

# The European Union and the Arms Trade Treaty: An Analysis of the EU's Effectiveness in Multilateral Security Governance

Iulian Romanyshyn



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**The European Union and the Arms Trade Treaty:  
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**Iulian Romanyshyn**

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## **Abstract**

This paper examines the participation of the European Union (EU) in the multilateral negotiations of the UN Arms Trade Treaty (ATT). Given the EU's declared commitment to effective multilateralism and dedication to act as a global security provider, the paper analyses to what extent the EU can be seen as an effective actor in supporting and promoting the ATT. It is argued that overall the EU was an effective player during the multilateral negotiations on the ATT, but the degree of its effectiveness varied along different dimensions. The EU was relatively successful in the achievement of its goals and in maintaining external cohesion during the negotiations, but it scored relatively low in its efforts to commit other major players to sign up to the ATT. The high level of institutional cooperation and the convergence of EU member states' interests facilitated the EU's effectiveness in the ATT negotiations, whereas the international context proved to be the major constraining factor.

## Introduction: The EU as an Effective Global Security Actor

On 2 April 2013 the United Nations General Assembly (UNGA) adopted a new multilateral agreement in the field of arms control, disarmament and non-proliferation – the Arms Trade Treaty (ATT). The new accord became the first global instrument to regulate international trade in conventional arms. Several regional mechanisms, among which the most renowned is the Wassenaar Arrangement, have already been in place to address the issue of arms export control. Yet, in contrast to the ATT, these regimes lack a legally binding nature and are not universal in their membership. Moreover, conventional arms, until recently, have been the only type of arms not covered by global multilateral treaties as has been the case with chemical, biological and nuclear weapons for quite some time already. As the UN Secretary-General Ban Ki-moon argued in the run-up to the UNGA, “there are common standards for the global trade in armchairs but not the global trade in arms”.<sup>1</sup> Given the size of the global conventional arms market<sup>2</sup> and the impact of uncontrolled and illicit arms flows on the spread of international conflicts and violence, the significance of the new ATT for international security should not be underestimated.

The European Union (EU) has emerged in recent decades as a new actor on the international scene and a provider of international peace, security and stability.<sup>3</sup> During the last two decades it has managed to develop multiple security policies, institutional structures and instruments under the umbrella of the Common Foreign and Security Policy/Common Security and Defence Policy (CFSP/CSDP). The EU has become a player in the fields of conflict management, peace building, counter-terrorism, as well as non-proliferation and arms control. In particular, through the European Security Strategy, the EU has pledged to address threats of arms proliferation through a multilateral approach to security vowing its

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<sup>1</sup> B. Ki-moon, “Secretary-General’s remarks to Final United Nations Conference on the Arms Trade Treaty”, New York, 18 March 2013.

<sup>2</sup> According to the UN, the international arms trade market is estimated to have a value of USD 70 billion. This number roughly equals the GDP of hydrocarbon-rich economy of Azerbaijan.

<sup>3</sup> S. Biscop & R. Whitman (eds.), *The Routledge Handbook of European Security*, London, Routledge, 2013; C. Kaunert & K. Zwolski, *The EU as a Global Security Actor: A Comprehensive Analysis beyond CFSP and JHA*, Houndmills, Palgrave Macmillan, 2013; C. Hill & M. Smith (eds.), *International Relations and the European Union*, Oxford, Oxford University Press, 2011; K. Engelbrekt & J. Hallenberg (eds.), *The European Union and Strategy: An Emerging Actor*, London, Routledge, 2008.

support to international arms control treaties and agreements.<sup>4</sup> The question, therefore, arises about the EU's role in promoting and supporting the ATT regime, given its salience and significance for international security on the one hand, and the EU's commitment to strengthen the multilateral security order on the other.

The aim of this paper is to critically evaluate the EU's involvement in the ATT preparations. It explores to what extent the EU can be seen as an effective actor in supporting and promoting the Arms Trade Treaty. First, the paper examines not only the EU's capacity to be an actor in a specific multilateral forum, but takes a step further by addressing the outcomes and results of the EU's actual performance during the ATT negotiations. It will be argued that although the EU has largely managed to secure a favourable outcome of the ATT negotiations, the degree of its effectiveness varies across different dimensions. Essentially, it will be shown that despite demonstrating the capacity of an effective actor, the EU did not play a leadership role in the ATT process. Second, in addition to advancing the understanding of the EU's effectiveness in multilateral security governance, the study also seeks to uncover the underlying factors which arguably shape the EU's effectiveness in multilateral fora. Three potentially important factors – institutional coordination, the convergence of member states' interests and the international context – are singled out and will be presented in greater detail below.<sup>5</sup>

The paper is organised as follows. First, I will briefly outline the history of the ATT and the driving forces pushing the EU to engage. Second, I will turn to the EU's and the member states' positions and behaviour during the ATT process with a particular emphasis on two UN conferences held in July 2012 and March 2013. This will be followed by a discussion of the legal and political international context, including the positions of emerging powers – Russia, China and India – during the ATT negotiations. The following section will present an empirical analysis of the EU's effectiveness in the ATT process according to three dimensions – achievement of goals, recognition of relevance and external cohesion. The concluding section will summarise the findings of the paper and will outline some policy implications.

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<sup>4</sup> Council of the European Union, "A Secure Europe in a Better World: European Security Strategy", 15895/03, Brussels, 8 December 2003.

<sup>5</sup> For more information on the choice of causal factors see I. Romanyshyn, *The EU and the Arms Trade Treaty: A Study of the EU's Effectiveness in Multilateral Security Governance*, Master's thesis, Bruges, College of Europe, 2013.

## The EU and the Arms Trade Treaty

International efforts to put the global arms sales under control have a rich history dating back to the inter-war time period of the League of Nations.<sup>6</sup> After the end of the Cold War several Nobel Peace Laureates elaborated the International Code of Conduct on Arms Transfers, which called upon the states “to adhere to their commitments on international human rights and humanitarian law when considering application for export licenses”.<sup>7</sup> After this initiative was put on the table at the UN in the late 1990s, civil society organisations started an intense lobbying campaign pushing for a legally binding treaty on conventional arms transfers based on suggestions of the Nobel Peace Laureates. The process reached a momentum when one of the permanent members of the UN Security Council (SC) – the United Kingdom – declared its support for the initiative.

