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The non-proliferation regimes

Benjamin Kienzle* and Cindy Vestergaard

Introduction

Since the European Council’s first joint declaration on nuclear non-proliferation at the 1990 Dublin Summit, non-proliferation has been identified as a priority area for Europe’s emerging common foreign and security policies. From an emphasis on establishing regional export controls in the 1980s and 1990s; the European Union (EU) extended its external reach into the realm of non-proliferation diplomacy with a focus on strengthening non-proliferation institutions. In December 2003, the adoption of the EU Strategy against Proliferation of Weapons of Mass Destruction (WMD) widened the scope of EU non-proliferation action. In accord with its declared objective of ‘effective multilateralism’ the EU began to pour millions of euro into different international institutions in support of various non-proliferation projects. It further expanded its cooperative threat reduction (CTR) projects in Russia and countries of the former Soviet Union, and from 2004, has added a ‘non-proliferation clause’ to most EU trade and cooperation agreements with third parties (Wetter, 2009). Accordingly, the WMD strategy seems to be furthering what EU bureaucrats call ‘streamlining non-proliferation policy into the external relations of the EU’ (Giannella, cited in Meier, 2005). Yet at the same time, EU non-proliferation policy has remained cumbersome and confined mainly to the technical level. Deeply divided member states have retained much of the control in a still dominantly intergovernmental policy framework. In the words of the Personal Representative on Nonproliferation of WMD, Annalisa Giannella, ‘The EU is a very strange animal’ (Giannella, cited in Meier, 2005).

Following the entry into force of the 2009 Treaty of Lisbon, the European Council created the European External Action Service (EEAS) to better structure and coordinate external EU policy, including in the field of non-proliferation. Currently, however, the integration of non-proliferation officials and structures of the European Commission and the Council of the European Union in the EEAS is still in a transitory phase and its outcome is still far from clear. So far, the EU’s greatest strength rests in its multilateralism. Its legislative and financial weight coupled with a soft power approach has led to many successes over the years in strengthening international non-proliferation institutions. But outside of joint actions on economic and technical non-proliferation issues, the bureaucratic ‘strange animal’ structure of the EU makes it institutionally difficult to think strategically, often impeding its ability to act as a single non-proliferation actor.
Scholarly investigations on the EU and WMD non-proliferation institutions (both formal and informal) have generally kept pace with broadening empirical research on EU external actions, though the literature points to an overwhelming focus on policy. Overall, the academic research on EU relations has not addressed in-depth the impact of the EU’s determination to ‘support the multilateral institutions charged respectively with verification and upholding of compliance with [nonproliferation and disarmament] treaties’ (Council of the European Union, 2003). In other words, the EU relation to international non-proliferation institutions has remained under-theorised. This chapter looks closer at the EU’s support for global WMD non-proliferation institutions, their treaties and informal export control mechanisms and considers the potential for expanding the European non-proliferation research agenda beyond its current focus on policy analysis to the theoretical. It first maps the academic field then turns to the formal treaty organisations governing nuclear, chemical and biological weapons as well as the informal multilateral regimes to demonstrate that there exists a substantially untapped research potential on EU relations with individual institutions.

Mapping the field

Research on common European non-proliferation policies can be traced back to the 1980s and early 1990s, when the then member states of the European Communities began to coordinate their national policies in the framework of European Political Cooperation. Although a lot of the European coordination efforts at that time focused on reaching common positions in relevant international institutions, in particular the International Atomic Energy Agency (IAEA) and the United Nations (UN) General Assembly, the research centered mainly on member states and the coordination between them than in the common policies within international institutions. To paraphrase Jørgensen, research was mainly about the EU as an international organisation not about the EU in international organisation (Jørgensen, 2009). This focus on member states and the coordination between them was reinforced by the development of the complex and not always efficient inter-pillar legislation that regulated from 1994 onwards, particularly in the EU’s control of dual-use items – items that can have purely civilian objectives, but also can be used in the development of WMD (Michel, 2010; Mueller, 1993). In general, research reflected the state-centric design of European non-proliferation policies, where the Commission and, in particular, the European Parliament played only a subordinate role (Crawford, 2007).

In the 1990s, with the development of the Common Foreign and Security Policy and the accession of France to the Nuclear Non-Proliferation Treaty (NPT) in 1992, researchers in Europe began to ask increasingly, ‘Y a-t-il une politique européenne de non-prolifération nucléaire?’ (Labbé, 1997). Generally speaking, there existed a strong focus on the emergence of a common European non-proliferation policy as such (Cornish et al., 1996; Grand, 2000). This research orientation was further reinforced by the emergence of a proper EU non-proliferation policy in the wake of the terrorist attacks of 9/11 and the US-led war against Iraq (Ahlström, 2005; Portela, 2003; Spear, 2003). Given the importance of these events at the time, not surprisingly a recurrent research theme was the comparison between the European and American WMD strategies (Müller, 2003a) and the question in how far the European position had become ‘Americanized’ (Sauer, 2004), in particular regarding the use of force in the context of counter-proliferation. The few theoretically-based works published on the topic reflected the emergence of EU non-proliferation policies by using apposite approaches to explain how groups of states such as the EU become involved in new policy fields. Researchers used in particular approaches developed during the ‘constructivist turn’ in International Relations (Checkel, 1998), e.g. elite socialisation or institutionalisation. These approaches helped to explain phenomena such as the
slow emergence of epistemic communities of European WMD experts (Müller and Dassen, 1997) or the convergence of national non-proliferation policies due to the institutionalisation of WMD issues at the European level (Rosa, 2001; Smith, 2004). Theoretically speaking, however, the research results of these studies have been rather tentative.

