



Contestation to the European Union on nuclear non-proliferation

Manuel Herrera

To cite this article: Manuel Herrera (2020) Contestation to the European Union on nuclear non-proliferation, *Global Affairs*, 6:4-5, 329-345, DOI: [10.1080/23340460.2021.1872399](https://doi.org/10.1080/23340460.2021.1872399)

To link to this article: <https://doi.org/10.1080/23340460.2021.1872399>



© 2021 The Author(s). Published by Informa UK Limited, trading as Taylor & Francis Group



Published online: 17 Jan 2021.



Submit your article to this journal [↗](#)



Article views: 77



View related articles [↗](#)



View Crossmark data [↗](#)

Contestation to the European Union on nuclear non-proliferation

Manuel Herrera^{a,b}

^aFaculty of Legal and Social Sciences, Universidad Rey Juan Carlos, Madrid, Spain; ^bInstituto Universitário de Lisboa (ISCTE-IUL), Centro de Estudos Internacionais, Lisboa, Portugal

ABSTRACT

This article analyses the contestation of the European Union's (EU) nuclear non-proliferation policy. Contestation is as a social practice by which third actors express in discursive or practical terms their disapproval of certain norms and the actions that match them. In this way, norms are challenged, reinterpreted and transformed; and as a consequence, the validity of the norms is weakened or reinforced. There are reasons to believe that, as it is happening in other areas of EU foreign policy, the Union's role in the global nuclear non-proliferation regime is becoming increasingly controversial. The article argues that the contestation to the EU's nuclear non-proliferation policy is the result of its actions and positions in both in multilateral (i.e. The Non-Proliferation Treaty Review Conference), and bilateral (i.e. EU-India relations) settings.

ARTICLE HISTORY

Received 9 September 2020
Accepted 30 December 2020


KEYWORDS

EU external relations;
contestation; nuclear non-proliferation; performance

Introduction

Since the 1980s, the European Communities (EC), later the European Union (EU), has gradually increased its activities in the field of nuclear non-proliferation. For readers unfamiliar with the subject, just comment on the fact that nuclear non-proliferation is the policy area in charged with preventing the spread of nuclear weapons, fissile material, and nuclear technology and information applicable to weapons to nations that have not ratified the 1968 Non-Proliferation Treaty (NPT). EC's increasing interest in this policy area was the result of the aim of its Member States to guarantee their own security and safeguard their economic interests; for instance, by adopting common nuclear safety standards and exporting nuclear technologies to foreign markets and also by preventing the proliferation of nuclear weapons in Europe and its surroundings. However, EU's non-proliferation policy has been characterized by the absence of any major initiative (with the exception of the Iranian negotiations), inadequate diplomatic contributions, and differences among Member States.

This raises the question of on how the above-mentioned factors elicit contestation to the EU. For the purpose of this article, we will define contestation as a social practice by which third actors express in discursive or practical terms their disapproval of certain actor's (in

CONTACT Manuel Herrera  mf.herrera.2019@alumnos.urjc.es, mfaaa@iscte-iul.pt

© 2021 The Author(s). Published by Informa UK Limited, trading as Taylor & Francis Group
This is an Open Access article distributed under the terms of the Creative Commons Attribution-NonCommercial-NoDerivatives License (<http://creativecommons.org/licenses/by-nc-nd/4.0/>), which permits non-commercial re-use, distribution, and reproduction in any medium, provided the original work is properly cited, and is not altered, transformed, or built upon in any way.

this case the EU) norms and the actions that match them. By contesting them, EU's norms are challenged, reinterpreted and transformed; and as a consequence, the validity of them can be weakened or reinforced. Our main hypothesis is that the contestation to the EU nuclear non-proliferation policy is the result of its performance in the different forums devoted to such policy, as well as in its bilateral relations with nuclear powers. This research question is directly linked to the rationale of this Special Issue, which aims to shed light on the diversity of causes, modes and effects of contestation in EU foreign policy. This article in short, aims to answer one of the research questions set out in this Special Issue, being it: How is the EU's foreign policy challenged from the outside and why do we see a major challenge in this political area? To answer it, we will therefore proceed to conduct a qualitative comparative case study through content analysis in order to look at the causes and modes of contestation to European nuclear non-proliferation policy.