In March 2005, the then Foreign Secretary Jack Straw put forward a roadmap consisting of six points which should have become the main principles of the new ATT.<sup>8</sup> By the end of 2006, governments of seven states<sup>9</sup> circulated the draft resolution “Towards the Arms Trade Treaty” which was adopted with a large majority by the UNGA in December as Resolution 61/89. This Resolution called for “a comprehensive, legally binding instrument establishing common international standards for the import, export and transfer of conventional arms”.<sup>10</sup> The EU declared its immediate support for the new Treaty and for the UN as the most appropriate forum for its elaboration. Furthermore, the Council also “expressed the belief that the European Union should play an active role in this process, together with like-minded states and regional organisations from different parts of the world”.<sup>11</sup>

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<sup>6</sup> M. Bromley, N. Cooper & P. Holtom, “The UN Arms Trade Treaty: arms export controls, the human security agenda and the lessons of history”, *International Affairs*, vol. 88, no. 5, 2012, pp. 1029-1048.

<sup>7</sup> P. Holtom & S. Wezeman, “Appendix 10C. Towards an Arms Trade Treaty?”, *SIPRI Yearbook 2007: Armaments, Disarmaments and International Security*, Oxford, Oxford University Press, 2007, p. 433.

<sup>8</sup> J. Straw, Foreign Secretary of the United Kingdom, “Securing a global arms trade treaty”, speech, Institute of Civil Engineers, London, 15 March 2005.

<sup>9</sup> Argentina, Australia, Costa Rica, Finland, Japan, Kenya and the UK were original co-sponsors of the ATT.

<sup>10</sup> United Nations, General Assembly, “Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms”, *Resolution adopted by the General Assembly, A/RES/61/89*, New York, 18 December 2006, p. 2.

<sup>11</sup> Council of the European Union, “2678th General Affairs and External Relations Council Meeting”, *Press Release*, 12514/05, Luxembourg, 3 October 2005, p. 15.

Why was it important for the EU to play an active role in the ATT process? First, although the EU as such does not export arms, the EU member states collectively accounted for one third of global arms exports between 2006 and 2010.<sup>12</sup> Given the volume of the arms trade and the high economic stakes attached to it, it was essential for the EU member states to be active participants in the negotiations. Second, the emerging ATT regime could have opened the opportunity for the EU to promote its internal model of export control based on strict criteria, including those related to the humanitarian agenda. In addition, projection of the EU's internal policy standards at the international level could help to streamline the EU's and the UN's arms embargo policies. Third, by endorsing the ATT as a UN treaty, the EU could contribute to strengthening the multilateral order, which is the principal objective of EU foreign policy.<sup>13</sup> This is particularly important in the area of conventional arms, as the most recent multilateral treaties in this field – the Mine Ban Treaty and the Convention on Cluster Munitions – were adopted outside the UN framework.

#### *The EU's Objectives and Instruments*

The EU followed the ATT process from its very inception and the Council adopted its first Conclusions on the ATT on 3 October 2005.<sup>14</sup> Following the request of Resolution 61/89 for the governments to submit their views on the main points of the future Treaty, all the 27 EU member states and the EU responded. At this initial stage, the EU did not formulate explicit demands, but drew attention to the EU Code of Conduct on Arms Exports<sup>15</sup> and the EU Military List as 'best examples' for the scope and parameters of the ATT.<sup>16</sup> In addition, in order to address the skeptical countries, like the USA, India, China and Russia, which questioned the rationale and feasibility of the new Treaty, the EU stated that its own experience

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<sup>12</sup> SIPRI Arms Transfers Database, accessed 1 May 2013, <http://www.sipri.org/databases/armstransfers>

<sup>13</sup> R. Gowan, "The European Security Strategy's global objective: effective multilateralism", in S. Biscop & J. Andersson, *The EU and the European Security Strategy: Forging a Global Europe*, London, Routledge, 2008, pp. 42-61.

<sup>14</sup> Council of the European Union, "2678th General Affairs and External Relations Council Meeting", *op.cit.*

<sup>15</sup> An intergovernmental instrument, which encourages member states to assess their export authorisations to third countries against eight specific criteria ranging from respect for international law to sustainable development. See Council of the European Union, *European Union Code of Conduct on Arms Exports*, 8675/2/98, Brussels, 5 June 1998. In 2008 the Code of Conduct was transformed into a legally binding EU Common Position.

<sup>16</sup> United Nations, General Assembly, "Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms", *Report of the Secretary-General, A/62/278* Parts II, New York, 17 August 2007, p. 92.

with export control policy “demonstrates the feasibility of agreeing on an instrument without depriving States of their national prerogative to license or deny individual exports, and confirms the effectiveness and efficiency of multilateral export control”.<sup>17</sup>

The EU has become a regular attendant and participant of the Open-ended Working Group (OEWG), which was created by the subsequent UNGA Resolution in December 2008 with a mandate for further elaboration on the parameters of the Treaty.<sup>18</sup> The OEWG was later transformed into the Preparatory Committee which, during its four meetings in 2010 and 2011, discussed the procedural and substantial details in the run-up to the UN conference on the ATT scheduled for July 2012. During the negotiations in the OEWG and in the Preparatory Committee it became clear that the most contentious issues that would need to be reconciled related to the *criteria* for export control, the *scope* of the Treaty in terms of the weapons list and activities, *implementation* mechanisms and *transparency* provisions.<sup>19</sup>

The EU pursued two overarching objectives in the ATT negotiations. First, it was convinced that in order to have an added value for and a positive impact on global security the Treaty had to be “as strong as possible”.<sup>20</sup> By adopting a maximalist approach to the emerging arms trade regime, the EU took a progressive stance on each of the controversial items. For example, with regard to the export control *criteria*, the EU wanted to make sure that the decision on the arms transfers would be weighed against the risk of human rights abuses, gender-based violence and violation of international humanitarian law in the country of destination. Mirroring its own criteria in the EU Code of Conduct, the EU further maintained that the criteria for arms transfer authorisation should reflect the risk to regional security and stability, the risk of diversion to unintended users, and the

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<sup>17</sup> Council of the European Union, “Council Conclusions on a legally binding international Arms Trade Treaty”, *2839th General Affairs Council Meeting*, Brussels, 10 December 2007, p. 1.

<sup>18</sup> United Nations, General Assembly, “Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms”, *Resolution adopted by the General Assembly, A/RES/63/240*, New York, 24 December 2008.

<sup>19</sup> Detailed information on the proceedings and discussions in the OEWG and Preparatory Committee as well as participants’ statements are available at <http://www.un.org/disarmament/ATT/statements/>

<sup>20</sup> Interview with an official, European External Action Service, Brussels, 4 April 2013.

impact on sustainable development. Moreover, the EU suggested including a reference to the risk of corruption in the ATT.<sup>21</sup>

Concerning the *scope* of the Treaty, the EU maintained that, in addition to existing types of arms enlisted in the UN Register of Conventional Arms, it should incorporate small arms and light weapons, ammunition and technology transfers. In terms of activities, according to Brussels, the Treaty should not be limited to exports and imports only, but needed to include a broader set, such as transit, transshipment and brokering.<sup>22</sup> Further, the EU suggested an *implementation* mechanism with the creation of an international secretariat and regular review conferences; a *transparency* scheme with public reporting on the arms sales, as well as an information exchange between states.<sup>23</sup> Finally, the EU pledged to pursue the inclusion of a *regional integration organisation* (RIO) clause, which would allow the EU and other regional organisations to become formal parties to the Treaty. These objectives were intended to increase the Treaty's positive impact on global security and were meant to be achieved largely by the instruments of multilateral diplomacy during the ATT negotiations.