At the same time as the EU became an increasingly recognised non-proliferation actor in the eyes of pundits, discussions increased in the non-proliferation literature on the security risks confronting the EU, the Union’s (potential) roles and its effectiveness in international non-proliferation affairs. Generally, experts agree that the EU does not face imminent WMD threats and instead highlight the potential risks emanating from issues such as the availability of WMD-related material and technologies, terrorist networks acquiring WMD and states that have not signed relevant international non-proliferation agreements or appear to violate provisions of these agreements (Cornish and Anthony, 2005; Müller, 2003b). There exists, however, some disagreement regarding the degree to which the EU is actually an effective international non-proliferation actor despite the remaining divisions between member states and the limited capabilities of the EU. Whereas some analyses still express substantial doubts (Bailes, 2007; Sokolski, 2008), others assume at least some progress towards an independent EU role, specifically when considering EU support of international non-proliferation institutions or threat reduction efforts in the former Soviet Union (Álvarez-Verdugo, 2006; Meier and Quille, 2005; Müller, 2007). Interestingly, many studies elaborate recommendations to improve the EU’s effectiveness in the future (Lindstrom, 2004; Lindstrom and Schmitt, 2003; Portela, 2003; Tertrais, 2003). The large bulk of this research was carried out by European think tanks, in particular the Peace Research Institute Frankfurt, the Stockholm International Peace Research Institute (SIPRI) and the (Western) European Union Institute for Security Studies (EU-ISS). The EU contributed to this development by financing a SIPRI study on Community actions in the area of non-proliferation (SIPRI, 2005) and, more recently, by establishing a European network of independent non-proliferation think tanks in support of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction’ (Council Decision 2010/430/CFSP). Consequently, research results have up to the present day had a clear think tank bias, where policy questions have trumped theoretical considerations.

It is in this overall context that specific questions of EU relations with international non-proliferation institutions appeared, largely stemming from the EU’s own focus on what it termed ‘effective multilateralism’ in its non-proliferation policy, i.e. the promotion and strengthening of international non-proliferation institutions. Typically, analyses of EU policies in international non-proliferation institutions deal with specific events, most notably the 1995, 2000, 2005 and 2010 Review Conferences of the NPT or the negotiations in the framework of the Biological and Toxin Weapon Convention (BWC). In general, these approaches have been too diverse to create a critical mass for a sustained debate about the specific EU role in the framework of these treaties. In the case of the NPT Review Conferences, some researchers provide background information and specific policy recommendations for upcoming conferences, especially in the context of publications by the EU-ISS (Grand, 2000; Schmitt, 2005; Zanders, 2010), whereas others offer analyses of conference results, taking the EU’s role into consideration (Müller, 2005, 2010). Regarding the BWC, analyses have ranged from specific, but short case studies on the failure to negotiate an additional protocol to establish a verification mechanism for the BWC in 2001 (Fehl, 2008) to reviews of policy developments after 2001 (Lindstrom, 2006) that have focused on transatlantic divisions (Kelle, 2005) and recommendations to improve the control of biological weapon-related activities within the EU (Jasper, 2004). Other frequently analysed topics in the multilateral realm are the G8 Global Partnership and other CTR initiatives to deal with the WMD legacy left behind by the cold war in countries of the former Soviet
Union, though the amount of research is not as extensive as predicted by earlier literature reviews (Stockholm International Peace Research Institute, 2004). Occasionally, research has also been carried out regarding other international non-proliferation institutions, e.g. the Organisation for the Prohibition of Chemical Weapons (OPCW). Generally speaking, most pieces of research are quite technical in nature and, once more, deal with a very broad array of issues such as export control (Bauer, 2005; Wessel, 2007), border security assistance (Anthony et al., 2005a) or support for former Soviet WMD scientists (Boureston and Nikitin, 2005). Thus, no long-term debate about EU activities in these areas has ensued.

