programme within the `framework programme' for the `dissemination and optimization of the results of activities in Community research, technological development and demonstration'.

In the United States, the importance of R&D in international economic competition today has been understood. As former Deputy Secretary of Defence John M. Deutch has remarked, `Research and development are the keys to maintaining a technological edge, so our political and fiscal commitment to R&D must remain strong . . . For

example, in 1985 we spent about $3 on procurement for each dollar spent on R&D. In 1995 that ratio will be less than two to one.' In today's competition between Western countries, in which R&D plays such an important role, the notion of dual-use technology assumes particular importance.

The economic importance of dual-use technologies

The notion of dual use appeared at the beginning of the 1980s in the United States and was used to describe technologies having both civil and military applications. During the first two decades of the Cold War, the most significant technological advances resulted from the need to meet military requirements. The large sums of money spent on R&D did not serve only to acquire advanced technological defence: they also guaranteed the development of the economy in general as a result of the gradual spread of its effects. Once the adversary (the Soviet Union) had reached more or less the same level of technology as the United States, at the same time as the latter were on the way to being overtaken in a number of sectors of industry by the Japanese or the Europeans, the preservation of a military industrial base that was separate from the civil base became dangerous economically. Beginning in the mid-1980s, an awareness of this appeared on both sides of the Atlantic. For instance, German Defence Secretary Timmerman remarked at the Hanover Air Show in 1988 that, given the increasing number of dual-use technologies, it was becoming increasingly unrealistic to wish to establish a clear line between civil and military markets.

What is now happening is a reversal of the direction of transfers of technology: it is now from the civil sector to the military. Two phenomena account for this. The first concerns the rapid rise in the quality of armaments in service in Western countries. Military R&D accounts for a growing share of defence budgets that are markedly lower, in particular since the second half of the 1980s. In addition, the concept of a weapon has evolved to that of the weapon system, which incorporates a number of functions Cincluding observation and communications Cin which automatic data processing plays a decisive part. These are the pre-eminent dual-use technologies, whose development is driven by the commercial sector. In aerospace, for example, where competition between Boeing and Airbus is particularly keen, the number of dual-use technologies is increasing; for instance:

- materials, apart from those designed to absorb electromagnetic radiation;

- certain technologies with application to motors;

- on-board electronics, in particular digital systems and associated software;

- many technologies associated with, for instance, electric, hydraulic and braking systems.

In the United States the importance of this phenomenon is well appreciated, as emphasised by John M. Deutch: `Because the level of spending on commercial information requirements and resources will dwarf spending on military equipment, advances in this technology will be driven primarily by the requirements of the commercial market. We in DoD must exploit this commercial technology explosion. In fact, I envision the split in our defence materiel acquisition spending over the next

several years will drop to approximately 30% on specialized, defense-unique technologies, and reach 70% on commercial sector or dual-use items.' Examples of action by the Pentagon to promote the development of dual-use technologies abound. There is for instance the project involving the Defense Advanced Research Projects Agency (DARPA), which comes under the Pentagon, and the Semiconductor Manufacturing Technology Consortium (SEMATECH). SEMATECH was created in 1987 by a group of fourteen companies to help the United States regain its leadership in semiconductor manufacture, a position challenged by Japan since the beginning of the 1980s. In December 1987, the Congress authorised the Department of Defense to finance SEMATECH projects, over a period of five years, providing an equivalent sum to that invested by the industrialists. At the time SEMATECH was created, the US semiconductor industry was losing a 3.1% share of the market per year. The cooperation between DARPA and SEMATECH yielded results: by the beginning of the 1990s the United States had 53% of the world market compared with Japan's 38%. Another illustration of this deliberately aggressive policy of helping dual-use technologies was the Technology Reinvestment Program (TRP) launched by the Clinton administration. The aim of the TRP is to help the development of an industrial base that is capable of supplying, at competitive prices, high-performance weapons systems as well as dual-use items. Civil and military resources are pooled to develop dual-use technologies. For the Clinton administration, and despite the difficulties encountered in applying it since the Republicans gained a majority in Congress at the end of 1994, the TRP represents decisive progress towards integration of the defence industry in the civil sector. The extent of this integration is moreover emphasised in a White House document that advocates the elimination of the obstacles erected during the Cold War between the civil and defence industrial sectors.

Because of this awareness in the United States, renewed competition between high-technology companies broadly connected with the defence sector can be expected, especially since the defence budgets of Western countries have been considerably reduced since the end of the 1980s. Thus, in France in 1994, the turnover of the French aerospace industrial group GIFAS fell to its 1988 level. With 35% of European aerospace production and 9% of world sales, GIFAS is the leading European group, and second in the West after the United States. For fifteen years the proportion of its turnover accounted for by civil sales grew steadily, from 30% in 1985 to 55% in 1994. In 1994, orders placed by the French military with French aerospace companies fell by 19%. It is a breakthrough into foreign markets on which the French Cand American Caerospace industries are concentrating in these times of reduced military expenditure.

Conclusions

What lessons can be drawn from the evolution of technology described above? Firstly, as far as the transfer of technology is concerned, the difference in kind between dual-use goods and defence equipment destined for export has to be specified before introducing any improved control of just the dual-use technologies that give the West qualitative superiority in weaponry and which must not be disseminated. The exercise of such control would be extremely difficult, as examination of the criteria involved shows:

- *knowledge of intended use*: the use is obvious in the case of weapons but more difficult to define for dual-use goods;

- *the possibility of immediate use for military purposes*: weapons can be used immediately, whereas the use of dual-use goods is deferred;

- *the demonstration of foreign, security and defence policy*: this is clear in the case of arms exports and vague in the case of dual-use technology;

- *the long-term effect*: in the more or less long term, weapons become obsolescent, whereas the long-term effect of exporting dual-use goods is to give the receiving country a capability that is irreversible, and the accumulated effect of various acquisitions by that country is that it can make significant progress;

- *the ability of an exporting country to judge the effect of its action*: this is possible in the case of arms exports if the exporting country has sufficiently good intelligence; it is more difficult in the case of dual-use goods if parallel acquisitions are not known.

Secondly, the definition of an international code on the export of dual-use goods presupposes that competition between companies is not influenced by indirect forms of aid. In this context, it could also be argued that the fall in the value of the dollar was, as suggested by the French Prime Minister, Alain Juppé, speaking at the closing ceremony of a Paris Air Show, `the equivalent of additional aid of 20% for American products'.

Lastly, in the field of control of dual-use technology alone, the difficulty in reaching agreement on what should replace the COCOM, which resulted in the `Wassenaar Arrangement', shows the limitations of such an exercise. Leaving aside the flagrant cases of states that have excluded themselves from the international community and therefore deprived themselves of access to these technologies, it is hard to see how in the near future practical agreement on the implementation of controls could be reached. The Wassenaar Arrangement is still in its infancy, and a number of political and technical issues need to be clarified. Its area of application to declared transfers of conventional arms concerns, moreover, only the categories that appear on the United Nations Register of Arms Transfers, and thus does not include the majority of electronic, optronic and communications systems that form the key elements of modern armaments.

EUROPEAN NUCLEAR NON-PROLIFERATION AFTER THE NPT EXTENSION: ACHIEVEMENTS, SHORTCOMINGS AND NEEDS

Harald Müller

This chapter addresses the issue of the European Union's *nuclear* non-proliferation policy exclusively. There are three reasons for this focus. First, nuclear proliferation would present the most ominous threat to world stability and European security. Second, European security in this field is farther developed than in other areas, having a first foundation in the treaties establishing the European Communities and an active history of fifteen years since the creation of the non-proliferation working group under the auspices of European Political Cooperation (EPC). And third, it is by far the most difficult area, one in which the Europeans are obliged to face fundamental differences of position and interest that threaten at any time to shatter the foundations on which the common policy rests.

The legal and institutional foundations of this policy are addressed first; the evolution of this policy over fifteen years is then briefly analysed; its successes and shortcomings are described in connection with the recent NPT Review and Extension Conference, where its strengths and weaknesses, its possibilities and constraints came into sharp relief; finally, some conclusions are drawn from these experiences and some suggestions made for the further development of European policy.

The legal and institutional foundations

EURATOM

One of the treaties that laid the foundation for the European Communities created a European Atomic Energy Community (EURATOM). That treaty served the double purpose of fostering collaboration on nuclear energy and providing assurances that member states would use the atom for peaceful purposes only. While inequality among member states was inevitable, as a consequence of France's determination to develop nuclear weapons, the non-proliferation objective of the EURATOM treaty worked well with regard to the other member states.