The second overarching goal of the EU for the ATT was to ensure that the agreement was "as inclusive as possible".<sup>24</sup> If in the case of the previous objective multilateralism was perceived as an instrument to achieve greater security, here it was treated rather as a goal, since the EU wanted to ensure that a high number of states supports, signs and ratifies the Treaty. This task required the EU to apply a wider set of instruments beyond bargaining in a multilateral forum.

First, the EU tried to address skeptical countries through bilateral diplomatic channels. The ATT issue, for example, was regularly raised each year at working level with the US, Russia and China. The topic was addressed around 15 times with each of these countries by the High Representative of the European Union for Foreign Affairs and Security Policy, Catherine Ashton, in the period between 2009

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<sup>21</sup> European Union, "Statement on behalf of the European Union by Mr. Attila Zimonyi at the Second session of the Preparatory Committee for the United Nations Conference on the Arms Trade Treaty: Parameters of an Arms Trade Treaty", New York, 1 March 2011.

<sup>22</sup> European Union, "Statement by Mr. Werner Bauwens at the First session of the Preparatory Committee for the United Nations Conference on the Arms Trade Treaty: Scope of the ATT", New York, 15 July 2010.

<sup>23</sup> European Union, "Statement on behalf of the European Union by Ms. Annalisa Giannella at the Preparatory Committee for the Arms Trade Treaty on transparency provisions and Implementation Support Unit of the Arms Trade Treaty", New York, 12 July 2011.

<sup>24</sup> Council of the European Union, "Draft Council Conclusions on the Arms Trade Treaty", 10047/10, Brussels, 24 June 2010.

and 2012.<sup>25</sup> Second, the EU also put a considerable amount of financial resources on the table. The Council adopted two CFSP acts in support of the ATT with more than EUR 2.3 million of financial assistance.<sup>26</sup> These funds were used to organise 13 regional seminars in Africa, Asia, the Americas, the Middle East and Europe with local policy-makers and the public. The seminars aimed at raising awareness about export control mechanisms and, from time to time, served as fora for pre-negotiations.<sup>27</sup> Third, the EU strengthened its coalition with a number of non-governmental organisations (NGOs), in particular with *Saferworld* and *Amnesty International*, through developing common projects and supporting their participation in the UN conference.<sup>28</sup> Closer ties with NGOs allowed the EU to contribute to grassroots mobilisation and a wider public debate on the Treaty. The EU's two overarching goals of a strong and universal ATT were pursued in parallel, but, as shown above, required somewhat different instruments to be achieved.

#### *The EU's Institutional Coordination*

The central role in coordinating the EU's negotiating position in the ATT deliberations belonged to the Council, in particular to its working group on conventional arms (COARM). COARM consists of member state officials from national capitals and, at the time when the ATT process began, it was chaired by the rotating Presidency of the EU with assistance from the Council Secretariat. The coordination process started in 2008, when the OEWG was created and EU officials started to engage in its work. Since 2009 a special group, the COARM-CODUN,<sup>29</sup> was set up, merging the expertise on conventional arms export control with disarmament processes at the UN level. The COARM-CODUN ATT group was given the task to develop strategic and tactical positions on different ATT provisions and to elaborate on projects in the form of outreach seminars that were put in place by the Council Decision in 2009.<sup>30</sup> Since 2011, the group was

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<sup>25</sup> Interview with an official, European External Action Service, via telephone, 26 April 2013.

<sup>26</sup> Council of the European Union, "Council Decision 2009/42/CFSP of 19 January 2009 on support for EU activities in order to promote among third countries the process leading towards an Arms Trade Treaty, in the framework of the European Security Strategy", *Official Journal of the European Union*, L 17/39, 22 January 2009; Council of the European Union, "Council Decision 2010/336/CFSP of 14 June 2010 on EU activities in support of the Arms Trade Treaty, in the framework of the European Security Strategy", *Official Journal of the European Union*, L 152/14, 18 June 2010.

<sup>27</sup> Interview with an official, European External Action Service, Brussels, 4 April 2013.

<sup>28</sup> European Union, "EU opening statement at the Preparatory Committee of the Arms Trade Treaty", New York, 13 February 2012.

<sup>29</sup> CODUN stands for Global Disarmament and Arms Control working group.

<sup>30</sup> Interview with an official, European External Action Service, Brussels, 4 April 2013.

meeting on a monthly basis to prepare for different stages of the negotiation process. In addition to these intense coordination meetings, the COARM-CODUN drafted an EU non-paper on the ATT, a confidential document which contains the EU's position on different aspects of the ATT. The document formed the basis for exchanges between the member states in the run-up to the UN conference in July 2012 and proved to be a useful consensus-building exercise.<sup>31</sup>

What is important to highlight here is the impact of the Lisbon Treaty on the process of internal coordination. The role of the rotating Presidency in the area of CFSP was largely replaced by the European External Action Service (EEAS) which was established in December 2010. Both the COARM and CODUN working parties were integrated into the EEAS and thus are no longer chaired by the rotating Presidency's representative, but by an EEAS official. A permanent chair helped to ensure not only consistency and better expertise, but also enhanced a sense of impartiality. According to one official, the new status of the working groups reinforced their agenda-setting power and also allowed them to gain a certain level of trust from the member states.<sup>32</sup> This, in the end, also positively impacted on the internal coordination on the ATT.

The European Commission's role in the ATT coordination was also significant, albeit overshadowed by its competence dispute with the member states. The need for the Commission's presence was justified by a necessity to guarantee that the ATT was compatible with the EU *acquis*. In other words, it was important to ensure that new controls imposed by the ATT would not disrupt the functioning of the EU's internal trade in defence-related products.<sup>33</sup> Although the Commission normally participates in the deliberations of the Council working groups, which implies that it was aware of the ATT dossier, it signaled its wish to be part of the multilateral negotiations only months before the July 2012 UN conference. Consequently, the Commission fell short of the time needed for proper preparations and exceptionally asked the Council to authorise the member states to negotiate certain parts of the Treaty covered by the Union's exclusive competence. Yet, for the March 2013 UN conference, the Commission sought a different mandate that authorised itself to negotiate the relevant aspects of the ATT and entered into a discussion with the member states. This

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<sup>31</sup> *Ibid.*

<sup>32</sup> *Ibid.*

<sup>33</sup> Interview with an official, European Commission, DG Enterprise and Industry, Brussels, 25 April 2013.

naturally created confusion and caused frustration with some of the Council members. Nevertheless, the inter-institutional dispute did not affect the EU's external representation as the EEAS diplomats continued to speak on behalf of the EU as a whole.<sup>34</sup>

Finally, despite its limited role in the area of arms control and disarmament, the European Parliament also raised its voice concerning the ATT. In its Resolution of 13 June 2012, the European Parliament reiterated its support for a global, legally binding Treaty and for the Council Conclusions on this topic.<sup>35</sup> Moreover, the European Parliament recognised "the coherent and consistent role played by the EU and its Member States in support of the international process to establish an arms trade treaty".<sup>36</sup> Despite the spat over the legal competences between the Commission and the Council, the level of the EU's internal coordination on the ATT can still be evaluated as above average.