In general, these analyses clearly belong to a specific kind of literature on the EU and multilateralism that focus on the EU’s policy of supporting multilateral institutions (Jørgensen, 2009). In practice, they take essentially two forms: either they examine the performance of the EU or they develop recommendations for EU action, thus underlying their clear think tank orientation. On the positive side, this kind of research has increased to some extent the empirical knowledge of EU policies in some international non-proliferation institutions, especially in the area of nuclear non-proliferation, where most research has focused. For example, we now have a quite profound understanding of how the EU’s united stance made the success of the 1995 NPT Review and Extension Conference more likely and how internal EU divisions contributed to the failure of the 2005 Review Conference to produce a final consensus document. Likewise, the overall picture of the activities of the EU in the framework of CTR activities in Russia has become clearer, particularly regarding the details of the different projects that have been carried out (Anthony, 2004a; Anthony et al., 2005b; Höhl et al., 2003). On the negative side, the major deficit is the general lack of theory. EU relations with international non-proliferation institutions as such have not been problematised and therefore research on EU non-proliferation policies is largely isolated from broader debates on (inter-institutional) relations between the EU and international institutions. In the growing literature on the EU’s reaction to the North Korean and, above all, the Iranian nuclear crises, this lack of an explicit theoretical link between the EU and international non-proliferation institutions is particularly evident in EU relations with the Korean Peninsula Energy Development Organization in the case of North Korea and the IAEA and the UN Security Council in the case of Iran. Most works in this area deal rather with issues such as EU actorness (Dryburgh, 2008; Harnisch, 2007) or the EU’s right approach to Iran (Leonard, 2005; Sauer, 2008).

Nevertheless, there exist two areas that may form the nucleus of research that takes into consideration more explicitly the relations between the EU and international non-proliferation institutions. First, EURATOM – also known as the European Atomic Energy Community, one of the original European Communities – has attracted a small body of research in this regard. Although EURATOM’s main field of activity is to coordinate certain nuclear activities within the EU, its independent international legal personality has allowed it to develop its own relations with other international institutions, in particular with the IAEA in the field of nuclear safeguards, i.e. specific verification mechanisms in member states of the NPT. Since both EURATOM and the IAEA are involved in the safeguard business, several studies have highlighted the institutional frictions between the two organisations regarding competencies, thus, laying bare underlying tensions in the cooperation between regional and global safeguard systems (Gmelin, 2007; Howlett, 1990; Lellouche, 1981). Secondly, the nascent debate on multilateralism in the context of transatlantic relations in the field of non-proliferation tries to explore how far EU policies towards international institutions are – or should be – different from those of the United States and other major players, thus problematising more generally the issue of EU relations with international institutions (Kelle, 2005; Pélopidas, 2008; Rynning, 2007). In one specific example, there is even a theoretically well founded analysis of EU responses to US policies in the
context of the BWC Protocol (Fehl, 2008). Although only one of the cases studied actually deals with WMD, this example can be a model for future research as it dissectsb clearly various theory-based factors that influence European choices in international non-proliferation negotiations, e.g. the expected effectiveness of an agreement, the rivalry with the United States, the importance of consensus-based decisions and the influence of non-governmental organisations.

Closing the gap: a research agenda

The global non-proliferation regime consists of an extensive network of treaties, formal international organisations and informal regimes. The European Union – or rather its member states – have established relations with most major non-proliferation institutions. In fact, all EU member states have ratified all the relevant WMD treaties, including the BWC, NPT, the Chemical Weapons Convention (CWC) and the Comprehensive Test Ban Treaty (CTBT) and are members of the IAEA, OPCW and the Comprehensive Test Ban Treaty Organization (CTBTO). And while not all EU member states are yet members of the informal institutions identified in this chapter, European countries make up the majority of their membership with all EU member states adhering national export control policies to the Nuclear Suppliers Group (NSG), Missile Technology Control Regime (MTCR), Australia Group, Wassenaar and Zangger Committee (see Table 26.1).

The International Atomic Energy Agency

For over 50 years, the IAEA has been the world’s ‘Atoms for Peace’ agency (Fischer, 1997). Established in 1957, Agency safeguards were initially designed to cover individual nuclear facilities or supplies of fuel until the 1970 entry into force of the NPT established an international safeguards regime under the responsibility of the IAEA. Accordingly, with its three pillars – nuclear safety and security, science and technology, and safeguards and verification – the IAEA is both the promoter and implementer of international safeguards with the objective to ensure that the peaceful development and practical application of atomic technology are not diverted for military purposes. With a secretariat of 2,200 professional and support staff from more than 90 countries and a regular budget of €277 million (for 2008, see IAEA Annual Report, 2009) the IAEA is the largest of the non-proliferation institutions.