This comparative case study will be carried out by analysing mainly official documents of the EU, international organisations and other States studied as well as secondary literature related to this topic. This methodology has a number of limitations, which have been assessed in accordance with the objectives and issues that this article seeks to address. The main limitation is that it often lacks a theoretical basis, or tries to draw meaningful conclusions about relationships and impacts involved in a study. However, to avoid this, we have made a determined effort to base our inferences and conclusions on emerging and/or consolidated theoretical contributions. With regard to the data used, the disadvantages of analysing documents are not so much limitations as possible concerns that need to be taken into account. An initial concern is that documents do not perfectly provide all the information needed to answer a research question. Some documents may only provide a small amount of useful data or sometimes none at all. Other documents may be incomplete or their data may be inaccurate or inconsistent. Sometimes there are gaps or shortages in documents, which require an extensive search for information. Another disadvantage is the possible presence of biases, both in a document, especially when dealing with secondary literature, and on the part of the researcher. In this sense, we tried to ensure that these disadvantages have as little impact as possible on the writing of this article.

The case study will analyse the performance of the EU both in multilateral and bilateral settings. The multilateral scenario will consist of an analysis of the performance of the EU at the NPT Review Conferences (RevCon), and the bilateral scenario will consist of an analysis of EU-India relations in this policy area. The reasons for choosing these two cases are the following ones: Firstly, the RevCon is the most important multilateral forum for nuclear non-proliferation, as it is responsible for reviewing and adapting the supreme norm of the nuclear non-proliferation regime, the NPT, to current international realities and discussing its implementation. Secondly, India advocates for its integration into the existing nuclear non-proliferation regime as a nuclear-weapon state, thus defying the fundamental norm of the regime.

The two sides of the same coin: there can't be contestation without performance

Policy contestation

The notion that EU's external action is increasingly contested has been repeatedly expressed by senior officials, as well as by academics (Johansson-Nogués, Vlaskamp, &

Barbé, 2020). For example, the perception that the EU is being challenged by a diverse set of international actors is expressed in the opening paragraph of the European Union's Global Strategy (European External Action Service, 2016, p. 10), which states that "(...) in times of existential crisis, inside and outside the European Union. Our Union is under threat. Our European project, which has brought unprecedented peace, prosperity and democracy, is being challenged". Academic analyses, for their part, indicate that this contestation derives from a series of diverse but interrelated global and intra-community crises which, combined, amount to the current situation affecting the EU and its foreign, security and defence policy (Barbé & Morillas, 2019; Dinan, Paterson, & Nugent, 2017; Johansson-Nogués, 2018; Müller, 2016; Rosamond, 2019; Youngs, 2018).

With regard to nuclear non-proliferation, the contestation from third parties is focused on the dynamics of an eroding Western-led liberal world order (Acharya, 2017; Buzan & Lawson, 2015; Ikenberry, 2013). A growing number of large and small states are competing for greater freedom in order to implement their own principles and approaches to nuclear energy. In this sense, both emerging (e.g. China, Russia) and revisionist powers (e.g. Donald Trump's United States) have been at the forefront of the process of modifying and eroding existing norms on nuclear non-proliferation over the last decade. To this group of countries can also be added those that do not possess nuclear weapons, which have tried to develop new normative-legal frameworks outside the regime framework (e.g. the Humanitarian Initiative and the 2017 Nuclear Weapons Ban Treaty). However, it is precisely the United States, the very architect of the current global non-proliferation regime, that has apparently joined the ranks of the challengers by withdrawing from multilateral arms control agreements or commitments to finance the main non-proliferation bodies. This, according to some observers, can be directly attributed to United States President Donald Trump's "America-first" policy (Johansson-Nogués et al., 2020), while others see the current challenge as the culmination of the United States long-standing ambivalence towards multilateralism (Newman, Thakur, & Tirman, 2006). As a result, the EU finds itself increasingly alone as the self-proclaimed protector of a rules-based nuclear non-proliferation order and its institutions (Council of the European Union, 2019). In the view of former High Representative for Foreign Affairs and Security Policy, Federica Mogherini,

The fundamental rules of international relations are being systematically questioned [...]. Too many leaders only speak the language of power politics and confrontation. International law and multilateral agreements are increasingly perceived as an obstacle for the powerful rather than a guarantee for all. (European External Action Service, 2019)

In this regard, it is important to emphasize the fact that the dynamics described above are not new, but are part of a broader and older process of contesting certain principles and norms that have governed contemporary international relations for decades (Johansson-Nogués et al., 2020). The novelty of the current situation is that the actors who challenge the international order are new, whether they act alone or join those who have been doing so for a long time (Johansson-Nogués et al., 2020).