EURATOM consists of the usual organs of the European Community: the Commission as executive body, which is also authorized to make regulations within the limits of the Rome treaties; the Ministerial Council, composed of those representatives of member states who are responsible for nuclear policy at national level, is the main decision and rule-making body; in the event that no decision can be reached, or more far-reaching political issues are involved, the General Affairs Council, composed of the foreign ministers, decides (for the role of the European Council see below). The Parliament Cnotably the energy and foreign policy committees Csupervises policy developments, confirms Commissioners nominated by the Ministerial Council, and votes on the Commission's budget, but has no legislative

authority. To coordinate closely among the member states and between member states and the Commission, a Committee of member states' Permanent Representatives to the European Community in Brussels (COREPER) works in permanent session on all issues within the purview of the Community. Below COREPER, special bodies of national expert delegates to the Community, and Commission representatives, addresses specific issues. For nuclear issues, this is the `Groupe des Questions Atomiques', consisting of experts from the national missions to the EC in Brussels, and representatives of the Commission (Directorate-General XVII for Energy, including the Supply Agency and the Safeguards Agency; Directorate-General I (External Affairs) would be involved in negotiations with external partners, and Directorate-General XI (Industrial Affairs) on export controls).

The non-proliferation functions of EURATOM have three aspects. *First*, the Community nominally owns all fissile material within the area of the EC. When the Commission challenged the French practice of not notifying the Commission of transborder movements (purchase and sales) of fissile material, the Court ruled in favour of the Commission. As a consequence, there is a `gentleman's agreement' by which the Commission does not press its property title as long as it is informed comprehensively about all movements of material within, into and from the Community.

This knowledge is all the more important as the EURATOM treaty also established a Supply Agency that has sole responsibility for the sufficient supply of fissile material for the needs of the European civilian nuclear energy industries. The Agency therefore has a right to review and approve supply contracts and to fix prices, if deemed necessary for the well-being of the European nuclear industry.

Second, the Commission, with the involvement of the Supply Agency, is also responsible for the Community's external commercial nuclear relations. This concerns in the first place framework agreements with the suppliers of natural uranium. From the perspective of the member states, Commission responsibility in this regard was particularly useful in preventing discrimination among member states by suppliers, as for instance in the 1995 negotiations for the renewal of the US-EURATOM agreement.

To summarize: from a non-proliferation point of view, the Commission's authority over nuclear ownership, supply, and external relations is meaningful in that it allows an insight into the internal fabric of non-nuclear weapons member states' nuclear industries and research establishments.

Finally, EURATOM set up the world's first multinational verification and inspection system. Due to the French exception to the purely peaceful use of the atom, its purpose was not the verification of peaceful use, but the verification that fissile material was used for its declared use only. In practice, this has meant that the whole civilian nuclear fuel cycle in all member countries, including the nuclear-weapon states (NWS), has been subject to safeguards, while material in the military fuel cycles has not been and is not, and the NWS reserve the right to change declared use of fissile material from civilian to military and then withdraw it from safeguards. Dual-purpose plants in NWS are subject to safeguards whenever civilian material is introduced.

EURATOM has unlimited rights of access to designated and suspected facilities Cthose not declared by NWS as belonging to the military fuel cycle. The organization deals directly with operators of nuclear faculties, not with state authorities. If the operators do not live up to their obligations as laid down in the safeguards documents, the Commission can impose sanctions and fines. It can decide to withdraw financial or technical assistance, place the respective company under the administration of a `Commissaire' jointly nominated by the Commission and the respective member state, or withdraw nuclear material from the company.

In disputes about the costs of a safeguards activity, or by resistance to it from either the operator or a member state, the Commission can directly appeal to the European Court of Justice, which has to issue an order within three days. In cases of great urgency, the Commission can issue an order itself, subject to export approval by the Board of Governors of the International Atomic Energy Agency (IAEA). Member states are categorically obliged to abide by such orders (Art. 81-83).

After the NPT was signed in 1968, the then five EC non-nuclear weapons states (NNWS) and EURATOM entered into negotiations with the IAEA on applying IAEA safeguards, together with the EURATOM system. Art. III, 4 of the NPT had, after protracted negotiations, been worded in such a way as to permit the continuation of EURATOM activities, to be verified by IAEA surveillance. The ensuing talks were also difficult: EURATOM was determined to defend its area of responsibility and, thereby, the content of the Rome treaties. The Agency, in contrast, had to defend its global authority under the NPT and allay the distrust shown by several parties, notably the Soviet Union and its allies, of a regional system run jointly by NATO countries. The ensuing EURATOM safeguards system, followed largely the NPT system in allowing for a division of labour between the two organizations. Quarrels about the practical and operational details lasted for twenty years, leading to unnecessary duplication and, ironically, to more intensive and extensive Agency activities in EC NNWS than at comparable facilities elsewhere, because the IAEA wanted to be sure of having exactly the same rights as EURATOM. This issue was only addressed in 1992, when there was increasing budgetary pressure on the IAEA, and a new partnership agreement with a view to ending unnecessary duplication of effort was concluded.

In contrast to IAEA safeguards, EURATOM safeguards apply already to uranium concentrate. Inspectors, once accepted by a member state, are entitled to conduct inspection in that state in all future assignments. Finally, the Community, not member states, is responsible for maintaining a system of accounting and control for all NNWS member states. In addition to information received through the Supply Agency, this creates a second layer of accountancy information about member states' inventories.

European Political Cooperation

The second organization within the area of the EC dealing with non-proliferation issues has been European Political Cooperation. Whereas EURATOM is mainly concerned with aspects of non-proliferation *within* the Community, EPC, in contrast, deals with non-proliferation policy towards the rest of the world. Under the Rome

treaties, foreign and security policy was exempted from the purview of the Community. Most conspicuous and characteristic in this context was Art. 223 of the Treaty of Rome, which exempted all commodities related to national security from EEC regulations. National governments were not willing to compromise sovereignty in this crucial area. However, in 1969 the growing realisation that economic convergence could not be achieved without a minimum of foreign policy coordination led member governments, to review this situation. As a consequence, in October 1970, a strictly intergovernmental (as opposed to Community-like) process of coordination was initiated CEPC. It consisted of the European Council (since 1974) meeting twice a year as the highest decision-making body to provide guidelines and solve difficult controversial issues. At a second level, decisions are made (and Council decisions prepared) by foreign ministers, who meet separately during Council meetings, and on at least two other occasions during each presidency. One of these occasions is their meeting as General Affairs Council under the Treaty of Rome, thereby factually blurring the distinction between Community institutions and EPC. At the next level, political directors from foreign ministries regularly communicate in the Political Committee, meet, and prepare decisions for the Council. Finally, below the Political Committee, a working group on non-proliferation was established in 1981. Conspicuously, the European Court of Justice has no role in EPC, and it was a long time before the European Parliament became involved.

EPC, in other words, started as a purely voluntary intergovernmental exercise without any legal foundation, reflecting the reluctance of member states to relinquish sovereignty rights in this field.

The Single European Act and the Maastricht Treaty

The informal character of EPC changed for the first time in 1986 with the Single European Act (SEA). The Act recognized the linkage between the Community as such and EPC, legitimated the participation of Commission representatives in EPC gatherings, and added the European Council as the supreme decision-making body to the Community institutions established by the Rome treaties. The Council meets once during each presidency. The Presidency and the Commission were charged with ensuring consistency between EC and EPC activities. It should be emphasized that the Commission is responsible for enforcing economic sanctions imposed by EPC. The SEA entitled the Parliament to receive reports from the Presidency, and to ask specific questions on EPC issues.

EPC was authorized by the Act to prepare common positions on issues of common interest Cincluding economic aspects of security policy, which included aspects of non-proliferation. The Council and EPC were each given a small secretariat in the Commission's premises in Brussels. The Commission, in turn, established a new Directorate-General (DG IA) charged with CFSP affairs; this includes responsibility for non-proliferation matters.

Collaboration between foreign embassies of member states was envisaged as well as the formation of caucuses of the then Twelve during international conferences and in permanent international organizations; in the non-proliferation area, the caucuses in Vienna (preparation of IAEA General Conferences and Board of Governors' meetings), Geneva (Conference on Disarmament in Europe (CD) and its various

subgroups) and New York (UN General Assembly and First Committee) deserve mentioning. Again, the Commission participates in this caucusing.