The EU’s relation with the IAEA is manifold, not least given its significant inter-institutional link between EURATOM and the IAEA in the area of nuclear safeguards. Based on the existing literature, it might be possible to explore more in detail the complex relation, and in particular the mutual influence, between these two organisations. Considering their institutional overlap, it could be asked how the interplay of a regional and a global organisation in the same area of implementation turn out in practice? It could be, for example, a top-down relationship, where one organisation ‘teaches’ the other about safeguards in the same way as international organisations ‘teach’ certain nation states in other areas (Finnemore, 1996). In the specific case of the IAEA ‘teaching’ EURATOM, it would be even a relatively clear case study for the emerging ‘second image reversed’ literature about the EU (Costa, 2008, 2009; Costa and Jørgensen, forthcoming; Gourevitch, 1978). On the other hand, the IAEA and EURATOM could also resemble like-units that – depending on certain conditions and circumstances – have developed a specific type of relationship. Following Biermann’s (2007) analysis of the relations between Euro–Atlantic security institutions that work in similar issue areas, it would be possible to ask specifically how far inter-institutional networking has emerged between EURATOM and the IAEA and which endogenous and exogenous factors have shaped that process.
Another increasingly important aspect of EU–IAEA relations are the EU’s joint actions in support of nuclear security and verification projects by the IAEA and the EU’s promise to support the potential development of an IAEA fuel bank with €25 million (Council of the European Union, 2008). As of January 2011, these projects have received more than €33,000,000, which

Table 26.1 EU member states and international non-proliferation regimes

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Source: Official regime websites; e-mail correspondence and phone interviews with foreign ministry officials.

Notes:
• = member.
1 As the NSG has taken many responsibilities from the Zangger committee, Estonia is no longer applying to become a member since it became a NSG member in 2005.
2 The MTCR is currently not considering a possibility of enlargement since its members are not able to reach consensus on the issue in general. The last country to become a MTCR member was Bulgaria in 2004. However, as MTCR guidelines and list of controlled items (i.e. MTCR equipment, software and technology annex) has been included in EU regulation 1343/2000 on dual-use items, all EU members implement MTCR guidelines as EU legislation.
3 Due to the Cyprus dispute, Turkey blocks the membership of Cyprus.
is more financing than all other Joint Actions in support of international non-proliferation institutions put together. The question is what does the EU achieve with these highly technical projects that generally deal with the (verifiable) security of nuclear or radioactive material, e.g. during storage or transportation and the prevention of trafficking of nuclear material? How far do these projects contribute to the effectiveness of the IAEA? Could the EU do more? More generally, it could be asked if these projects improve the EU’s performance at the IAEA. In this regard, Jørgensen et al. (forthcoming) have developed a useful theoretical framework on performance measurement that goes beyond simple issues of ‘goal achievement’ by outlining a sophisticated set of four core elements of performance, namely effectiveness, efficiency, relevance and financial viability.

The issue of the nuclear fuel bank leads to another, generally underexplored topic, namely EU–IAEA relations in the context of the Iranian nuclear crisis that emerged in 2002. Since the very beginning, the IAEA played an important role in the E3, and later the EU/E3 and EU/E3+3, policies towards Iran: the IAEA served as an information provider about Iran’s nuclear programme and it helped to put European policies into a wider, multilateral framework. What does this relation reveal about EU policies towards international institutions? Does it demonstrate the EU’s increasingly instrumental use of international institutions? And in how far has the IAEA, or the use of the IAEA in the Iranian nuclear crisis, constrained the EU as an actor? Broadly speaking, these questions relate to the conceptual framework Karns and Mingst (1992) developed regarding US involvement in international institutions. In particular, they ask how (and why) the use of – and constraint by – international organisations, such as the IAEA, change over time. Given the EU’s sustained involvement in the nuclear negotiations with Iran, it could be absolutely justified – and insightful – to apply their questions to the case of the IAEA and the EU Iran policies, even though they were developed originally for a nation state.

The preparative commission for the Comprehensive Nuclear-Test-Ban Treaty Organization

The 1996 CTBT is a major international non-proliferation treaty that bans any nuclear test explosions. In order to enter into force, the CTBT requires the ratification by 44 states listed in Annex 2 of Article XIV. Up to the present day, nine of the so called ‘Annex 2’ states have not ratified the CTBT. Therefore, the CTBTO – the international organisation responsible for treaty verification – has not been formally established; instead it functions as a preparatory commission dedicated to building up the treaty’s global verification system. The EU’s relation to the CTBT and the CTBTO has been remarkable from various perspectives.

Firstly, all EU member states have signed and ratified the CTBT, most notably the EU’s two nuclear powers, France and the United Kingdom. In this context it should be highlighted that with the exception of Russia, all other nuclear powers (China, India, Israel, North Korea, Pakistan and the USA) still have yet to ratify the test ban. Therefore, future research could explore why the EU’s nuclear powers ratified the CTBT together with the other EU member states, even though other nuclear weapon states did not follow suit. How far did the EU have an impact on their decision? Could it be an example of the previously mentioned policy convergence due to the institutionalisation of non-proliferation policies in the EU (Smith, 2004)? Likewise, it could be asked what the EU has done – or not – to convince Article 2 states to ratify the Treaty, for example in the framework of the ‘Article XIV Conferences’ that are regularly held among the CTBT signatory states. More specifically, the question whether the EU has the means to influence the United States and emerging powers such as China or India in the area of non-proliferation. Bringing back in key assumptions of neo-realism about the distribution of
national capabilities (Waltz, 2000), it would be possible to ask if the changes of the international power structure after the cold war have opened up new possibilities for groups of states such as the EU to influence other powers even in such a sensitive area as nuclear weapon policy.