The contestation of norms, in turn, is a social practice by which the actors express in discursive or practical terms their disapproval of such norms and the actions that match them. Inherent in the process of contesting norms is the idea that norms are challenged, reinterpreted and transformed; and as a consequence, the validity of the norms is

weakened or reinforced (Badescu & Weiss, 2010; Deitelhoff & Zimmermann, 2013; Krook & True, 2012; Wiener, 2012). Norms are not eternal nor immutable, but are subject to interpretation and change in meaning, triggered by both intrinsic and extrinsic factors. Disputes over normative meaning are the driving force behind the dynamics of norms. They are triggered by actors committed to the preservation of the *status quo*, regime reform or revolution. Whether the contestation leads to normative progress, or to blockage or even decline, ultimately depends on three factors: the commitment of powerful parties to appreciate the concerns of the majority, the work of bridge builders to reach compromises, and the building of mutual benefits from compliance by all (Müller & Wunderlich, 2018). If accompanied by a spirit of understanding and compromise, a positive normative dynamic emerges. But when the contestation to norms generates an antagonistic feedback loop that drives parties further apart, the norm is shattered; flagrant non-compliance could then lead to an inadequate response, parties' resort to unilateralism and seek progress outside the established normative procedures. This can lead to the erosion of norms or even the collapse of multilateral regimes. Such processes can arise when emotional claims for justice guide either party and make engagement difficult. When antagonistic opposition coalitions clash over time, preventing any adaptation of the system of norms to changing circumstances, a norm will seem increasingly ineffective and regime members may lose interest in compliance. The EU may choose to accommodate contestants' concerns about particular norms or entrench itself in the *status quo* (Barbé, Costa, & Kissack, 2016; Ikenberry, 2011), which will affect the legitimacy of the norms and the EU's external action in the long term.

This review of the main theoretical assumptions of contestation theory reveals its limits: Studying contestation alone would allow us to know in what way the EU is being contested in the non-proliferation regime however, it does not allow us to understand why it is being contested. In this sense, we consider it pertinent to introduce analytical concepts from other theoretical perspective.

Policy performance

The concept of performance

Performance is a concept that links EU action or inaction to the effects caused by that action or inaction. It may be defined as the process by which established goals are achieved, characterized in turn as effort, efficiency and skill in implementation. This concept is linked to the broader crisis of legitimacy of the EU and the contestation of its foreign policy. In this respect, performance theory states that good performance is a condition for calming contestation and makes it more unlikely.

The concept of performance does not refer solely to the achievement of agreed objectives. It is deepened by considering the underlying, intra-organizational, and agreed-upon processes. It implicitly assesses the content of those objectives and addresses issues related to how they are defined. In this regard, an organization can meet the agreed objectives, even when its overall performance is not very impressive. This may be an indication of low levels of success of the organization, lack of ambition or simply an awareness of internal and external constraints that prevent the organization from meeting the objectives. Similarly, positive performance in terms of activation and commitment may not be considered effective because the original goals were too

ambitious and difficult to achieve in the first place or were incompatible with the organization's scarce resources and ability to meet them (Gutner & Thompson, 2010, pp. 231–232). The performance of International Organizations (IOs) in general is extremely prone to the eye of the beholder problem, in the sense that evaluation depends largely on the evaluator (Gutner & Thompson, 2010, pp. 233–234). Since IOs often have multiple functions and broad mandates that do not provide specific evaluation criteria, the core members differ in what they consider a success or a failure. It may even be the case that a poorly functioning IO is convenient for some stakeholders for fear of exclusion without fully adhering to guiding principles (Lipson, 2010). The same differentiation with regard to performance applies to members and non-members of an IO. This is again due to different perceptions or simply due to the awareness of insiders of the difficulties in overcoming recalcitrant members and improving the performance of IOs. Both dimensions are relevant in the case of the EU: the heterogeneity of the stakeholders (i.e. the Member States) ensures internal differentiation in the assessment of its achievement of objectives and its international performance. At the same time, there is widespread contestation of the EU's engagement in international affairs from outside as a result of difficulties such as the intersection of the EU in multilateral orders (Laatikainen & Smith, 2006, pp. 19–22).