Finally, the Maastricht Treaty of 1991 identified EPC as a cornerstone of the European Union. One of its explicit objectives is the convergence of national policies into a single, integrated Common Foreign and Security Policy (CFSP); all aspects of security policy are to be included with a view to developing, in the long run, a common defence policy. The procedure termed `joint action' was defined: in a joint action, member states identify, by unanimous agreement, a specific course of action: its scope, goals, instruments, conditions, and duration. Member states are then obliged to subordinate their national policies in the defined area to this common objective. Single steps to implement it will be taken by majority vote. The Commission is to be `fully associated' with the whole CFSP process. In a document prepared pursuant to the Maastricht Treaty, the non-proliferation of weapons of mass destruction (WMD) was singled out as one of the priority areas for CFSP as well as for application of the `joint action' procedure.

Maastricht also foresees that the Western European Union (WEU) will be the defence arm of the European Union. How this will work out in the non-proliferation field remains to be seen.

Besides the nuclear non-proliferation working group, there are EPC working groups on chemical and biological weapons, missile proliferation and `United Nations disarmament issues', covering basically the work of the CD.

The evolution of non-proliferation policy in the EC since 1981

In 1981, following an Anglo-Dutch proposal, EPC agreed to establish a working group on non-proliferation, focusing on the spread of nuclear weapons. The growing threat of nuclear proliferation in the Third World gave the issue added urgency. The pressure on European fuel cycle plans exerted by the Carter administration in the United States and the US Nuclear Non-proliferation Act of 1978 proved the value of a common EC position. And there was an intricate question of European law: together with member states, the Commission had asked to become a signatory to the International Convention for the Physical Protection of Nuclear Materials. It also claimed authority, under that Convention, for all movements of fissile material across national frontiers. France objected, on the grounds that the Convention addressed security and was thus subject to the provisions of Article 223 of the Treaty of Rome. The European Court's opinion coincided with the Commission's, but it was thought inopportune to pursue such a matter against the will of a large member state. The issue overlapped with the difficulties resulting from adoption of the Guidelines for Nuclear Transfers (also referred to as the London Guidelines), observed by the Nuclear Suppliers Group CCanada, France, West Germany, Japan, UK, US and USSR Cby some, but not all, member states of the Community. Both issues raised the danger of intra-Community obstacles to the commercial exchange of nuclear material. The EPC working group was therefore asked to solve the internal transfer problem and develop a statement on non-proliferation policy, an intergovernmental solution that took account of French concerns.

As a first result, the Working Group prepared a joint statement to the UN General Assembly on the occasion of the IAEA's Secretary-General's annual report in 1983. The statement reaffirmed the common interest in non-proliferation and the great value placed by the EEC member states on international safeguards. In autumn 1984 the Council adopted the Working Group's proposed joint `Declaration of common policy on the consequences of the adoption of the London Guidelines by the ten member states of the Community'. The statement affirmed that member states `support the objective of the non-proliferation of nuclear weapons'. It set up rules governing intra-Community transfers of sensitive materials, equipment, and technology and for their retransfer by member states to non-members. Notification of such transfers among member states was made obligatory. It was also agreed that for the intra-community transfer of separated plutonium and highly enriched uranium (HEU), permits by the transferring state were required, and that such permits were contingent on a statement of plausible intended civilian use of the material. Shortly afterwards, member states not at that time adhering to the London Guidelines informed the IAEA Secretariat of their decision to adopt the Guidelines as principles for national export policy.

Otherwise, progress was slow, as demonstrated by the failure of a Dutch suggestion for a more detailed common guideline for non-proliferation policy. While a (fairly general) document was prepared, France would not allow it to be published in 1985, lest it became unwittingly related to the NPT, whose third review conference was held in the summer of that year. During the Conference there was no organized coordination among participating EC member states, and France was not even present as an observer. On major issues, the EC members remained divided.

Between 1985 and 1990, European collaboration on non-proliferation intensified. The Working Group met more frequently Cat least twice per presidency. Bilateral consultations became common and the EU's COREU communications multiplied.

This enhanced collaboration resulted in a joint statement to the United Nations Conference on the Peaceful Uses of Nuclear Energy (PUNE) in April 1987. From the beginning, the Europeans made it clear in that statement that they supported a linkage between a commitment to assure supply and verifiable guarantees of non-proliferation by the recipients; their unity on this point was unwavering throughout the conference.

Motivated by increasing cooperation, the Netherlands proposed a `Troika' approach towards countries suspected of having ambitions to acquire nuclear weapons capabilities Cso-called `threshold' countries. However, the major member states favoured their bilateral ties with the threshold countries Cmost of them quite important members of the developing world Cover a Community approach. Nevertheless, the exchange of information on threshold countries and bilateral relations with them was intensified within the Working Group.

A specific incident concerning a threshold state occurred in 1986, when the European Council imposed an embargo on all new major nuclear supplies by Community countries to South Africa. Similarly, in 1987, attempts by the then President of Pakistan, Zia Ul-Haq, to solicit European offers to construct nuclear power facilities in his country met with refusals.

During the negotiations on the accession of Spain to the EEC, the Netherlands, Ireland and Denmark tried to make Spanish membership subject to NPT accession. France, however, argued that the Rome treaties were neutral as to the non-proliferation status of member states. The Commission, with the support of the majority of member states, convinced the Spanish delegation of the advantages of NPT membership, because Spain could then also accede to the joint IAEA-EURATOM safeguard agreement with EC NNWS. The alternative would have been a cumbersome special rule for Spain that might have impeded its access to nuclear fuel supply. Finally, in 1987, Madrid deposited its instruments of NPT accession.

A further step towards a more coordinated policy was taken when, in 1989, the French Presidency, on behalf of the Twelve, presented the first Joint EPC statement to an IAEA General Conference. It contained a well-balanced account of the EC countries' deep interest in non-proliferation, their appreciation of IAEA safeguards, their support for the further development of nuclear energy and their willingness to foster, in particular, international collaboration to deal with nuclear energy's safety problems. The statement went further than that on PUNE in that it put more political emphasis on the goal of non-proliferation and even mentioned the NPT favourably without committing the non-member (that is, France) to its terms. Barely a year later, the Council issued its first comprehensive statement on nuclear non-proliferation during its summit meeting in Dublin before the fourth NPT Review Conference started, a remarkable change since 1985. The statement again emphasized the security aspect of Europe's interest in non-proliferation and the unanimity of this interest, and went on to underline the importance of the non-proliferation regime and the prominent role the NPT was playing within it. That the French had even agreed to endorse the support of the Twelve for a successful Review Conference showed an unprecedented degree of unity on an issue that had been so divisive for twenty years. (It also pointed to an evolution in French policy which was to come to fruition in 1992) Nuclear energy promotion was balanced by stronger emphasis on safety issues. The Irish presidency also managed to achieve consensus on forming an EPC `Caucus' during the Review Conference, which France was to attend as an observer.

However, the performance of the Twelve as a group during the Conference was disappointing. The most significant sign of unity was the universal reference by speakers from EC countries to the Dublin summit. As in 1985, however, the EC countries were divided on the Comprehensive Test Ban, emphasis on nuclear safety, the extension of safeguards in nuclear weapons states, and the question of `full-scope' safeguards.

The EC caucus met, but worked more on the preparation of the coming IAEA General Conference than for the success of the Review Conference. Greater unity in principle had not overcome divisions on the issues mentioned above, and better coordination had not yet resulted in enhanced diplomatic power.

The Gulf war made proliferation a visible threat to global and European security. Germany strengthened its highly criticised export control system. France finally decided to join the NPT after a protracted policy review.

The high-level attention being paid to proliferation matters in France and Germany gave desk officers a strong incentive to develop new initiatives. As a consequence, the

Franco-German proposal for European security cooperation of April 1991, which was later incorporated in the Maastricht Treaty, gave non-proliferation a prominent place.

Meeting in Luxembourg in June 1991, the Council issued another statement on proliferation Cincluding nuclear, chemical, biological and conventional arms proliferation Cthat went beyond the generalities of the Dublin declaration. As a first consequence of the French decision to accede, the Community countries called on *all* states to join the NPT. The Luxembourg statement summarized the work done in various EPC working groups, including that dealing with nuclear non-proliferation, in the field of export policy, by formulating a list of criteria to be taken into account when export decisions are made (see below). The Council declared its intention to base harmonisation of national export policies on these criteria.

In summer 1991, first France, then Britain and Belgium turned their attention to the question of a full-scope safeguards export policy. Shortly afterwards, following clarification by Rome and Madrid, this became a Community position. On the basis of a draft by the Twelve, the Nuclear Suppliers Group (NSG) finally issued a statement on full-scope safeguards at its meeting in Warsaw in April 1992. As at the meeting in The Hague a year earlier, the Commission, together with all member states, participated in this meeting.