Secondly, the EU has also been a major contributor to the establishment of the verification mechanisms of the CTBTO. Most notably, between 2006 and 2009, the EU Council provided more than €5 million to the organisation. In July 2010, the EU Council contributed €5,280,000 to the CTBTO to strengthen its monitoring and verification capabilities. This was the largest ever voluntary donation by the EU to the organisation, making the EU member states representative of 40 per cent of the CTBTO’s overall budget (CTBTO, 2010). The question is what this peculiar division of labor between the EU as a financial donor and the CTBTO as a treaty implemener has for the EU’s performance. Is this – in terms of goal achievements – an effective, efficient, nationally relevant and financially viable way for the EU to engage with the CTBTO (see Jørgensen et al., forthcoming)? Or is the EU simply an altruistic sponsor of projects of a multilateral institution without caring too much about its performance?

The Organization for the Prohibition of Chemical Weapons

With 188 states parties, the Chemical Weapons Convention almost universally prohibits the development, production, acquisition, stockpiling, retention, transfer or use of chemical weapons (CW). In force since 1997, the treaty is unprecedented in scope and application, providing for robust verification of CW destruction and inspection of CW facilities and dual-use commercial entities – all of which is conducted by the CWC’s implementing agency, the Organization for the Prohibition of Chemical Weapons. With a staff of 500 and a budget of €75 million (in 2010), the OPCW is an independent, autonomous international organisation with the sole mandate to achieve the object and purpose of the CWC, ensure implementation of its provisions and to provide a forum for consultation and cooperation. With almost 62 per cent of the world’s declared stockpile of 71,194 metric tonnes of chemical agent destroyed by 30 May 2011 (OPCW, 2011), the main priority of the OPCW in its first 14 years has been on disarmament and the verification of CW destruction. While the US and Russia – the remaining two declared CW possessors – will not meet the treaty’s final destruction deadline of April 2012, the commitment by both for total CW elimination does not seem to be questioned as the focus has more centered on the modalities of OPCW oversight during post-deadline destruction. The biggest question for the OPCW is more how it will look in 2013 and how to make the shift from disarmament to a focus on non-proliferation and the inspection of other chemical production facilities (Üzümçü, 2011).

The OPCW’s eventual re-organisation therefore raises the opportunity to study how the EU will shape the process. Research can distill how the EU has contributed to the OPCW to become ‘an example of effective multilateralism’ (Pfirtter, 2008) and its influence in shaping an effective multilateral OPCW in the future. In other words, Laatikainen and Smith’s (2006) broader questions about ‘external effectiveness’ could be raised, i.e. about achieving objectives, the influence on other actors and/or debates and the EU’s role as a leader or ‘frontrunner’. Given the EU’s substantial contributions of over €7 million so far to OPCW activities related to universal treaty adherence, national implementation and the cooperation on peaceful uses of chemistry through Joint Actions adopted in 2004, 2005, 2007 and 2009 (OPCW, 2009) – future research could also try to examine more in detail the EU’s performance at the OPCW. Research in this direction could benefit once more from the previously outlined theoretical framework on performance measurement of the EU in international organisations (Jørgensen et al., forthcoming). Using this framework in the case of EU–OPCW relations would certainly lead to
new insights, not only for this specific case but also for conclusions about the EU’s general performance in international institutions.

The Implementation Support Unit

Entering into force in 1975, the Biological and Toxin Weapons Convention was the first treaty to ban the possession of an entire category of WMD by prohibiting the development, production, acquisition, transfer or stockpiling of biological and toxin weapons. The BWC however does not contain any verification, compulsory compliance provisions or third-party oversight and remains the non-proliferation treaty with the lowest number of states parties (163 as of 1 February 2011). A BWC Implementation Support Unit (ISU) was established in 2007 within the UN Office of Disarmament Affairs (UNODA) in Geneva to provide administrative support to the treaty. However, unlike the NPT or the CWC and their permanent regulatory secretariats, the ISU is not an agency of the BWC – it is a temporary body established by the Sixth Review Conference to act as an administrative hub for the convention. Without an agreed upon verification mechanism, the ISU mandate is therefore limited and does not include monitoring compliance or verifying the authenticity of annual confidence building measures (CBMs). Accordingly, the ban on biological weapons is considered more of a ‘paper tiger’ than the other WMD non-proliferation and disarmament treaties (Vestergaard and Roul, 2011).