Factors that condition EU's performance

The literature on performance analyses EU action at three levels: internal, medium and external (Underdal, 2002, p. 6). At the internal level, the performance perspective is basically related to the intra-EU policy formation process, focusing on the results of the internal political and institutional dynamics that delimit the EU's international engagement. Secondly, at the medium level, the performance perspective shifts attention towards the implementation of outputs and adjustment of behaviour derived from the EU. It refers to the international activation of the EU along objectives and/or rules, and captures how the EU brings these to the international level. Third, at the external level, the impact perspective assesses performance on the basis of the outcome of the EU's international performance, and it is on the basis of that outcome, or in the absence of it, that the contestation occurs. The international performance of the EU at the three levels depends on three parameters: the homogeneity of preferences of Member States; the internal and external competition of the EU; and the negotiating context in which the interactions take place (Van Schaik, 2013). These three parameters will be presented now in more detail.

The homogeneity of preferences among Member States is a pervasive issue in any coordination scheme. In an intergovernmental line of thought, Member States try to charge their policy preferences to the process of outcome formation. It is therefore not surprising that the international performance of the EU is subject to the degree of heterogeneity of preferences among EU Member States. When the cohesion of preferences is low, we must expect delayed, blunt and meaningless results or no results at all; internal rifts that are impossible to overcome create inaction or produce results that undermine the EU's performance (Blavoukos, 2015; da Conceição-Heldt & Meunier, 2014).

Internal competition is mainly related to the intra-EU institutional *modus operandi* and is therefore more directly associated with product performance. The degree of political fragmentation and the set of rules that define the mode of policy-making between

and within the executive poles have a strong effect on the ability of an actor to adopt and embrace positions that deviate from the *status quo* (Tsebelis, 2002). In contrast, majority voting does not provide sufficient security for national preferences (Kerremans, 1998, p. 88). Thus, the EU's fragmented system of policy making and the restrictive decision-making rules in most of the thematic areas affecting the EU's international dimension create an unfavourable internal institutional environment. Moreover, once an outcome emerges as an end product of the long and painful internal process, it is often blocked, limiting the EU's negotiating flexibility and thus negatively affecting the results (Laatikainen & Smith, 2006, pp. 19–22). External competence refers to the EU's international *modus operandi*, which comprises the institutional and legal provisions that condition the EU's international activity, as well as the means available for that purpose. There is a positive association of external competence, in that the more means available and the more functional the arrangements, the better the EU is expected to work and perceived to be.

Finally, two interrelated aspects condition the performance of the EU's international involvement: firstly, the EU's negotiating power and secondly, the role of other international actors. For the EU, limited negotiating capacity can undermine the effectiveness and efficiency of EU's outreach (Jørgensen, 2009, pp. 203–207). The EU's bargaining power depends on its structural assets and institutional characteristics.

As a conclusion to this section, let's highlight those concepts reviewed above that will be used throughout our case study. Regarding contestation, we will emphasize the fact that it does not necessarily have a destructive end but that as a series of norms are challenged, these are reinterpreted and transformed through time. In this respect, our analysis will focus on whether the EU accommodates the concerns of the norm challengers or takes a position of preserving the *status quo*, which will ultimately affect the legitimacy of the norm and the EU external action in this policy area. Regarding performance, we will also adopt a three-level analysis focusing on the homogeneity/heterogeneity of Member States' preferences; the EU's external competence in this policy area; and the negotiating context in which interactions occur.