A further sign of heightened attention was the final (and long overdue) joint ratification of the Physical Protection Convention by the Twelve member states and the Commission.

In spring 1992, the EPC prepared an unprecedented joint initiative for strengthening IAEA safeguards that was submitted to the IAEA Board of Governors in June 1992. Following an Anglo-Dutch initiative during the 1990 NPT Review Conference, the Twelve went for the first time beyond general statements on non-proliferation in an international organization and put forward more detailed policy proposals. These included a provision for special inspections based on paragraphs 73 and 77 of the safeguards document (INFCIRC/153), and a plea to rearrange safeguards so as to put more effort into the `suspect' countries rather than those countries with large civilian fuel cycles. The Twelve were also instrumental in establishing, on a voluntary basis, a system of `universal reporting' to the IAEA of transfers of nuclear plant, equipment, and material. In summer 1992, they informed the IAEA Secretariat that all member states would implement `universal reporting' through EURATOM.

As mentioned earlier, the Maastricht Treaty singled out non-proliferation as a central area of the CSFP. Even before its entry into force, this has led to the systematic inclusion of non-proliferation issues as a routine item at summit meetings. This has included the endorsement of indefinite extension of the NPT; appeals to the successor states of the former Soviet Union; a strong statement on North Korea calling for the revocation of withdrawal from the NPT and full compliance with the safeguards agreement. In 1992, the Twelve submitted a joint working paper to the CD, discussing, *inter alia*, possible approaches to the nuclear testing issue (though in very cautious and general terms). Among the more consequential activities of the Twelve was the intense discussion, on the basis of a German suggestion, of a non-proliferation initiative within the UN Security Council. European input contributed to the landmark statement by the Security Council on 31 January 1992, declaring the

proliferation of weapons of mass destruction `a threat to international peace and security'.

In 1994, after protracted bargaining, the then Twelve and the Commission succeeded in setting up a system for the control of dual-use items that was based on both Community law and intergovernmental procedure (Joint Action). With the regulation that entered into force in spring 1995 (see the chapter by Geoffrey Van Orden), a gaping hole in the Union's non-proliferation policy has now been closed.

Concerning the nuclear heritage of Soviet nuclear weapons by Ukraine, Belarus and Kazakhstan, the European union pursued a policy of its own which complemented the United States's arms control efforts. While the United States concentrated entirely on the nuclear question and sought to influence the Ukrainian decision to join the NPT as a non-nuclear weapons state with the help of security guarantees and direct financial contributions, the EU pursued a strategy whose political objective was the maintenance of an independent, economically and politically stable Ukraine as a buffer between Western Europe and Russia. In the framework of this strategy, the nuclear question was only part of the problem. The Union worked out a package dealing with the whole spectrum of economic and political relations with Ukraine. The cooperation agreement brings Ukraine as close to the Union as is possible without any promise of membership, and Ukraine's desire to be treated as an independent state was respected. The original intention Conly to negotiate or sign such an agreement once Kiev had acceded to the Non-proliferation Treaty Cwas abandoned. Instead, the agreement was signed with all due ceremony but its implementation was deferred until such time as Ukraine undertakes the binding renunciation of nuclear weapons. Ukrainian politicians have been able to see very clearly how advantageous this renunciation would be.

EU performance before and at New York, 1995

The European Union and its member states played a significant role in preparing and conducting the NPT Review and Extension Conference in April-May 1995. In this, they did better than during any NPT Review Conference in the past. Yet they did not do well enough, as deep divergences prevented a focused contribution to the solution of the many substantive issues before the Conference.

The main merit the EU can claim for the great success of the 1995 Conference was the efficient and protracted diplomatic campaign waged by member states to convince other parties of the indefinite extension option. This campaign began under the German presidency in summer 1995. Then, the Council made the preparation for the 1995 Conference the first `Joint Action' in the field of security policy. This Joint Action consisted of:

- an appeal to all parties to participate in the last two Preparatory Committees of the CD (Prepcoms);

- a campaign to convince outsiders to sign the Treaty, a move particularly useful in the case of Algeria;

- a call on all parties to participate in the 1995 Conference;

- an effort to convince all parties that indefinite extension was the best choice available.

In order to appreciate the value of this effort, we must recall that indefinite extension was not embraced with unmitigated enthusiasm in all EU member states. In Italy, Belgium, Germany, Ireland, and possibly in other countries, there was a discussion Cin government, among non-governmental organizations and in some cases both Cwhether or not giving the Treaty unlimited duration would deprive the non-nuclear weapons states of the leverage needed to encourage their nuclear-armed counterparts to demonstrate their good faith and honour their treaty obligations. The consequence, and the efficiency with which the campaign was fought is a tribute to the power of Joint Action as a policy instrument; and it was conducted with a sensible division of labour, assigning approaches to particular countries to member states with the most `special' relationship with the party concerned. The fact that at the outset of the Conference a considerable number of non-aligned parties, notably from Africa and Latin America, raised their voice in support of indefinite extension, and more did so in the course of the `co-sponsorship' campaign, was at least partially a result of this robust and uniform Joint Action.

This coherent approach extended into the Conference with joint statements, delivered by the Presidency at the outset, immediately after the decision on extension, and at the end of the Conference. These statements were a reflection of the common ground the Fifteen had found, particularly their full support for indefinite extension, and the reasons why this support was given. As the associated states permitted the Presidency to speak in their name, the EU's position had the support of a powerful group of countries.

During the review process, the Fifteen worked out an *ad hoc* a joint paper on Articles I and II of the NPT. The statement confirmed the observance of these articles by all but two parties, and contained critical remarks on the breach of Art. II obligations by both Iraq and North Korea. That it was possible to find common language on these issues was not insignificant. There was a fierce attack by a group of non-aligned states on NATO's nuclear sharing arrangements as presenting a breach of both Art. I and Art. II. As recently as 1985, neutral Sweden had criticised the deployment of nuclear weapons in non-nuclear weapons states. On this occasion, however, Sweden was ready to display solidarity with the member states participating in these NATO arrangements.

Another visible sign of progress was the regular, intense caucusing of the Union during the Conference. Heads of delegations met twice a week, while specialized subcommittees would meet in the interim, and try to work out common positions on the outstanding issues. The caucusing was of additional value to those delegation that did not participate in some of the other important consultations, for example the Presidential meetings that hammered out the extension compromise, even though at times these delegations had misgivings about being `excluded'. Nevertheless, the continuous process of communication throughout the Conference with a view to ironing out divergences on substantive issues was, even though not successful on many of these issues, a clear and appreciable procedural step.

A move hardly noticed outside closed conference rooms, but of possible importance for the future of European policy, was the readiness to intervene in the last-minute struggle to assure the support of all the Middle Eastern countries for indefinite extension. This effort, to be conducted by the Troika, had the unswerving support of all member states. While it was not realized, in affect, during the Conference, as the United States and Egypt hammered out their compromise by themselves, it augurs well for an enhanced role of the Union in the Middle East peace and arms control process, most particularly if and when the `zone free of weapons of mass destruction', endorsed in principle by all participating parties, goes beyond being a lofty long-term goal to real talks.

Against these successes, however, there are a number of serious shortcomings. By and large, the Union as a whole had little influence on the Conference's substantial debate. On the contrary, on a couple of important issues the Fifteen appeared divided and did not manage to resolve their differences. In a way, the successful Joint Action rebounded on them with a vengeance: the focus on the extension issue and the great toll the diplomatic campaign took on the limited time and resources of the handful of diplomats in each capital charged with this area of policy, prevented any concise preparation on substance, even under two fairly potent presidencies. As a consequence, the Fifteen entered the Conference with their national positions only, and it was only during the course of the Conference that the Presidency tried to forge, *ad hoc*, a consensus on other outstanding issues. In the heat of the struggle, the delegations, distracted by many other duties and activities, did not manage to agree on anything beyond what has been noted above as `successes'.