The EU WMD strategy notes the treaty’s lack of verification and states the ‘EU must find ways to strengthen compliance’ while also taking the lead in supporting national implementation of the BWC. Regarding the former, the EU’s first Joint Action in Support of the BWC in 2006 called for all member states to meet treaty obligations and file CBMs annually, starting that year (EU Action Plan, 2006). Regarding the latter, a second EU Joint Action in Support of the BWC in 2008 contributed €1.4 million for projects in support of treaty universalisation; national implementation; CBM participation and the annual BWC meetings held under the intersessional process. These joint actions have led to tangible results: by the Sixth Review Conference (20 November–8 December 2006), all EU members had submitted their CBMs, contributing to a record number of CBM submissions up to that point. Similarly, the EU has also funded a variety of CBM workshops, distributed a guide to CBM participation at the 2009 Meeting of States Parties and has funded a range of workshops on national implementation with both a regional and global focus (UNOG, 2011). These results again raise questions about ‘external effectiveness’, particularly in the EU’s role as a leader or ‘frontrunner’ (Laatikainen and Smith, 2006) and whether the millions of euro the EU spends through joint actions contribute ultimately to the effectiveness of the institutions dealing with the BWC.

Accordingly, it is in this area that future theoretical research could continue. With the mandate of the ISU up for review at the Seventh BWC Review Conference in December 2011, much of the discussion will center on whether, and to what extent, the ISU should be expanded. Constrained in part by the ISU’s limited mandate, so far the EU does not fund the ISU directly, even though the 2008 Joint Action in support of the BWC did include funds for the recruitment of two staff to the UNODA, to work alongside the ISU to implement the Joint Action (Discussion with ISU official, 2010). This raises important questions such as whether future joint actions would then be implemented from within the ISU, raising additional questions, not only about whether the ISU should be an administrative body or an implementing agency; but whether the ISU would be construed to be a policy arm of the EU. With the US indicating that it will not seek to revive verification negotiations (Tauscher, 2009), there is also another issue of how EU funding is having an impact on the development of the BWC regarding compliance issues. More specifically, how do the EU’s actions ensure the credible commitment
to the BWC by the signatory states? This becomes theoretically of interest when considering the ‘rational design of international institutions’ (Koremenos, Lipson and Snidal, 2001), and the role of international institutions (such as the ISU) before the actual establishment of an international organisation (such as any future ‘Organization for the Prohibition of Biological Weapons’). In this regard, research could hark back to theories of the institutional design of the very European Union. Moravcsik (1998), for example, has dealt with issues that might well be useful in the context of an emerging international organisation dealing with the BWC, i.e. expertise of technocratic institutions and ensuring credible commitment by member states.

Informal non-proliferation regimes

Apart from formal international organisations in the field of non-proliferation such as the IAEA or the OPCW, the EU has also strong links with informal regimes active in matters of non-proliferation, in particular the NSG and the Australia Group. In the interest of time and space, this section will not directly address the Zangger Committee, MTCR or Wassenaar Arrangement. As the NSG has taken over many responsibilities from Zangger over the years, many of the research questions associated with NSG can be transferred to the Zangger Committee, particularly in the context of the EU’s observer role within each. Additionally, as the EU is not institutionally represented in the MTCR (or Wassenaar), but does use MTCR guidelines in EU legislation, it remains relevant for discussions on EU non-proliferation actorness, but not directly in terms of formal inter-institutional relations. Wassenaar is specifically set aside on the basis that it harmonises export controls of conventional (not WMD) arms and dual-use items and therefore falls outside of the WMD institutional scope of this chapter.

The EU however also holds an important position within the Group of Eight (G8) nations. While the G8 is an informal annual gathering of the world’s most industrialised countries it could be conceived as an ‘international institution without headquarters, permanent staff, formal rules, or legal powers’ (Gstöhl, 2007). Participating in G8 meetings since 1977, the EU is known as the gathering’s ninth member, enjoying all the privileges and obligations of membership except the right to host and chair a Summit. Given the G8’s multibillion dollar initiative in threat reduction, non-proliferation and disarmament, the EU’s role within the G8 framework offers a unique look at the institutional elements of not only EU – G8 relations, but also how the EU’s threat reduction programming adds multiple layers of inter- and intra-institutional research to the agenda.

The Nuclear Suppliers Group and the Australia Group

The NSG is a group of 46 nuclear supplier countries that implement common export guidelines for nuclear-related items. All 27 EU member states are members of the NSG, while the European Commission is a permanent observer. This raises important, but yet not explored questions about inter-institutional relations between the EU and the NSG. First, the issue of EU representation in the NSG comes up and how the EU coordinates its policies in the framework of the NSG. Which role do the relevant Council Working Groups play, in particular CONOP? Just how much is the Commission involved in the NSG? As the topics dealt with by the NSG are highly technical and are, thus, dealt with by a small group of experts, additional theoretical research could investigate whether a European epistemic community among member states and community specialists has emerged regarding nuclear non-proliferation issues, expanding further the concept of epistemic communities that has been already useful in the analysis of historical arms control issues (Adler, 1992).
Second, the relation between the EU and the NSG can be explored from a (mutual) impact perspective. In so far as the influence EU member states have had in shaping NSG guidelines and to what extent NSG guidelines have changed EU legislation in the area of nuclear or nuclear-related export controls. In this regard, research could tap again into the emerging ‘second image reversed’ literature in the case of international institutions and the EU (Costa, 2008, 2009). This literature has shown already in various cases how international institutions influence EU policies, decision-making, institutions and behavior (Costa and Jørgensen, forthcoming). One particularly interesting question might be if there have been changes to the delicate balance between commercial considerations and security interests that usually come up in the area of dual-use item control.