#### *EU Member States' National Preferences*

On the level of the 27 EU member states there was a high degree of convergence of national preferences concerning the ATT. Member states reiterated the EU's view on the need of a strong and universal agreement regulating arms sales. There was also a consensus on how the key parameters of the future Treaty should look like. In their response to the UN Secretary-General's call on expressing preliminary views on the ATT, EU member states shared a common vision on the necessity to include strict criteria for export risk assessment.<sup>37</sup> In fact, most of them referred to the norms that were already in place at the European and domestic levels, such as those regarding the human security agenda. Furthermore, member states maintained similar views on the scope of the Treaty, the implementation mechanisms and transparency provisions.

One of the reasons why the new agreement was relatively uncontroversial among EU member states is the fact that the ATT, like the EU Code of Conduct,

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<sup>34</sup> Interview with an official, EU Delegation to the United Nations in New York, via telephone, 8 April 2013.

<sup>35</sup> European Parliament, *Resolution of 13 June 2012 on the negotiations on the UN Arms Trade Treaty (ATT)*, (2012/2636(RSP)), Strasbourg, 13 June 2012.

<sup>36</sup> *Ibid.*

<sup>37</sup> United Nations, General Assembly, "Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms", *Report of the Secretary-General, A/62/278* Parts I and II, 17 August 2007.

leaves the implementation and enforcement of the export control policy fully to the member states. As long as protection of national sovereignty is ensured, governments are ready to compromise on the rest of the issues. Moreover, the ATT could create a level playing field for national defence industries on a global scale. As stated by German officials, "export control can only achieve maximum effectiveness if as many countries as possible apply similar rules and procedures".<sup>38</sup> Finally, the ATT provisions endorsed the creation of structures and practices which to a great extent were already institutionalised at the domestic level in European countries. Apart from export criteria, this relates among others, to the establishment of appropriate national authorisation bodies, end-use control and lists of controlled military items.

Certainly, there were some initial disagreements pertaining to national peculiarities. Italy, for instance, wanted to keep civilian arms out of the scope of the Treaty.<sup>39</sup> Germany was targeting a more ambitious export control risk assessment than the one suggested by EU diplomats.<sup>40</sup> Yet, these differences were of minor significance in comparison to the common objective of a strong and effective global agreement. Member states' consensus around the ATT was further reinforced by a joint declaration of the EU's top arms exporting countries. In their joint statement, the Ministers of France, Germany, Italy, Spain, Sweden and the UK explained their view on different points of the Treaty and declared their wish "to conclude a strong, robust, effective and legally binding Arms Trade Treaty in order to make the world a safer place and reduce the number of innocent victims of armed violence".<sup>41</sup> Looking beyond the ATT case, it was confirmed that, as such, arms export control in Europe "is an issue, where, compared to other areas of non-proliferation and disarmament, there has been considerable level of cohesion among member states in terms of policy objectives".<sup>42</sup>

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<sup>38</sup> Government of the Federal Republic of Germany, *Report by the Government of the Federal Republic of Germany on its Policy on Export of Conventional Military Equipment in 2010*, Berlin, BMWi, p. 16.

<sup>39</sup> S. Depauw, "The European Union's involvement in negotiating an Arms Trade Treaty", *Non-Proliferation Papers*, no. 23, December 2012, p. 5.

<sup>40</sup> Government of the Federal Republic of Germany, *op.cit.*, p. 9.

<sup>41</sup> L. Fabius *et al.*, "A strong Arms Trade Treaty for a safer world: let's finish our work", *Joint Communiqué by the Ministers of Foreign Affairs of France, Germany, Italy, Spain, the United Kingdom and the Minister for Trade of Sweden*, 26 September 2012.

<sup>42</sup> Interview with an official, European External Action Service, Brussels, 4 April 2013.

After the discussion of the EU's stance on the ATT, inter-institutional coordination and member states' preferences, the paper turns to the assessment of the international context of the ATT negotiations as an important factor shaping the EU's effectiveness in multilateral security governance.

## **The International Context and the Arms Trade Treaty**

The following paragraphs scrutinize the legal circumstances of the EU's status and participation in the UN General Assembly and Security Council. Further, they examine the geopolitical context of the ATT negotiations focusing on the positions of emerging powers – Russia, India and China – on particular instances of the ATT.

### *The Legal Context: UN General Assembly and Security Council*

The ATT was elaborated under the premises of the First Committee of the UNGA, which deals with the issues of disarmament and international security, and subsequently adopted by vote in the General Assembly. At the moment the ATT initiative was put on the table in the mid-2000s, the EU enjoyed a formal observer status at the UN. Due to a lack of legal personality, it was recognised in the UN as the European Community represented by the European Commission (in cases of exclusive competence) and the rotating Presidency (in cases of shared competences and the CFSP).<sup>43</sup> The observer status allowed the EU representatives to participate only in formal meetings without the right to propose amendments or to chair the meetings.<sup>44</sup>

Since the entry into force of the Lisbon Treaty in December 2009, the situation has changed. Having acquired legal personality, the EU pushed to upgrade its formal status in the UNGA and related multilateral fora. As a result, the UN Resolution 65/276 of 3 May 2011 granted the EU an 'enhanced observer'

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<sup>43</sup> M. Farrell, "EU Representation and Coordination within the United Nations", in K. Laatikainen & K. Smith (eds.), *The European Union at the United Nations: Intersecting Multilateralisms*, Basingstoke, Palgrave Macmillan, 2006, p. 31.