Most spectacular was the inability to agree on common language concerning Art. IV. In heated debates about the disarmament obligations of the nuclear weapons states, Sweden insisted on requesting a target date of 1995, and demanded a timetable for nuclear disarmament. While observers had believed that the other neutral states would be prepared to join a compromise, in the end Ireland and Austria sided with Sweden in refusing the language that was supported by the rest and was more palatable to the two EU member states that possess unclear weapons. This shows that there is a deep-seated problem for EU policy in non-proliferation and disarmament issues. For the more disarmament-minded member states, showing a national profile might be of such great value that they may even stick to positions that are hardly capable of commanding any consensus or bear great realism. That a 1995 date for concluding a CTBT was unachievable, given the state of negotiations in Geneva, was no secret. Nor does the experience of past arms control negotiations, be it nuclear or non-nuclear, augur well for a demand for results in accordance with fixed timetables. Yet Sweden was not willing to budge, and drew two other disarmament-committed EU member states behind it.

What is of even greater concern, the Fifteen could not even forge joint positions on Articles III and VI. This is a most striking failure, since, as shown in the brief history of European nuclear non-proliferation policy given above, European countries have an impressive record in presenting effective joint positions on these issues in international forums such as the NSG or the IAEA: and it is all the more staggering as the main dividing issue of the past Cfull-scope safeguards as a condition of nuclear supply Cwas no longer a bone of contention. At the root of the European inability to speak with one voice on these Articles was the decision of six member states

CAustria, Denmark, Finland, Ireland, the Netherlands and Sweden Cto follow a tradition established in 1980 during the second NPT Review Conference and join forces with five non-EU states CAustralia, Canada, New Zealand, Norway, and Hungary Cin preparing joint positions on these articles far in advance. Some of the delegations from EU member states participating in this `G-11' group, having committed themselves once to a set of papers formally submitted to the Conference, found it difficult to support Union language on the same issues that would deviate from the wording of the G-11 documents. Consequently, a last-ditch effort by the Presidency to submit EU papers to Main Committees II and III failed.

The issue is a serious one. The Maastricht Treaty makes it a duty of all members to strive for common positions on major international issues. This duty was all the more pressing as the Heads of State and Government had decided to make preparation for 1995 a Joint Action. That six countries nevertheless found it more expedient to continue with the G-11 exercise than to make a strong and earnest effort to bridge gaps together with their fellow European partners might even be interpreted as a breach of the Maastricht Treaty. This does not deny the past merits of the G-11 nor the validity of the positions they submitted to the 1995 Conference. Yet if expediency is been given preference over the spirit and letter of the Maastricht Treaty, the future looks bleak for CSFP, even in a field such as non-proliferation which is incontestably in the common interest.

This is not to say that forging common positions on Art. III and IV issues would have been an easy task. The Union includes both strongly anti-nuclear (Austria, Ireland) and strongly pro-nuclear states (France, UK, Belgium). Some are plutonium recyclers, while others abhor the civilian use of weapons-capable material. This emerged in a controversy that put G-11 requests for a revival of the ideas of international plutonium storage against the calls for transparency and Cas requested by Germany and Belgium Csafeguards on demilitarized plutonium stocks in nuclear weapons states. That EU members had never bothered to clear this controversy in advance, the G-11 participants not being involved in any plutonium utilization, but four member states (Britain, France, Belgium, and Germany) as well as the Commission in the informal Vienna talks on international plutonium management, is a hardly conceivable oversight; all the more so as, following the 1984 Council decision, the Community operates a virtual international plutonium management scheme anyway.

A second point where divergences among the Fifteen were tangible was the degree of support for the IAEA safeguards improvement programme referred to as `93 plus 2' (two years on from 1993). The G-11 demanded unswerving and unreserved support for the whole programme. Several member states, notably Germany, Belgium and the UK, were only prepared to voice their support in principle, while keeping the final decision reserved on whether enhanced access, comprehensive information and the question of legal authority did not merit further exploration before full support could be given. Again, given previous joint activities within the IAEA, it might have been supposed that a joint exploration of these issues could have produced a substantial consensus among EU member states, but no such effort was made.

Finally, there was the issue of HEU as fuel in new civilian facilities, an issue that put Germany at variance with the rest of the world, as Germany is the only country which, in the face of express governmental positions of the 1980s, is pursuing such a

project. Maybe a focused discussion under EU auspices well in advance of the Conference could have swayed Germany away from this breach with a fifteen-year old worldwide trend away from using this material for civilian purposes. None the less, again, no such discussion took place. With no notable positions of substance, the EU remained uninfluential on the most important activity: the presidential consultations. Individually, participating European governments, France, the UK, Germany and the Netherlands played constructive and useful roles at critical junctures of these difficult negotiations. However, collectively, there was no concerted *European* position.

Conclusions

Even though great progress has been made during fifteen years of European non-proliferation policy, first under EPC auspices and then under CFSP, at the NPT Review and Extension Conference the Union still fell short of presenting a forceful and united community of action even though many members were quite active and useful in shaping the Conference's outcome.

The reasons for this were obvious: the different positions of nuclear and non-nuclear weapons states and the differing attitudes concerning nuclear energy and differing ways of using it. On many of these issues, countries choose national positions rather than make the difficult effort to work towards a common position Ceven though achieving such common positions is sometimes in the realm of the possible, as on Articles III and IV.

Among these divisions, that separating nuclear and non-nuclear weapons states is by far the most serious. This point deserves to be stressed, as the fate of the non-proliferation regime will be decided in negotiations on a Comprehensive Test Ban, a Fissile Materials Cut-Off, and additional measures by the nuclear weapons states to reduce and de-emphasize the role of their nuclear arsenals. If we wish to see a joint European non-proliferation policy, we will have to try to bridge gaps between the member states on this most fundamental division. And we must find a proper place where these issues can be addressed, with due regard for national positions but in a spirit of compromise and commonality.

Finding common position puts member states in a position of having to choose between two different procedures. They could try to find a lowest common denominator on all substantive issues and permit member states to present national positions that go beyond this agreement. Such a procedure would permit G-11 members to maintain a link with their non-EU partners, but it would require them to give clear priority to the effort to forge a minimum consensus, and not to enter any commitment that would run counter to the consensus achieved among Union members; or they could try to find real compromises through negotiation. This would certainly be more useful, but also more demanding.

It is essential to start such a process well in advance of the first Prepcom in 1997, and this presents another difficulty. The way the Presidencies are organized puts a premium on two points that obviate a consistent, long-term policy strategy.

First, countries having the presidency inevitably concentrate on the main events during their six-month term. They want a good and impressive appearance of the Union at these occasions Cfor which they are responsible. Second, they strive to avoid dangerous divisions among member states that could be blamed on insufficient leadership by the Presidency. Both objectives, unfortunately, tend to defer difficult debates on major issues, and shift the focus to the short term at the expense of the long term. This does not augur well for a concise preparation for 1997.

It is here that the first Joint Action (JA) has proved the immense value of this policy instrument in imposing long-range consistency and discipline upon the EU member states, as well as upon the presidencies. The JA extended well beyond one Presidency, yet it was consistently implemented. If properly conceived and if practicable, JA will become the decisive tool to shape a strategic, as opposed to an *ad hoc*, approach to non-proliferation policy. If one or two JAs are started under each Presidency, extending for 12-18 months, then there will be a coherent and continuous stream of forward thinking that will give a new quality to CFSP, and in particular non-proliferation policy.

It would thus be most useful if, towards the end of the Spanish presidency, a Joint Action would be agreed to prepare and disseminate joint positions for the 1997 Prepcom. This preparation would clearly have to be orientated along the lines of the `Principles and Objectives' agreed in New York. It is predictable that, if no minimum joint interpretation of this document, at the very least, is agreed among the member states of the Union, a common non-proliferation policy will become most unlikely.

On another note, the whole issue of preparing for the few instances where proliferation might occur has to be integrated into the policy framework. It is necessary that this should be done in the proper political bodies, and with full consideration of the political implications, as it is in the first instance a political issue. The most important point here is to avoid the impression, already widespread in the non-aligned world, that it is a new plot by the North to subdue the developing world. To join reasonable and legitimate preparations for emergency situations with efforts to maintain and strengthen the non-proliferation regime deserves much more serious study. The obvious bridge is the request for `positive security assurances' consistently heard from non-aligned countries. If, for example, the Union were to combine political support for an African nuclear weapon-free zone with the promise that it would consider assistance to parties of such a zone threatened by nuclear weapons, efforts within NATO and WEU to prepare for contingencies involving weapons of mass destruction would assume a legitimate multilateral, rather than a threatening unilateral, image in the eyes of at least the African countries.

Finally, it must be recognized that not only on substance, but also on instruments of non-proliferation policy the Union is still far from being in a perfect situation. At the roots of such a policy is information, including intelligence. Without the routine pooling of national information on on-going proliferation processes, and without the indispensable capability of surveillance satellites with a proliferation-optimized array of sensor techniques Cplus the proper information-screening technologies CUnion non-proliferation policy will never become really effective.