Lastly, EU support for the controversial agreement between India and the United States on civilian nuclear cooperation created its own NPT controversy when it helped in 2008 to make India an exception to NSG guidelines of not transferring nuclear technology to non-NPT states (see Müller and Rauch, 2007; Rynning, 2007; Weiss, 2007). Ironically, it was because of India’s 1974 nuclear explosion that the NSG was created as a mechanism to harmonise nuclear exports among the supplier countries in the first place. The US–India agreement opens up the trade of nuclear goods with India in turn for IAEA safeguards and inspections of India’s civilian nuclear installations. However, under the agreement, India can keep its nuclear weapons arsenal and its military installations remain exempt from IAEA inspections. In other words, India is welcomed back into the ‘nuclear club’ as a de facto nuclear-weapon state. Yet, this goes against the NPT, which recognises only five nuclear-weapon states (China, France, Russia, the United States and the United Kingdom), and may encourage other states to develop their own nuclear weapons outside of the NPT, thus undermining the international non-proliferation regime and the EU’s principle of ‘effective multilateralism’. Nevertheless, none of the 27 member states opposed the agreement, when they had the opportunity. Accordingly, the EU’s contribution to the effectiveness of the NPT is put into question. Even more, the member states’ actions may lead to what Kissack (2010) calls ‘unintended and harmful consequences of EU multilateral policies’.

Similar to the NSG in the nuclear field, the Australia Group is an informal group of 41 members that try to minimise the risk of chemical and biological weapons proliferation by controlling the transfer of biological and chemical items. As in the case of the NSG, worthwhile research topics include EU representation in the Australia Group, the mutual impact of EU legislation and Australia Group guidelines and the future role of India in the Group. The issue of EU representation is particularly intriguing, because it is the only case where both the 27 EU member states and the European Commission are full members. This institutionally rather odd situation raises at least two important questions: first, why has this peculiar form of EU representation been possible in the first place? Second, how has it affected decision-making within the Australia Group? Preliminary evidence suggests that to the dismay of member states the European Commission has played an active role, even in opposition to member states. Given the consensus-based governance structure (Kissack, 2010) of the Australia Group, this raises the question how the EU’s ‘double representation’ in the form of the Commission and the member states affects the mechanisms to actually reach meaningful consensus within the Australia Group.

The G8 Global Partnership against the Spread of Weapons and Materials of Mass Destruction

The G8 launched the Global Partnership against the Spread of Weapons and Materials of Mass Destruction at the Kanaskis Summit in 2002. With over US$20 billion pledged to the program over ten years, the G8 commitment focused initially on Russia and countries of the former
Soviet Union in areas of chemical weapons destruction, nuclear submarine dismantlement, nuclear and radiological security, the redirection of former weapons scientists and biological non-proliferation. The commitment also included an invitation to other countries to participate in the initiative and thirteen non-G8 countries have since joined the Partnership as project donors. Initially involved in CTR in the mid-1990s, the proliferation potential of former Soviet weapons scientists led the EU, Russia, US and Japan to establish the International Science and Technology Center (ISTC) in Moscow in November 1992 (Canada, Norway and South Korea later joined) and in October 1993, Ukraine, Canada, the US and Sweden (replaced by the EU in 1998) created the Science and Technology Center in Ukraine (STCU). Between 1994 and 2009, the EU funded more than US$241.7 million in projects at the ISTC (ISTC, 2010) and €35.2 million ($42.8 million) of the total $202.2 million funding of the STCU between 1995 and 2010 (STCU, 2010). Funding for both centers was initially conducted through the framework of the Technical Assistance to the Commonwealth of Independent States (TACIS) and from 2007, under the Instrument for Stability. With the activities of both the ISTC and STCU winding down and the ISTC likely shutting its doors in the coming years and the STCU currently on life support (Discussion with G8 Official, 2011), research is offered a unique opportunity to look back at the EU’s role in creating (and assisting in closing down) two intergovernmental organisations. Important questions should be asked about whether objectives of the redirection of former weapons scientists have been met while also generating beneficial scientific and commercial projects and linkages; but also whether the EU’s role forward[ed] the goals of the WMD strategy, specifically whether the European Commission’s Directorate-General for Research and its focus on ‘develop[ing] and implement[ing] the European research and innovation policy’ (EC Directorate-General for Research, 2011) is/was the best EU arbiter for this aspect of non-proliferation programming.

With the EU committing a total €1 billion to the Global Partnership, much of the literature on the EU’s contribution has centered mainly on the initial years of program implementation (Anthony, 2004b; Einhorn and Flournoy, 2003; Höhl et al., 2003; Roffey, 2008; Semin, 2005) with a smaller literature looking at the broader role of the EU within the G8 (Huigens and Neumann, 2009). With the G8 agreeing to extend the Partnership beyond 2012 (G8 Declaration, 2011), research can consider how the institutional nature of the EU has shaped the G8 approach to threat reduction and the impact of EU Partnership funding on other institutions such as the IAEA, CTBTO, OPCW, ISU and, in particular, on the ISTC and STCU.