<sup>44</sup> F. Hoffmeister & P. Kuijper, "The Status of the European Union at the United Nations: Institutional Ambiguities and Political Realities", in Jan Wouters, Frank Hoffmeister & Tom Ruys (eds.), *The United Nations and the European Union: An Ever Stronger Partnership*, The Hague, T.M.C. Asser Press, 2006, p. 14.

status.<sup>45</sup> The EU obtained the right to attend informal meetings, the right to speak and to make interventions, as well as the ability to propose amendments.<sup>46</sup> However, the EU still has no voting rights in the UN. Moreover, its amendments may be put on vote only at the initiative of an EU member state. Given these shortcomings, scholars concluded that even though the EU's status and visibility in the UN were upgraded, it will most likely remain "procedurally handicapped", as it "still has to rely on its member states to promote its agenda in the UNGA".<sup>47</sup>

In the SC the EU is virtually absent and the primary actors in this forum are EU member states. Nevertheless, the Lisbon Treaty has made an attempt to enhance the EU's presence in the SC. Article 34 TEU calls upon those EU member states, which hold a seat in the SC to "concert and keep the other Member States and the High Representative fully informed [and] defend the positions and the interests of the Union".<sup>48</sup> Member states can even request the SC to give permission to the EU High Representative to speak at the forum on behalf of the EU. In practice, however, member states, in particular France and the UK, show little willingness to act as 'agents of Europe' in the SC prioritising their national positions over an EU collective action.<sup>49</sup>

### *The Geopolitical Context: Emerging Powers*

The rise of emerging powers, such as Brazil, Russia, China, India, South Africa and Indonesia, became a widely recognised indicator of the shifting international order. Amongst these states, three – Russia, China and India – are the leading players in the field of arms sales. Currently, Russia is the second largest exporter of arms after the US, while India and China lead in the ranking of the world's largest arms importers (the first and second, respectively).<sup>50</sup> Moreover, in

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<sup>45</sup> United Nations, General Assembly, "Strengthening of the United Nations System: Participation of the European Union in the Work of the UN", *Resolution adopted by the General Assembly, A/RES/65/276*, New York, 3 May 2011.

<sup>46</sup> R. Wessel, "The Legal Framework for the Participation of the European Union in International Institutions", *Journal of European Integration*, vol. 33, no. 6, pp. 621-635.

<sup>47</sup> J. Wouters, J. Odermatt & T. Ramopoulos, "The Status of the European Union at the United Nations after the General Assembly Resolution of 3 May 2011", *Global Governance Opinions*, Leuven Centre for Global Governance Studies, July 2011, p. 4.

<sup>48</sup> European Union, "Consolidated Versions of the Treaty on European Union and the Treaty on the Functioning of the European Union of 13 December 2007", *Official Journal of the European Union*, C326, 2010.

<sup>49</sup> S. Blavoukos & D. Bourantonis, "The EU's Performance in the United Nations Security Council", *Journal of European Integration*, vol. 33, no. 6, 2011, pp. 731-742.

<sup>50</sup> P. Holtom *et al.*, "Trends in international arms transfers, 2012", *SIPRI Fact Sheet*, Stockholm, March 2013.

2012, for the first time since the end of the Cold War, China entered the 'top 5' list of the largest arms exporters crowding out the UK.<sup>51</sup> Russia, China and India were among the 23 countries that abstained during the vote in the UN GA on the ATT on 2 April 2013.

### *Russia*

Accounting for a quarter of global arms exports, Russia entered the negotiations with high economic stakes. A global agreement on arms trade was perceived as the one which could impose new restrictions on Russian global arms trade. This is especially true when it comes to Russia's arms sales to Syria – one of the biggest markets for Russian defence industry and a strategic political foothold in the Mediterranean.<sup>52</sup> Thus, Russia initially took quite a resistant stand on the Treaty, questioning its feasibility "without jeopardizing legal trade and the right of States to self-defence"<sup>53</sup>.

The Russian position on the substance of the ATT was characterised by several important arguments. First, Moscow favoured a restricted view on the scope of the ATT. It maintained that the arms trade can be best accommodated as a state-to-state activity, setting aside non-governmental actors' participation.<sup>54</sup> Second, given its restricted focus on state security, it is not surprising that Russian officials were not very keen on supporting those parts of the ATT related to the principles of human security and good governance. As it was argued by one expert, "the concept of human security is virtually absent from Russian security doctrine and discourse".<sup>55</sup>

Russian diplomats also highlighted several shortcomings of the ATT. According to their view, the humanitarian criteria of export control were not adequately clarified leaving a wide room for misinterpretation. Further, the Treaty was criticised for not maintaining a ban on arms transfer to non-state entities, such as terrorist groups. In addition, some criticism was addressed to provisions on

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<sup>51</sup> *Ibid.*

<sup>52</sup> D. Huber *et al.*, "The Mediterranean region in a multipolar world: evolving relations with Russia, China, India, and Brazil", *Mediterranean Paper Series*, The German Marshall Fund of the United States, Washington, DC, 2013.

<sup>53</sup> United Nations, General Assembly, "Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms", *Report of the Secretary-General, A/62/278* Parts II, New York, 17 August 2007, p. 182.

<sup>54</sup> Interview with an official, Russian Mission to the EU, Brussels, 27 March 2013.

<sup>55</sup> A. Zagorski, "The limits of global consensus on security: the case of Russia", in L. Peral (ed.), *Global Security in a Multipolar World*, Chaillot Paper, no. 118, EUISS, Paris, 2009, p. 80.

diversion, which, in the Russian opinion, could have been stronger.<sup>56</sup> In general, even though the Russian position became more constructive towards the end of the negotiations, Moscow still remained skeptical about the ATT, and it is unlikely that Russia will decide to sign and ratify the Treaty in the short term.

### *China*

China is certainly 'rising' in the field of arms exports – as of 2012 it became the first non-Western country since several decades to be included into the 'top 5' world arms traders. During the last decade, the volume of Chinese exports rose by 162 per cent, though, in relative terms China's global market share today constitutes only 5 per cent.<sup>57</sup> Although China does not extract as many economic benefits as Russia from the arms sales, they are strategically important for Beijing. It exports more than half of its weapons to Pakistan, strengthening political ties between the two countries and following the common interest in containing India.

Similarly to Russia, China was not enthusiastic about the idea of a global multilateral instrument to regulate arms trade. It has taken both a restrictive and a resistant position vis-à-vis the ATT. First, China believed that the main objective of the ATT should be to prevent and combat illicit arms trade, rather than regulate legal arms transfers, as the latter could impose restrictions on developing domestic defence capabilities. Chinese diplomats, for example, put a particular effort to keep the loans and gifts out of the Treaty's scope.<sup>58</sup> Second, Chinese diplomats also emphasised the principles of sovereignty and of non-interference: "The treaty shall not be misused for political purposes to interfere with the normal arms trade and internal affairs of any state".<sup>59</sup> Indeed, China did not particularly welcome the inclusion of humanitarian criteria into the Treaty. In the past, China had sided several times with Russia against European countries in refusing to impose UN arms embargoes on Sudan, Burma, Zimbabwe and, most recently,

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<sup>56</sup> See position of Russia in United Nations, General Assembly, "Overwhelming majority of states in General Assembly say 'yes' to Arms Trade Treaty to stave off irresponsible transfers that perpetuate conflict, human suffering", *Press Release*, GA/11354, New York, 2 April 2013.