CONVENTIONAL ARMS TRANSFERS: DIFFICULTIES OF CREATING A MULTILATERAL CONTROL REGIME

Christophe Carle

Non-proliferation objectives have become increasingly prominent aspects of foreign and defence policies over the last decade. The aim of preventing, capping or reversing the spread of sensitive weapons and technologies appears at all levels of policy-making, be it national, regional or global, in organizations such as the UN, NATO, the OSCE or WEU, as well as in numerous other non-European bodies and forums such as the Non-Aligned Movement or the Middle East Arms Control and Regional Security talks. The European Union is no exception in this regard, and its member states, both individually and collectively, attach growing importance to non-proliferation and export controls as elements of international security. But whatever international consensus (either European or global) may be said to exist on non-proliferation pertains first and foremost to nuclear and other non-conventional weapons.

Even where broad agreement exists on shared moral, legal, or strategic norms aimed at preventing the dissemination of particular types of armaments and technologies, however, implementing non-proliferation measures and export controls is proving an arduous task. Any complacency following the indefinite extension of the NPT can thus quickly be dispelled by the realization that even in the nuclear field - the area in which non-proliferation tools are most fully developed and best perfected by practice - the non-proliferation agenda remains fraught with issues whose strategic and political sensitivity are matched only by the high financial costs of attempting to contain, let alone resolve them.

Whereas weapons loosely defined as non-conventional or capable of mass destruction (WMD) on the one hand, and inhumane weapons on the other hand, are subject to near-universal norms designed to stop their spread and use, conventional weaponry is not. In a world in which the legitimacy of national self-defence remains a central axiom of international society, rifles, tanks, warships and fighter aircraft are deemed no more nor less objectionable than the very notion of armed forces themselves. In the absence of any such general standards, the idea of non-proliferation as applied to conventional weaponry becomes relative rather than absolute. At most, it appears, it may be considered to apply to certain specific weapons or technologies, or to consist in restrictions on transfers to selected states.

And yet, whether it is viewed with concern or not, increasingly sophisticated conventional weaponry and associated technologies are undeniably spreading around the globe. The prominence given by European states to non-proliferation objectives (at least on a declaratory level) may seem to render churlish or paradoxical the question of whether the Europeans behave, in fact, as agents of conventional weapons proliferation. Indeed, the same may be said for most other major non-European weapons producers and exporters. The discussion that follows is thus by no means a `statement for the prosecution' against Europe as an alleged proliferation-monger, but

rather an attempt to set out the hopes and pitfalls of multilateral endeavours to stem the spread of advanced conventional weaponry.

Why control conventional arms transfers?

For the very notions of proliferation and non-proliferation to make sense when applied to conventional weaponry would require strategic rationales arguing against the spread of such weapons, from the perspective of producing countries' in the name of national or international security. The following are possible lines of reasoning.

`Biting the hand that supplies them'. The risk of equipping with sophisticated weaponry states which may later turn against the supplier has been illustrated by the successive cases of Iran and Iraq. Before it exhausted itself in the Iran-Iraq war, the revolutionary Iranian regime simultaneously held American hostages and predominantly American military hardware. Likewise, in the Gulf war, European expeditionary forces found themselves facing largely European-made equipment in the Iraqi air, air defence, and to some extent ground and naval forces. Each case shows a pattern which may be argued to hold risks for the future, the first being a change of regime in the recipient country (as in Iran), introducing political or military confrontation with former suppliers, and the second being a change of policy by a given regime (as in Iraq) towards inimical regional assertiveness or regional hegemony. Today, it does not require a stretch of the imagination to envisage similar possibilities of either kind (but especially those involving a change of regime) in the Gulf region, into which vast quantities of high-performance conventional weaponry continue to be imported. A third scenario would be the actual use of imported weaponry against the national territories of supplier states. This is both the most severe and the least plausible possibility, but arguably one that is of greater concern to Western Europe than to the United States, if only for reasons of geography. For the same reasons, evaluations of the likelihood and severity of such risks are more relevant to WMD than to conventional weaponry.

Regional instability. Conventional wisdom has it that all proliferation of WMD is destabilizing. Conversely, unstated (but sometimes explicit) security rationales for conventional arms transfers rest on their supposedly stabilizing effects in `restoring' or `preserving' balances by enhancing the recipients' means of self-defence. Leaving aside arms transfers that amount to disguised prepositioning by the suppliers, it suffices to note the obvious, namely that stability is in the eye of the beholder, and is generally synonymous with perceived self-superiority. Debates as to the stabilizing or destabilizing impact of any given arms influx, for example to the Middle East or the Gulf, are endlessly inconclusive, except if one chooses to espouse the standpoint of a specific regional state or coalition. Conventional balances were difficult enough to assess even in the clearly delineated former European `central front', and become well-nigh impossible to address in any purportedly objective fashion in multipolar (and overlapping) regions such as the Middle East, the Gulf, South Asia, South-East Asia or North-East Asia. The most that can be said is that arms transfers undeniably tend to generate their own momentum as a result of regional threat perceptions and competition to procure the most advanced systems on offer. In that sense, all arms transfers to such regions, be they from Europe or elsewhere, may contribute to `arms racing' (as in the Middle East and the Gulf) or into more or less competitive processes of military modernization (as in East and South-East Asia).

Accelerating the proliferation of WMD. Besides their intrinsic capabilities (in terms of firepower, speed, mobility, accuracy and power projection), advanced conventional weapons systems can be closely related to WMD. Thus, as several studies have underlined in recent years, in spite of the attention devoted to ballistic missile non-proliferation, advanced fighter aircraft remain potent means for delivering WMD munitions (including nuclear) which may in fact exceed the performance of surface-to-surface missiles in some respects. A second link relates to `arms racing', and concerns the incentives to embark on WMD programmes and acquisitions which can result from perceptions of inferiority in conventional weaponry. Thus, for example, Iran's nuclear ambitions may be related to massive conventional transfers to other Gulf states, which contrast with Tehran's own limited access to international conventional arms markets. At this point, the argument runs full-circle. Providing sufficient conventional capabilities to assuage national threat perceptions can thus be portrayed as a way of preventing the recipients' resort to WMD proliferation. Such is the rationale adopted, for example, by those who question the judiciousness of US law (the `Pressler amendment') under which the United States is withholding the delivery of fighter aircraft to Pakistan. Likewise, had they found themselves bereft of US support and supplies, Israel might have adopted an open nuclear posture, and South Korea might have gone ahead with the military nuclear development it contemplated briefly in the 1970s.

Even such a rapid survey of some of the salient issues involved indicates how difficult, if not impossible, it may be (a) for any single arms-exporting country to gauge with any accuracy or mid-term certainty the strategic impact of its own exports, let alone (b) for exporting countries to agree among themselves, on a multilateral basis, strategic criteria against which to make concerted decisions on whether or not to export more or less specified weapons, either altogether or to certain destinations.

The difficulties are compounded if other, structural dimensions of arms transfers are blended in.

Structural obstacles

At most, a strategic case could probably be made for restraining the introduction of latest generation or qualitatively new conventional weapons to areas of tension. With the experience of the Gulf war in mind, though its impact may already have worn off, major suppliers may consider that transfers which undercut their own margin of military superiority are self-defeating. Even such bottom-line agreement, however, has proved untenable in practice, and appears to hold scant prospects for the future. Two main sets of factors, inherent in the globalization of modern technology and in compex domestic motivation for arms sales, militate against this.

Any prospects for supplier control are hindered by the increasing breadth and speed of the diffusion of technology. As has been amply documented and discussed, the strict control of militarily-relevant technology is increasingly elusive for several interacting reasons. First, major arms transfers, as a rule involve the sharing of design, manufacturing, and/or maintenance and operating knowledge and technology in some form or another with recipients. Second, the perennial `dual-use' quandary has been compounded by the fact that cutting-edge technology with military applications (in

computing, electronics, communications, fibre optics, semiconductors and guidance, to name but a few areas) more and more often emanates from civilian rather than military research. Moreover, in today's and tomorrow's world, the spread of knowledge itself, and thus of its possible technological and industrial uses, becomes ever faster in any given field and constitutes a process that may at best be managed rather than controlled or halted. In practice, the main restricting factors have more to do with economic and financial assets than with regime-building: not all states can afford advanced weaponry, and even fewer can afford to build up military industries of their own.