It has been argued that the vague and informal nature of the G8 is ‘conducive to EU participation in the summit’ as the system of EU representation ‘can be seen as a case of constructed ambiguity because the ambiguity that is inherent in the EU’s participation has been institutionalized within the G8’ (Huigens and Neumann, 2009, p. 3). This could be further researched in relation to the EU’s non-proliferation actorness in the context of the Global Partnership both in and outside of the G8. With the G8 Global Partnership extended beyond its original 2012 deadline at the 2011 G8 Summit (G8 Declaration, 2011), future study can take both a look back and forward in considering how this institutionalised ambiguity shapes G8 Global Partnership commitments, implementation and coordination and the EU’s objective of effective multilateralism.

The way forward

Given the number of non-proliferation and disarmament institutions, research can take a case-study approach, cross-comparing EU funding and activities, or look broader at all the non-proliferation bodies to highlight the EU’s overall institutional approach to the international WMD
non-proliferation regime. Additionally, research can consider the EU’s approach to conventional weapons such as its influence on the ‘Ottawa Process’ toward the 1997 Ban Landmines Treaty or the ‘Oslo Process’ of the 2010 Cluster Munitions Convention. Cross-comparing the EU’s role in conventional and unconventional weapons regimes also brings in the additional export control regimes that address both weapons systems such as the MTCR, Hague Code of Conduct against Ballistic Missile Proliferation, Wassenaar Arrangement and the Zangger Committee. In the short term the most promising area of future research appears to be the intensifying relations between the EU and the IAEA in fields as diverse – and politically relevant – as nuclear security, the multilateralisation of the nuclear fuel cycle and the Iranian nuclear crisis.

However, many research challenges remain: the EU is still a relatively new and difficult actor to grasp in the field of non-proliferation. At the same time, non-proliferation of WMD is a highly secretive policy area, making access to relevant documents particularly difficult, which in turn makes the extensive use of open source intelligence and elite interviews essential. Moreover, many of the topics that are dealt with in the field of non-proliferation are often extremely technical and difficult to understand for lay persons requiring additional time to familiarise oneself with the issues involved. Nevertheless, major advances by the EU as an actor in international non-proliferation institutions in the last decade turn further systematic research into a worthwhile endeavor, not only from a narrow non-proliferation perspective but also within a wider context of inter-institutional relations between the EU and international institutions.

Notes

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1 In this respect it is complementary to a previous literature review on non-proliferation elaborated by the Stockholm International Peace Research Institute (2004) that took already the EU into consideration, but did neither focus specifically on the EU nor did it go beyond policy-based literature.
2 For an overview of European non-proliferation policies in the 1980s and early 1990s, see the chronologically elaborated works by Harald Müller and his collaborators (Goens, 1987; Michel and Müller, 1996; Müller, 1992, 1994).
4 Until 1992, France was the only member state of the then European Communities that had not ratified the NPT. This had been a crucial stumbling block for the development of common European non-proliferation policies, since the treaty is generally seen as the backbone of international non-proliferation agreements. For an analysis of the accession of France to the NPT, see Jabko and Weber (1998).
5 The EU as a study object is still largely absent in the mainstream non-proliferation literature in North America.
6 With its first kick-off meeting held in April 2011, this consortium of independent non-proliferation think tanks will work through expert meetings and international conferences to encourage a European political and security-related dialogue.
7 Interestingly, despite these problems, a recent study has also considered EURATOM as a model organisation for other regions, specifically the Middle East (Mallard, 2008).
8 This excludes the budget for voluntary contributions which in 2008 had a target of US$80 million.
9 Such a fuel bank, which is still in the fledging stages, would produce nuclear fuel under IAEA supervision and provide guaranteed nuclear supplies to any country wishing to run nuclear power plants. Like this, countries with civilian nuclear programmes do not need to develop their own nuclear fuel cycle, thus avoiding that they acquire the knowledge to produce also fuel for nuclear weapons.
10 Compare what Laatikainen and Smith (2006) call ‘EU contribution to the UN’s effectiveness’.
11 ‘E3’ refers to France, Germany and the United Kingdom; ‘EU/E3’ includes also the EU’s High Representative; and ‘EU/E3+3’ adds the three non-European UN Security Council members (China, Russia and the United States).
12 In 2001 the US pulled out of multilateral negotiations to add a compliance protocol to the BWC, stating that the proposed draft Protocol would do little to deter countries from seeking biological
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weapons and could jeopardise commercial (and biodefence) proprietary information (see Whitehair and Brugger, 2001).

13 The biannual progress reports of the WMD Strategy are a good primary source to keep track of EU developments in the area of non-proliferation.

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The non-proliferation regimes