Contestation to the EU nuclear non-proliferation policy in a multilateral setting, the case of the RevCon

For the EU, the RevCons are a challenge (Dee, 2014). In terms of external competencies, the EU can't act on behalf of its Member States in this policy area, nor is the EU itself a member of the NPT. Furthermore, the EU is composed of one Nuclear Weapon State (NWS) (i.e. France), and several Non-Nuclear Weapon States (NNWS), each of which has sovereign nuclear interests, many of which are very divergent, emphasizing the heterogeneity of preferences inside the EU. Therefore, while EU Member States, since the 1995 RevCon, have entered each conference with a common position in force and with a common representation during the negotiations, they also participate in the negotiations in their national capacity (Dee, 2014). In this respect, it does not seem very logical *a priori* to examine the contestation of the EU in a forum where it has virtually no role to play. Nevertheless, the EU has made constant efforts to act as a unified actor in the RevCons; presenting EU working papers, promoting EU positions with third parties and speaking as the EU during plenary sessions and in the main committees. As a

consequence, this forces us to analyse what are the main factors that condition EU's contestation in this forum.

Factors leading to contestation at the RevCons

The primacy of state interests

The renationalization of disarmament and non-proliferation policies has been illustrated by the growing divisions in Europe and the many disputes between European states for and against widespread nuclear disarmament. While views may have converged somewhat over the past 40 years, European countries have not yet developed a truly joint approach that would allow them to speak and act with a single voice. A comment made by Christophe Carle in 1994 is still relevant today: "The harmonisation of the respective attitudes of the Twelve towards non-proliferation seems more accidental than deliberate, and will have been the result of international developments and changes outside the Union rather than specific efforts to develop a joint approach" (ibid, p. 9). The little effort made by Europeans to work together seems to justify such an interpretation. In recent years, the policies of the various Member States have once again fallen into the traditional habit of favouring solidarity with countries outside Europe. Thus, France and the United Kingdom have often preferred the preparation of positions between the nuclear powers in the so-called "P-5" format, while countries with an anti-nuclear tradition, such as Ireland, Sweden and Austria, have participated actively in the New Agenda Coalition and in the Humanitarian Initiative together with the non-aligned countries.

The problem of the common denominator

The EU's practice of negotiating with each other and submitting a collective statement has counterproductive consequences. Most of the initial EU submissions are at the lowest common denominator, as within the EU, the interests of NWS and NNWS are significantly different; for instance, France considers that maintaining a credible nuclear deterrence for the near future is indispensable and is an intrinsic part of its national defence strategy (Presidency of the French Republic, 2008) and so further armament reductions are not an option. This position is partially supported by countries such as Belgium, Italy, Germany and the Netherlands as they host US tactical nuclear weapons as part of NATO's extended deterrence mission, and therefore show some interest in nuclear deterrence as a defence mechanism. However, for example, Germany and the Netherlands are part of the Non-Proliferation and Disarmament Initiative, showing that despite advocating some application of nuclear deterrence for defensive purposes, the way forward is to negotiate a way to strengthen nuclear disarmament efforts and the safeguards governing nuclear activities and the NPT regime. At the other end of the scale, we have countries such as Ireland, Austria and Sweden that have openly advocated against nuclear deterrence and in favour of extensive arms reductions and widespread nuclear disarmament. Therefore, even though there may be a general consensus on nuclear non-proliferation *per se*, it is quite difficult for EU states to reach more substantive conclusions or positions on other pressing issues of the non-proliferation regime on the basis of this difference in positionings. This deprives the initial phase of a meeting of the most creative and constructive ideas of European countries.

Since these early discussions, in which ideas and assessments are aired, European input is effectively diminished in front of third parties. Consequently, the EU confines itself to a common line, sometimes fiercely negotiated in advance, erasing differences that are too visible and respecting peculiarities, but this is not perceived to constitute a common policy in the true sense (Grand, 2000).

The issue of disarmament

Nuclear disarmament remains the most problematic issue. Today, the positions of the various European states on this subject still seem irreconcilable. The EU includes traditionally militant countries that are in favour of nuclear disarmament and nuclear countries that show little willingness to disarm themselves. The disagreement over NPT's Article VI, however, demonstrates a deep-seated problem for the EU's policy on non-proliferation and disarmament. For the most pro-disarmament member states, showing a national profile could be of such high value that they might insist on positions that are difficult to achieve consensus and show little realism (Fischer & Müller, 1991, p. 32). Similarly, nuclear countries have no intention of letting their policy be dictated to them by the demands of activists in the name of European solidarity. Ultimately, this divergence reflects the lack of a common understanding of the role of nuclear weapons in the post-Cold War world and whether or not complete nuclear disarmament is a worthy goal (Fischer & Müller, 1991, p. 44; Kmentt, 2013).