Another, closely related structural constraint on managing or restraining arms transfers multilaterally is the very nature of the international arms market. Perhaps the single most determining characteristic of advanced national arms industries is their over-production capacity. As domestic demand declines in industrialized countries, so the increase of research and development expenditure, combined with the increasing complexity of modern equipment, pushes unit costs upwards. Hence, exports are an attractive source of revenue for industries facing reduced domestic procurement and anxious to maintain production lines and expertise, backed up by governments equally anxious to preserve jobs. Simultaneously, the end of Cold War subsidies to impecunious recipients has meant that markets for conventional weaponry are more concentrated and fiercely contested by potential suppliers. The latter now include countries of the former Warsaw Pact, first and foremost Russia, for whom the drive to export is strongest for obvious domestic economic and social reasons. By way of consequence, those that can afford imports have become ever more demanding in terms of the price and performance of the weapons procured, as well as in offsetting technology transfers. The prevailing market dynamics could thus scarcely be less conducive to supplier restraint.

International supply-side competition has emphatically taken the upper hand on any strategic reasoning in favour of self-restraint, let alone concerted restraint. As a rule, it is (correctly) assumed that markets forgone by any given supplier will be picked up by its foreign competitors. Supply is thus characterized by mercantile pre-emption rather than by strategic caution.

Exceptions are few, and tend to confirm the rule: whereas the United States has moved from a denial of military transfers to Iran to a fully-fledged embargo, its West European partners have been reluctant to go equally far, and Russia and China have stepped in to provide conventional weaponry. Even in the comparatively consensual area of nuclear technology, the ban on Iran has been a notable source of divergence and frictions between Washington, Moscow and Peking.

Regime-building: efforts to date

Past attempts at regulating conventional arms transfers through consensus among supplier have mostly focused on the Middle East. Two of these foundered on Cold War rivalries. The Tripartite Declaration of 1950 established a coordinating committee designed to oversee limitations on American, British and French weapons transfers to the Middle East. The attempt became redundant when, starting in the mid-1950s, the USSR emerged as a key supplier of arms to many Arab states.

Subsequently, in the late 1970s, the Carter administration tried to initiate the Conventional Arms Transfer talks with the USSR, with the aim of agreeing criteria for self-restraint. A prime American concern was to avoid an influx of Soviet arms into Latin America, whereas (in exact reverse to the current situation), the Soviets were keen to focus on American supplies to Iran. In any event, the initiative was also a subject of infighting within the Carter administration, and did not survive the Soviet invasion of Afghanistan at the end of 1979.

The issue of multilateral restraints on conventional arms transfers was jolted into life again only by the traumatic experience of the Gulf war. Public opinion, and uncharacteristically enough, governments too, appeared for a time to fear the security hazards of unbridled conventional weapons flows even more than they valued the export revenues. Hence, following converging proposals by the Bush administration and the Mitterrand government, the P-5 talks were launched with the aim of the five permanent members of the UN Security Council establishing ground rules for concerted restraint on arms supplies to the Middle East.

But the initiative was short-lived. Agreement on refraining from future supplies to Iraq was one thing, but broader measures were quite another. The embargo on Iraq, in fact would have been voted in the UN irrespective of the P-5 talks. The latter, on the other hand, after half a dozen meetings shrouded in the discretion that befits such grand undertakings, failed to agree either on the precise geographical ambit of their own mandate, the categories of weapons to be addressed, or the types of cooperation or coordination to be sought. More specifically, it was beyond their reach to establish lists of weapons deemed `destabilizing', or whether prior notification of proposed sales should be given among the P-5 (and if so, at what stage: negotiations, contracts or deliveries?).

With no agreement in sight on any of these points, the P-5 talks came to a tragic end with China's withdrawal following the US and French decisions to sell fighter aircraft to Taiwan. Even before then, moreover, the P-5 had all but admitted their own failure when, unable to make headway on their self-ascribed brief of conventional weapons, they back-pedalled on the well-trodden agenda of non-conventional weapons during what was to be their last meeting. After the P-5 talks, as before them, the operative rule of thumb on conventional arms transfers has remained that one's own exports are inherently stabilizing, whereas those of competing suppliers are tolerable at best and in general destabilizing.

Broad, though somewhat diffuse concern with the spread of conventional arms did not abate entirely, however, and the Gulf war certainly gave decisive impetus to the creation of the United Nations Register of Conventional Arms. The first intergovernmental system of a similar kind was the publication of arms transfer data by the League of Nations between 1925 and 1938. The new Register is based on the virtues of transparency, and relies on yearly reporting by member states. The Register does make a useful addition to the data already made public by various governmental agencies and reputable non-governmental organizations. Notably, even where national reporting appears incomplete or less than reliable, the Register can allow for some cross-checking for discrepancies between data supplied on any given transaction by the supplier and the recipient.

While it would be unfair to criticize the Register for not being something it was never intended to be in the first place, it is none the less warranted to point out its built-in limitations. The Register imposes no restrictions as such on arms transfers. It keeps a check on them, as a fully legitimate activity of UN member states. The net result is that when new weapons contracts put a strain on even the Arab Gulf states' financial resources, and when South-East Asia emerges as the world's most buoyant arms market, the Register can do no more than register the fact.

Overall, the Gulf war effect was short-lived in terms of inducing further thought and action on restraint. After the greatest display of military technology on earth, export-hungry suppliers and prospective buyers, their appetites whetted by virtually real-time precision-guided advertizing, went back to business, constrained only by the size of the buyers' pocketbooks.

Prospects

On conventional arms transfers, as on other issues, it is a moot point whether optimism amounts to utopianism, and pessimism to realism.

It may be argued that regime-building appears hopeless only if it is approached with undue haste. Obviously, the conditions (be they political, economic or strategic) do not exist for a consensual or treaty-based arms trade control regime, with its full array of institutionalized procedures for consultation, notification, agreement and verification, to emerge promptly. Restraint, if any, would result over time from the gradual restructuring of major military industries (notably in Europe), a reduced urge to export and, in some cases, the diminished financial ability of recipients to import, rather than from concerted efforts at regime-building.

It could also be pointed out that the lengthy and demanding process of regime-building is more than a hopeful act of faith. For instance, designing a New Forum to succeed and expand on COCOM (both in terms of membership and the range of equipment covered) might rightly be seen as a tall order. But so did an NPT regime in the early 1960s. And yet, for all its imperfections a nuclear regime does exist, and continues to evolve and adapt constructively.

Existing arms control and non-proliferation regimes, though, rest on factors which hardly apply (if at all) to conventional weaponry. The headway made by nuclear and, to some extent chemical regimes, thus owes much to the relative scarcity of states capable of nurturing nuclear ambitions, and to the questionable strategic value of chemical weapons. Such conditions are wholly absent from the conventional realm.

At the short-lived height of post-Cold War optimism, it may have been hoped that global order might take the shape of a seamless web of more or less specialized international regimes. The prevailing mood towards the close of the century has largely shifted towards one of disillusionment with the hopes vested in cooperative multilateralism. The pendulum may arguably have swung too far, but in the case of conventional weapons and dual-use international transfers, the onus clearly rests on the optimists to demonstrate their inventiveness and persistence.

EUROPEAN ARMS EXPORT CONTROLS

Geoffrey Van Orden

European export controls on conventional arms serve many purposes. They may be seen as non-proliferation mechanisms; as assisting the competitiveness of a sector of European industry; contributing to European harmonisation, thereby facilitating the process of closer integration of the European Union; or as a direct response to humanitarian concerns. In any case, the European Community has an internal dynamic and the creation of a single European market on 1 January 1993 necessitated revision of the rules for intra-European transfer of arms.

At a time when there is no agreed European political strategy or common policy underlying the development of arms export control measures, the very fact that EU member states are regularly and intensively discussing aspects of the arms export question is itself a contribution to the political coherence of the EU. Since 1992, however, this work has been largely concerned with procedural matters. This underlines the highly sensitive nature of any discussion of arms manufacture and trade, touching as it does on questions of national security, the maintenance of strategic industries, security of supply, and relations between states - all matters which reach right to the heart of the question of national sovereignty. And even within the EU there is sometimes tension within the pillar structure concerning the most appropriate, acceptable, and effective sharing and division of competence between the first-pillar Community responsibilities of the Commission, and the shared second-pillar, largely intergovernmental, responsibilities in the area of the Common Foreign and Security Policy (CFSP).