<sup>57</sup> Holtom *et al.*, *op.cit.*, p. 4.

<sup>58</sup> Interview with an official, UK Foreign and Commonwealth Office, via telephone, 3 April 2013.

<sup>59</sup> People's Republic of China Mission to the United Nations, "Statement of the Chinese Delegation at the General Debate of United Nations Conference on the Arms Trade Treaty", New York, July 2012.

Syria.<sup>60</sup> The Chinese delegation abstained during the final vote on the ATT and it remains to be seen whether Beijing will eventually put its signature under the Treaty.

### *India*

As the largest arms importer in the world, India had a high stake in the outcome of the ATT negotiations. India's share of global arms imports amounts to 12 per cent, and it is reported that during the period 2008 and 2012 India imported double the volume of Chinese arms imports.<sup>61</sup> While China appears to be the largest supplier of arms to Pakistan, Russia and the UK share the greatest part of the Indian arms imports.

Overall, the tone and attitude of India towards the new multilateral arms export control instrument echoed Russian and Chinese positions. The primary concern for Indians was the illicit trade and arms transfer to non-state armed groups, including terrorists. India thus called for a legal provision in the Treaty prohibiting such transfers.<sup>62</sup> India also used sovereigntist rhetoric emphasising the legitimate right of states to engage in arms trade and self-defence. At the same time, India's position was somewhat different from its BRICS counterparts. As the largest arms importer in the world, India assumed responsibility to speak on behalf of smaller arms importers when confronting Western exporting states. Resembling the discussion in the World Trade Organisation between developing and developed countries, Indian diplomats pushed for recognition of importers' rights: "The ATT should not be an instrument in the hands of exporting states to take unilateral force majeure measures against importing states without consequences".<sup>63</sup>

As the biggest democracy in the world, India was much more supportive towards inclusion of the humanitarian agenda in the Treaty, as well as provisions which call on states to respect their obligations under international law. On the other hand, and contrary to the EU, India was not aiming at the strongest possible

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<sup>60</sup> Bromley, Cooper & Holtom, *op.cit.*, p. 1038.

<sup>61</sup> Holtom *et al.*, *op.cit.*, p. 6.

<sup>62</sup> Permanent Mission of India to the United Nations, "Statement by Ambassador Sujata Mehta at the Plenary of the Diplomatic Conference on the Arms Trade Treaty", New York, 10 July 2012.

<sup>63</sup> Permanent Mission of India to the United Nations, "Statement by Ambassador Sujata Mehta, Head of the Indian Delegation to the Arms Trade Treaty Conference", New York, 18 March 2013.

version of the Treaty. It pushed for a clause to exclude any bilateral defence cooperation agreements from the scope of the ATT and, according to a diplomat, maintained a very inflexible position on this point.<sup>64</sup> Given the above mentioned points of criticism, India has chosen to abstain during the final vote and to scrutinise the draft ATT in greater detail before taking a decision on its signature.

Thus, the geopolitical context of the EU's participation in the ATT negotiations proved to be constraining. The most important players in the area of arms trade – Russia, China and India – shared somewhat different concerns from those of the EU and, to a large extent, pushed in a direction opposite to the EU's objectives. As argued by de Vasconcelos, "China, Russia and India are all questionable partners who have a different perspective on multilateralism from that of the EU [...] they constitute major obstacles to the pursuit of effective multilateralism".<sup>65</sup> Taken as a whole, the international context did not provide a favourable momentum for reaching the EU's objectives in the ATT process.

### **Analysis of the EU's Effectiveness in the Arms Trade Treaty negotiations**

This section performs an empirical analysis of the EU's effectiveness in the ATT negotiations according to three dimensions – achievement of goals, recognition of relevance and external cohesion. In addition, it puts forward some elements of an explanation of the varying degree of the EU's effectiveness.

#### *Achievement of Goals*

The first dimension of the EU's effectiveness measures the extent to which the EU was able to fulfill its declared objectives. The EU pursued two overarching goals with regard to the ATT. On the one hand, it sought to ensure the Treaty's contribution to international security. In order to have an added value for preventing international conflicts and violence, the new instrument needed to be strong and progressive in terms of its substance. On the other hand, the EU was also concerned about the form of the agreement. It stressed on many occasions that the Treaty should be as universal as possible in its membership in order to strengthen multilateral security governance. These two objectives – 'strong ATT'

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<sup>64</sup> Interview with an official, UK Foreign and Commonwealth Office, via telephone, 3 April 2013.

<sup>65</sup> A. de Vasconcelos (ed.), "A strategy for EU foreign policy", EUISS, Paris, June 2010, p. 66.

and 'universal ATT' – are not mutually exclusive and the EU indeed pursued both of them in parallel.

The EU was largely successful in pursuing the first objective concerning the Treaty's substance. First and foremost, the EU has managed to push for a full incorporation of the principles related to the human security agenda. Article 7 of the ATT maintains that states should weight their decisions on authorizing arms exports to a certain country against the risks of human rights abuses, gender-based violence and violation of international humanitarian law. Moreover, Article 6 prohibits any arms sales, if they risk to be used for committing genocide or crimes against humanity. Other criteria, such as the respect for international obligations, regional peace, stability and the fight against corruption, were also included in the Treaty text. The only export criterion which did not find a place in Articles 6 or 7, but is reflected in the Preamble of the document, is the principle of sustainable development.<sup>66</sup> The EU has thus managed to successfully 'upload' virtually all the principles of its Code of Conduct to the international level.

The EU has also accomplished its objective regarding the scope of the Treaty, albeit less successfully. Small arms, ammunition and weapons' components, apart from technology, were indeed included in the ATT. Yet, ammunition was not considered for the import, transit and brokering activities, something which the US strongly opposed to.<sup>67</sup> Further, provisions on implementation and transparency reflect EU demands. The ATT obliges states to put in force appropriate national control systems and report annually to the ATT Secretariat. States are also obliged to publish reports on the application of the Treaty and maintain an information exchange between them. The only point which was not achieved during the negotiations is the possibility for the regional organisations to become official parties to the Treaty. The RIO clause was blocked by China on the grounds of the EU's arms embargo to this country.<sup>68</sup> The Chinese diplomats exploited the RIO clause as a point of diplomatic bargaining in an attempt to pressure the EU to remove the 24-year old ban.

It seems rather surprising that one of the EU's principal objectives, the inclusion of the RIO clause into the ATT, resulted in failure. One possible

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<sup>66</sup> See United Nations, General Assembly, "The Arms Trade Treaty", *Resolution by adopted by the General Assembly, A/RES/67/234 B*, 2 April 2013.