Contestation to the EU in the RevCons

Once revised the main factors that condition the contestation to the EU at the RevCons, and in order to better understand their practical implications, we will proceed to review and analyse the actions and positions of the EU at different RevCons.

In July 1994 the European Council adopted the first EU Joint Action to "strengthen the international nuclear non-proliferation regime" and to "contribute to the success of the Review Conference" (Council of the European Union, 1994). Since then, the EU has entered each RevCon with a common position in which its Member States pursue shared principles and objectives. Although the EU's negotiating objectives have increased in breadth since then, this has not always translated into an increase in substance. The analysis of the EU common positions reflects that the EU negotiating mandate at each RevCon has been predominantly oriented towards the *status quo* on the issue of nuclear disarmament, despite normative contestation by NNWS, and has shown only marginal progress on certain aspects of non-proliferation and nuclear energy. So, based on this fact, the EU has been unable to accommodate the position of many NNWS regarding nuclear disarmament; instead, the EU position reflects just that it is a strong supporter of the multilateral process and an avid advocate of the NPT, but that it is notable for its ambiguity. The EU's common positions have subsequently been contested by the rest of the parties to the NPT, and particularly NNWS, arguing these were too universal in their policy objectives (Dee, 2014), too low in the common denominator (Müller, 2005) and, due to the interests of its own NWS, somewhat reticent in particular on the issue of nuclear disarmament (Acheson, 2011). This position has serious consequences for the way the EU is seen by third parties in the nuclear non-proliferation regime. The ambiguous position of the EU risks being submerged by other

more prominent and ambitious objectives pursued more aggressively by groups that are dedicated to achieve specific outcomes and have very fixed views on what a successful outcome should look like. As a result, the outcome of the EU in approaching the RevCon has been systematically contested by other states (Dee, 2015; Müller, 2010).

Another reason why the EU's activity at the RevCon is being contested is the fact that EU Member States supplement EU declarations and working papers with their own submissions, either together with other negotiating groupings or as individual states parties, showing the lack of full external competence of the EU in this forum as well as the heterogeneity of preferences of its Member States. While EU Member States consider this just to be complementary to the EU's common position (Dee, 2015), it nevertheless provides a complex dimension to the EU as a negotiator that often distracts attention from it and thus reduces its visibility in the negotiations. For the EU, its lack of external competence raises even more questions as to whether the EU is a negotiating bloc within the RevCon or not. The challenge of cross-alignment of Member States in other negotiating groups, together with the fact that the EU's negotiating position is often very ambiguous on key issues, has meant that EU representatives have often been excluded from the more secretive "Friends of the Chair" negotiations, which take place in the last week in order to reach agreement on a Final Document. Prominent examples of this include the 2000 RevCon where the participation of Ireland and Sweden in the New Agenda Coalition, along with the UK and France as NWS, meant that the Portuguese EU Council Presidency was side-lined in the last week of negotiations as discussions between the New Agenda Coalition and NWS on the issue of nuclear disarmament dominated the proceedings (Dee, 2012). In 2005, divisions among EU Member States over the RevCon agenda and other procedural issues resulted in the Luxembourg Council Presidency being once again left out of the room during the "Friends of the Chair" negotiations (Müller, 2005; Potter, 2005).

As noted above, the ambiguity of the EU common position in the RevCon has made the EU's assessment of the final product under the NPT controversial (Underdal, 1983). The EU's performance in the RevCon since 1995 can be seen primarily as that of an unconditional supporter of the regime, portraying the image of an *status quo* power. In defending the multilateral nuclear non-proliferation regime, the EU has in fact been less decisive in pushing that regime forward or in finding policy solutions in the framework of the RevCon that could further strengthen it, meaning that has been unable to accommodate the concerns of the main norm challengers. For example, the developing world continues to resist multilateral approaches to the nuclear fuel cycle, as well as export controls on sensitive materials. On the other hand, others have gone so far as to suggest that the EU's presence in the negotiations has sometimes had a negative effect, blunting the more ambitious and vocal positions of its members through their attempts to maintain their single voice and subsequently hampering the wider debate on the NPT (Dee, 2015; Müller, 2010). This is an exemplification of the EU's own negotiating position, which is characterized by limited ambitions, always supporting the preservation of the nuclear non-proliferation regime rather than guiding, transforming and updating it, presenting itself in front of potential norm challengers as an *status quo* power. This generates a lack of rapport between the EU and the NPT community (both NWS and NNWS), which considerably increases EU's contestation as a non-proliferation actor.