Nevertheless, progress has been made, and various working groups, within the EU and jointly with the WEU, have been engaged in seeking practical, common solutions to certain aspects of the arms export controls problem including the particular areas of: the interpretation and implementation of the common criteria applicable to arms exports; the comparison of export control practices, particularly in the context of a European armaments policy; the discussion of the future of Article 223 of the Treaty establishing the European Economic Community (TEC); the control of exports of dual-use goods (i.e. goods which can be used for both civil and military purposes); and the response to the world-wide problem of anti-personnel mines.

The common criteria

In the aftermath of the Gulf war, in June 1991 the European Council of Ministers in Luxembourg agreed seven common criteria which should govern arms exports, adding an eighth at the Lisbon European Council in June 1992.The belief was expressed that far-reaching and urgent international action was needed to promote restraint and transparency in the transfer of conventional weapons and technology for military use. The criteria were intended to provide the basis for a common approach that might lead to harmonisation of national policies.

However, opinions have differed on their interpretation. For some they were merely a rather abstract lowest common denominator, while for others they represented a

coherent policy framework. They were not mandatory and it was never made clear how exactly they should be applied, although they are now viewed as guidelines to be taken into consideration, for example in the context of dual-use goods. Discussions continue to find ways in which the criteria could be developed and given a common interpretation. This may mean that more weight will be given to some and certainly the first three are of fundamental importance. The terms of each will have to be defined and made more explicit if there is to be general understanding, not just by EU member states but also by potential client states for arms exports, of the basis on which judgements will be made about adherence to the criteria. Where appropriate, the question of arms export controls should be included in the topics for dialogue between the EU and relevant third country groups. Of course, the removal of ambiguity over the criteria will reduce room for manoeuvre, and member states would then find that their national arms export decisions were more open to scrutiny.

Export control practices

Following the Luxembourg European Council, and given the desire expressed by EU member states to develop a common approach that might lead to a harmonisation of arms export policies, a working group has been considering the range of measures that would need to be implemented. This has involved, for example, comparison of national procedures for the authorization and denial of export licences, and of procedures for controlling the final destination of exported goods in order to identify and capitalise on their common elements and adjust the differences.

Since December 1994, an informal group of governmental experts under joint EU/WEU chairmanship has also been studying the options for a European armaments policy, which would include arms export control practices. The project for a common European industrial base could be significantly advanced if the problems of divergent export and re-export policies were resolved. In this context, the need to address rules governing both intra-European and extra-European trade is recognised. Internal trade would have to be facilitated in order to avoid distortion of competition and to ensure that states have the supplies necessary for their security. Certainly, there will need to be a simplification of controls relating to transfers in connection with cooperative projects. At the moment, the end use of a weapon that consists of components from several states may affect each state's sovereign export decision. On the one hand, the greater the harmonisation of national export policies, the easier it will be for a state to renounce its own export controls or agree destinations for a particular project. On the other hand, it could also make it more difficult, in some instances, to agree on export to a particular destination when there may be different national pressures affecting the perception of the destination state. Particular attention will therefore need to be given to the development of harmonised rules to govern the export of military equipment produced in collaboration, while ensuring that they do not act as a disincentive to engaging in such projects. There is, of course, a relationship between the free movement of military goods within the EU and other participating states, and external export controls. Once the internal barriers have been removed there must be a greater harmonisation of control rules relating to exports to third countries, if for no other reason than to prevent the unscrupulous exporter from using the least restrictive outlet.

Article 223

From the time that the Common Market was first established, the Community has had an indirect *de facto* involvement in certain aspects of security in the broadest sense, through policies relating, for example, to freedom of movement, trade, energy, and research. This involvement seemed to have been specifically limited in relation to the production and trade in arms, munitions and war material, by Article 223 of the TEC. However,the same Article states that `the conditions of competition in the common market regarding products which are not intended for specifically military purposes' should not be adversely affected by measures taken by member states in relation to the Article. Article 223 does not reserve an exclusive competence to the member states but simply gives them the facility of derogation, under specific conditions, from certain Treaty provisions. However, there has been a tendency to interpret the Article in an extensive manner, as if all defence-related activities were automatically excluded from Community competence, and its deletion is not widely favoured.

One approach to change would be to review the 37-year-old `list of products' to which the Article applies, in order to make an unequivocal distinction between armaments, dual-use goods and goods destined solely for civil use. But it would be no easy task to overcome the difficulties of definition, and for many the list was only ever indicative and never regarded as comprehensive.

Another approach that has been suggested is to build on the fact that the European Council has identified armaments policy and arms export as legitimate areas of common action. The Treaty on European Union established the CFSP, expressing the idea that member states shared many common security interests. Recognition of these common interests could nullify the exceptions provided for in Article 223, since these presuppose essentially national security interests. By applying a policy of self-restraint, member states could agree not to apply the permitted exceptions.

However, an excessively tortuous or legalistic approach in an area of such sensitivity is unlikely to be productive, and any changes to the substance or interpretation of Article 223 are therefore more likely to follow agreement on wider aspects of armaments policy.

Dual-use goods

In December 1994, the EU adopted two legal acts relating to export controls on dual-use goods, which came into effect on 1 July 1995. These acts rest on the two pillars; firstly, of Community competence; and secondly of joint action under CFSP. The system represents a first step towards the establishment of a complete and consistent Community regime for the control of exports of dual-use goods. The objectives of this regime are, firstly, to remove the barriers to the free movement of dual-use goods within the internal market of the Community and thereby improve the international competitiveness of European industry. Up to this point the intra-Community trade in certain dual-use goods had been subject to controls by the member states. Secondly, as a condition for the elimination of these internal controls, the application of effective controls, based on common standards, on the export of goods outside the Community. Such controls are necessary to protect the `essential security interests' of

member states and to ensure that the international commitments of the member states and the EU, especially on non-proliferation, are complied with.

The joint action establishes a common list of dual-use goods which are subject to control when exported from the European Community. This list implements internationally agreed dual-use controls including the Community strategic controls, MTCR, NSG, and Australia Group. The key element of the regulation is that a licence is required for exports from the Community for all the goods in this list and the responsibility for authorizing such exports will remain with the member state. However, the licence is then valid throughout the Community. There is a common list of destinations for which simplified formalities may be applicable and a set of guidelines which member states will take into account in deciding whether to grant an export authorization which includes the Common Criteria.

Anti-personnel mines

At a time of increasing concern about the effects of the irresponsible and indiscriminate use of anti-personnel mines (APM) in many parts of the developing world, particularly on civil populations endeavouring to re-establish normal life after long periods of conflict, the EU adopted a Joint Action on APM on 12 May 1995, two elements of which relate to export controls. Firstly, a common EU moratorium was implemented banning the export of non-detectable and non-self-destructing APM to all destinations, and banning the export of all other types of APM to those states which had not ratified the 1980 UN Weaponry Convention. Secondly, the EU would work to strengthen this Convention at the forthcoming Review Conference in Vienna in order to extend its scope to non-international armed conflicts, introduce effective verification mechanisms and extend the restrictions on APM, including their transfer.

It is significant that the APM initiatives, while taking due account of the legitimate military use of APM by responsible armed forces; were essentially a response to humanitarian, rather than to political, security or commercial concerns.

The way ahead

This humanitarian objective is likely to become an increasingly important motive in arms export control policy, along with the achievement of wider political objectives (such as having a particular effect on an area of crisis, projecting stability, or assisting an ally), enhancing and protecting industrial competitive advantage or maintaining military security. Are these objectives more likely to be achieved unilaterally or multilaterally, and if the latter, which institution or structure should be employed? If the aim is to enhance the utility, visibility and effectiveness of the EU, then its instruments and mechanisms are available to be used. What then should be the role of the Commission? Under CFSP, the Commission is fully associated with the member states in the adoption of common positions and joint actions, and has the right of proposal. More significantly perhaps, the Commission has a particular responsibility to ensure the coherence of the external actions of the EU, and to regulate the single European market, Community customs regulations, and competition policy.

The extent and intensity of future European action will therefore depend both on the will of the member states and the focus of the Commission, but the elements of a

future common policy on arms exports are visible if account is taken of the work on harmonization of export control practices, the substance and experience of the dual-use regime and the likely increase in collaborative armaments projects with the concomitant need to codify the relevant export practices. But there is only likely to be significant further development once progress has been made in the construction of a wider European armaments policy, and this will now be the subject of consideration both in WEU/WEAG, and, in the EU context, by a new Council working group. In the final analysis, it will be an essentially political judgement, rather than a legal interpretation of rules, whether to enhance interdependence and to make more rapid progress on harmonization, in order to sharpen Europe's industrial competitive edge and moral authority.