<sup>67</sup> Interview with an official, European External Action Service, Brussels, 4 April 2013.

<sup>68</sup> *Ibid.*

explanation for this may be the role which the Commission has played in the inter-institutional coordination process. Apart from supervising compliance of the ATT text with the EU *acquis*, the Commission was also tasked to be responsible for the RIO clause, as its team consisted of officials with, *inter alia*, legal expertise.<sup>69</sup> Yet, the Commission started to participate in negotiations only in 2012, thus not leaving enough time for a necessary 'pre-cooking' of the issue. Indeed, the RIO clause appeared for the first time in the EU statements only during the UN conference in July 2012, and had no reference whatsoever during the Preparatory Committee meetings.<sup>70</sup>

### *Recognition of Relevance*

The second dimension of the EU's effectiveness in international institutions deals with the EU's ability to gain support from third parties in multilateral fora. This aspect of the EU's effectiveness mirrors in a way the second big objective that the EU pursued in the ATT negotiating process: to ensure the highest possible number of positive votes on the Treaty. In this respect, the EU viewed the universality of the ATT as complementary to its first objective ('strong ATT') and a precondition for the Treaty's success. Indeed, it would be mistaken to expect the ATT to make a real difference in the field of international security if the most important players were not on board. Since the world's top arms exporter – the USA – has dropped its opposition to the ATT after Barack Obama was elected President in 2008, it became crucial to ensure support of the other important arms traders, in particular Russia, China and India.

Yet, as shown above, these states remained skeptical throughout the entire negotiation process and eventually have chosen not to vote in favour of the ATT in the UNGA plenary session on 2 April 2013. The EU thus was not in an authoritative position to convince these states to reverse their positions vis-à-vis the ATT and to pledge their commitment to multilateralism in the area of international security governance. As the ability of the EU to gain support of third players in multilateral negotiations was considered as a key proxy to measure the recognition of the EU's relevance, it may be concluded that the second dimension of the EU's effectiveness scored low during the ATT negotiations. The

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<sup>69</sup> Interview with an official, European Commission, DG Enterprise and Industry, Brussels, 25 April 2013.

<sup>70</sup> European Union, "Opening Statement by Mr. Mayr-Harting at the UN Conference on the Arms Trade Treaty", New York, 5 July 2012.

low recognition of relevance by the third parties in practical terms sheds a light on the EU's difficulties to act as a leader in multilateral security fora.

The study maintains that the international context can best explain the EU's low recognition of relevance in the ATT multilateral negotiations. First, the legal context of the EU's participation in the UNGA proved to be a constraining factor. The fact that the EU does not possess voting rights and has to rely on its member states in pursuing amendments does not add to the EU's image of a strong and authoritative player. The relevance of the legal framework of the EU's participation was best underlined by one of the interviewees: "The enhanced observer status helped to put you in a more comfortable and recognized position. But how serious you are taken as a negotiator, is another question. They know that you don't vote, so it doesn't cost anything to listen to you".<sup>71</sup>

Second, the geopolitical context of a changing international order also shaped the attitude of the emerging powers towards the EU. All three – Russia, China and India – share a deep resistance to the Western political agenda and hold up the principles of national sovereignty and non-interference. Russia was acutely distrustful to the inclusion of the humanitarian agenda into the scope of the ATT and regarded the Treaty as a reflection of a mainly Western view on global arms trade. India, although receptive to the human security agenda, repeatedly stressed national sovereignty concerns and the right to self-defence pushing for an exception to the Treaty's application. Finally, China quarreled with the EU over the bilateral problem of an arms embargo rather than actively working out the details of an emerging global arms trade regime. As one observer argues, "China clearly sees multilateral bodies as a means of defending its own interests. Multilateralism for Beijing is a continuation of realpolitik by other means".<sup>72</sup> This instrumentalist view of multilateralism is frequently shared by other emerging powers too.

On the other hand, the EU itself could have done more in order to convince skeptical countries to sign up to the ATT. In particular, the EU could have made better use of its strategic partnership frameworks with the emerging states. A significant bilateral diplomatic outreach was performed only in relation to Russia, with Russian representatives occasionally visiting meetings of the COARM

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<sup>71</sup> Interview with an official, European External Action Service, Brussels, 4 April 2013.

<sup>72</sup> J. Holslag, "The Elusive Axis: Assessing the EU-China Strategic Partnership", *Journal of Common Market Studies*, vol. 49, no. 2, 2011, p. 309.

working group, but in the cases of China and India the bilateral dialogue was much weaker.<sup>73</sup> Further, the EU-sponsored regional seminars on the ATT also did not reach the end goal vis-à-vis the emerging powers, but proved to be a useful tool for raising awareness on the ATT among smaller states. It should be noted, however, that a full judgment on the degree of the recognition of the EU's relevance by emerging powers in the ATT case can only be made after their final decision on the signature and ratification of the Treaty.

### *External Cohesion*

The third dimension of the EU's effectiveness in multilateral institutions is related to the extent to which the EU and its member state spoke with one voice and acted collectively during the final ATT conferences. As in any type of multilateral negotiations, collective and coordinated action between EU institutions and EU member states is a central issue for the EU, against which the level of its effectiveness can be measured. Jørgensen argues that "to the extent that the number of voices counts in multilateralism, it might give additional strength to the EU if its goals were consistently pursued by many voices".<sup>74</sup> Yet, as long as member states sit at the negotiating table, each with its own national agenda, the challenge of external cohesion will remain essential for the EU's performance in multilateral institutions.

In general, there was a considerable level of external cohesion between EU actors during the final UN conferences in 2012 and 2013. Seven EU member states took the floor during the opening session of the ATT conference on 18 March 2013.<sup>75</sup> In their statements, all seven countries mentioned as their priority the inclusion of the provisions related to humanitarian parameters, ammunition, implementation and transparency mechanisms and the RIO clause. The content of the member states' messages largely resembled the one delivered by the EU.<sup>76</sup> What is more, some EU member state delegations deliberately refrained from

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<sup>73</sup> Interview with an official, European External Action Service, Brussels, 4 April 2013.

<sup>74</sup> K. Jørgensen, "Introduction: Assessing the EU's Performance in International Institutions – Conceptual Framework and Core Findings", *Journal of European Integration*, vol. 33, no. 6, 2011, p. 608.

<sup>75</sup> United Nations, General Assembly, "Absence of global standards for arms trade 'defies explanation', but after journey, final destination in sight, Secretary-General tells conference", *Press Release*, DC/3420, New York, 18 March 2013.