In order to conclude this section, we can confirm that the contestation to the EU stems from four factors defined in our theoretical section: its external competence in the RevCon, its negotiating position, the heterogeneity of preferences of its Member States, and its inability to accommodate challenging positions. Starting with the first one, given the impossibility of extending its rules at the RevCon, the EU has focused its role on being a supporter of the system that makes EU Member States operate beyond the EU to pursue their strongest national objectives, weakening the EU's relevance as a negotiator, limiting its scope and consequently impacting on the EU's performance and contestation by members of the NPT community. Other main challenges facing the EU in this forum is the limitations of its own negotiating position, which limits it to always being in favour of preserving the system but never promoting its change or updating it, which portrays it as a *status quo* power. It has been also shown that the heterogeneity of preferences of Member States has limited the EU's ambition in this forum, with the EU's common position deliberately ambiguous and driven by an effort to find a consensus between widely divided sovereign interests.

Contestation of the EU nuclear non-proliferation policy in a bilateral setting, the non-proliferation clause and India

At the bilateral level, the most important progress made by the EU in this policy area has been the drafting and inclusion of the non-proliferation clause in agreements with third states. The non-proliferation clause was developed as part of a comprehensive reform of the EU's efforts to promote the non-proliferation of weapons of mass destruction (WMD) and their means of delivery. By including the non-proliferation clause in agreements with third parties, it is possible to condition elements of the European Commission agenda on the fulfilment or achievement of objectives in the field of non-proliferation. However, the overall results are varied. While a few major countries have signed agreements with the EU that include the non-proliferation clause, such as Indonesia or South Korea, others have not. The case of India is quite particular, the Asian country advocates for its integration into the existing nuclear non-proliferation regime as an NWS, thus defying the fundamental norm of the regime, the NPT. In essence, the EU faces a dilemma between adherence to established non-proliferation norms and the need to integrate an emerging nuclear power into existing multilateral structures.

Formal relations between the EU and India have progressed very slowly. For instance, today's relations between the two continue to be governed by the 1994 Cooperation Agreement between the European Community and the Republic of India on Partnership and Development. Since 2000, the EU has sought to advance the relationship with regular annual EU-India Summits, where the two sides exchange views at the highest level on a range of issues of mutual interest, including non-proliferation. At the EU-India Summit in The Hague in 2004, the EU-India Strategic Partnership was launched with the aim of enhancing existing trade relations with a more explicit political dimension in the field of peace and security. The following year, both sides adopted the so-called Joint Action Plan to launch the Strategic Partnership. However, the tangible results in the field of international security have been rather modest. One notable failure is India's refusal to negotiate a formal bilateral political agreement with the EU, including a conditionality clause on non-proliferation.

Inevitably, the question of the inclusion of the non-proliferation clause and the use of conditionality to persuade India to accede to major nuclear arms control agreements has been a subject of considerable debate. India has nuclear weapons but is not a party to the NPT and is also one of the nine remaining states that must ratify the 1996 Comprehensive Nuclear-Test-Ban Treaty (CTBT) for it to enter into force. In addition, India's stated positions on aspects of the international non-proliferation regime, its proliferation record, its likely limited ability to enforce export controls on nuclear materials and technologies, along with its 2005 agreement with the United States on civil nuclear cooperation and its special exemption from Nuclear Suppliers Group (NSG) rules, make it a controversial case from the point of view of non-proliferation (Anthony & Bauer, 2009; Anthony, Fedchenko, & Ahlström, 2007) since it is not *a priori* a state that is part of the non-proliferation regime, but is *de facto* part of several of the informal agreements or mechanisms of the nuclear non-proliferation regime.