<sup>76</sup> European Union, "Opening Statement by Mr. Mayr-Harting at the UN Conference on the Arms Trade Treaty", *op.cit.*

“taking a national stance for the sake of investing into the European one”.<sup>77</sup> For small EU member states with limited diplomatic resources endorsing the EU’s collective action in multilateral institutions indeed brings an added value for their national foreign policies.

Yet, several reservations about the degree of external cohesion have to be mentioned. First, despite widespread backing of the EU-oriented RIO clause in the text of the ATT, there was one country – the UK – which neither endorsed the RIO clause, nor aligned its statement with that of the EU.<sup>78</sup> Second, one specific difference in the positions of the member states was found in the statements of Germany and France. While the former explicitly rejected introducing exceptions to the Treaty’s scope, like the one related to bilateral defence cooperation agreements promoted by India, the latter backed this provision on the basis of the right to self-defence.<sup>79</sup>

What factors can explain the external cohesion of EU actors in the ATT conferences? Certainly, the high degree of the inter-institutional coordination process and of the member states’ convergence of interests accounted for the relatively high level of external cohesion. The international legal context, on the other hand, provides some hints to understanding the UK’s and France’s points of defection. As the permanent members of the Security Council, France and the UK sought to retain their room for maneuver during the negotiations despite the EU’s common line. At the same time, they rarely provided the EU officials with insights discussed among the five permanent members of the SC.<sup>80</sup>

The UK, generally speaking, holds a particular view on the CFSP and on the legitimacy of the EEAS diplomats to represent the EU externally. The EU-UK tensions over some aspects of European foreign policy were recognised during the ATT conferences as well. Recalling the UK’s standing behind the whole ATT initiative in 2005, an EEAS official acknowledged that “the EU was important to be there as an actor, but it should not have stolen the scene of the main proponent of this initiative”.<sup>81</sup> France’s support of the exception to the ATT scope for bilateral

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<sup>77</sup> Interview with an official, European External Action Service, Brussels, 4 April 2013.

<sup>78</sup> An overview of the EU member states’ statements can be found at the web-page of the UN conference for the ATT, <http://www.un.org/disarmament/ATT/statements>

<sup>79</sup> *Ibid.*

<sup>80</sup> Interview with an official, European External Action Service, via telephone, 26 April 2013.

<sup>81</sup> Interview with an official, European External Action Service, Brussels, 4 April 2013.

defence cooperation agreements lined up with India's position.<sup>82</sup> It appeared that France decided to share the main concern of the Indian delegation in order to secure a favourable trade deal on the sale of combat aircraft to India.<sup>83</sup> Overall, the UK and France remained cohesive with the other EU actors during the ATT negotiations and prioritised their national preferences over the collective EU interest only on a limited number of points, like the RIO clause or defence cooperation agreements.

## Conclusions

This study investigated the EU's involvement in the negotiations of the Arms Trade Treaty. The ATT is the first instrument adopted within the multilateral security settings of the UN aimed at putting the global trade in conventional arms under control. The paper showed that, from the very start of the initiative, the EU emerged as an active and committed player participating and presenting its view in all major stages of the negotiation process. The EU pursued two global objectives vis-à-vis the ATT. First, Brussels sought to ensure that the Treaty brings an added value for international security. In order to contribute to preventing international conflicts and violence worldwide, the new global instrument needed to be strong and progressive in terms of its substance. Second, the EU was also concerned about the form of the accord. EU policy-makers emphasised that the ATT should be as universal as possible in its membership in order to strengthen the multilateral global order. While the first objective was pursued by means of multilateral diplomacy within the UN fora, for the achievement of the second goal, the EU diversified its policy instruments to include bilateral diplomacy, CFSP actions for the global outreach campaign, and coalition building with relevant NGOs.

The central argument put forward in this paper is that overall the EU was an effective player during the multilateral negotiations on the ATT, but the degree of its effectiveness varies along different parameters. The EU scored relatively high in two out of three dimensions of effectiveness. First, the EU demonstrated an above average performance with regard to the achievement of goals. In line with its own conviction that only a strong and ambitious Treaty can have an impact on

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<sup>82</sup> K. Sibal, "Guns, helicopters and the treaty", *Calcutta Telegraph*, 27 April 2013.

<sup>83</sup> Interview with an official, UK Foreign and Commonwealth Office, via telephone, 3 April 2013.

global arms trade, the EU was able to shape the most important sections of the draft ATT related to scope, criteria, implementation and transparency. The only point, which was not achieved by the EU, was a reference to the right of regional organisations to become parties to the ATT. Second, the EU proved to be quite successful in projecting a single voice during the multilateral negotiations. With the exception of few instances, when France and the UK deviated from a common line, member states and EU institutions to a large extent acted in unison at the final UN conferences on the ATT. The high level of inter-institutional coordination and of the convergence of member states' interests significantly contributed to this outcome.

On the other hand, with respect to the third dimension of the EU's effectiveness – recognition of relevance – the EU's performance was relatively weaker. Major heavyweights of global arms trade – Russia, China and India – did not endorse the ATT text during the final vote in the UNGA, despite the EU's efforts in promoting universal membership of the Treaty. The international legal and political context proved to be the major constraining factor for the EU's ability to gain support from third actors in multilateral security fora. This mixed picture of the EU's performance in the ATT negotiations allows suggesting an interesting conclusion: the fact that the EU acted as an effective actor in the multilateral security forum does not automatically imply the Union's leadership role in the negotiating process.

Given the results of this study, what are the implications of the EU's involvement in the ATT process for a broader role of the EU as a foreign and security policy actor? There are at least three different dimensions of such policy implications. First, through effective support and promotion of the ATT, the EU strengthened its role as an international security provider. One of the long-term intentions behind the ATT initiative was to counter the spread of international conflicts, crime and other sorts of armed violence. Moreover, this relative success with the ATT could reinforce the EU's posture in the much more strategic area of nuclear non-proliferation. As expressed by a French diplomat, "nuclear disarmament is inconceivable without parallel progress on disarmament regarding [...] conventional arms."<sup>84</sup>

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<sup>84</sup> Permanent Mission of France to the United Nations, "Statement Mr. Jean-Hugues Simon-Michel, Permanent Representative of France to the Conference on Disarmament in Geneva", Geneva, 23 October 2012.

Second, by way of pushing the ATT under the UN umbrella, the EU confirmed its commitment to a multilateral global order and showed to the outside world that effective multilateralism in the field of arms control and non-proliferation is viable. This is especially important in the context of the negotiations on the Fissile Material Cut-off Treaty, which are currently blocked in the UN Conference on Disarmament. Third, but not least, an effective EU in the ATT process is good news for the EU's image as a normative power: through the successful endorsement of export control criteria related to human rights, humanitarian law and gender-based violence, the EU reiterated once more the importance of norms, values and ethics in world politics.

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