On the basis of a request from India, the EU Council authorized the European Commission in 2007 to negotiate a free trade agreement (FTA) (Grip, 2009). The June 2009 progress report on the implementation of the Non-Proliferation Strategy (Council of the European Union, 2009) confirmed that it would not include the clause. The EU's idea was to create legal links between an FTA and the renewed framework agreement, so that failure to comply with the essential elements of the framework agreement could ultimately lead to the suspension of the FTA. However, India completely rejected this approach. This led to speculation that the EU, in the interests of trade, was going to abandon the normative principle that all new agreements with third countries should be linked to non-proliferation commitments. Annalisa Giannella, former Personal Representative on Non-Proliferation of Weapons of Mass Destruction to the EU High Representative, publicly stated that allowing the non-proliferation clause to be dropped, as requested by some Member States in the Council, would create a "terrible double standard" and that "if we were to take a different approach to India from the one we took with other countries, I think we would abandon the idea of having a non-proliferation clause altogether" (Grain, 2007). This position was finally ignored, causing the EU to give up any discussion of including its non-proliferation clause in a bilateral agreement with India. In the face of India's categorical rejection of any political conditionality clause, the EU member states and the European Commission refrained from pushing for a comprehensive partnership and cooperation agreement that would legally require the non-proliferation clause and decided that the negotiation of the FTA would not include the clause. This approach has recently been reaffirmed with the publication of the 2018 EU – India Strategy (European Commission, 2018).

There are several explanations in order to understand India's contestation and refusal to adopt the EU's non-proliferation clause. One of them is that the EU's firm commitment to the nuclear non-proliferation regime is not shared by India in many respects. Apart from its membership to the International Atomic Energy Agency (IAEA), India has not joined any of the institutions or agreements that are generally considered to be part of the regime. Another issue is the fact that the cumbersome security interaction between India and the EU is a reflection of the perceived mismatch between two very different actors, with very different interests. In Indian policy circles, the visibility of the EU as an international actor is generally low (Jain & Pandey, 2010). The EU is seen as a trading bloc without a meaningful foreign and security policy of its own.

The EU's soft power approach to international affairs is also perceived by India as a way of preserving the *status quo* in the regime (Kienzle, 2015). Moreover, the EU's relationship with India's Asian rival, China, has led to New Delhi's discontent (Allen, 2013). Even more important from the perspective of the non-proliferation regime are the different views India and the EU have on multilateralism and its future. Like other rising powers, India emphasizes the need for greater representation and therefore greater power in the main international institutions, while the EU is more concerned with the well-functioning of those institutions, which often results in the preservation of the institution instead of adapting it to the new international realities. Another key issue is the NPT; since the treaty is very specific with regard to which states can be recognized as NWS, India is likely to never join (Fidler & Ganguly, 2010). At the same time, India's unilateral nuclear disarmament to join the NPT is equally unlikely (Nayan, 2010).

From a European perspective, India's strategy of selective inclusion in the non-proliferation regime is highly problematic. India is eager to join export control groups, where it can expect significant economic gains, but is much more cautious about joining other agreements, such as the CTBT, which imposes political conditionality. This has led to lengthy discussions between EU Member States that are generally in favour of India's strategy and those that are largely opposed to it. Supporters of India, such as France and the UK, emphasize the growing power of New Delhi (Kienzle, 2015). India's political, economic and cultural weight has made it a relevant international actor that is increasingly difficult to ignore (Narlikar, 2011). Unlike other rising powers, India has never been part of the non-proliferation regime and has means at its disposal that make it difficult for the regime to function properly, as evidenced by its nuclear tests in 1974 and 1998. Supporters can also point to India's own arguments that this is an exceptional case compared to other NWS that are not part of the nuclear non-proliferation regime. In addition to being a rising power, India is an established democracy with a consistent record of control over its nuclear facilities, material and technology. In other words, it has behaved as a regular member of the regime. Sceptical states, such as Austria or Ireland, highlight the fact that it is not possible to integrate India into the nuclear non-proliferation regime without violating the NPT (Kienzle, 2015). Including India in the key elements of the non-proliferation regime without renouncing to its nuclear arsenal may encourage NNWS to develop their own nuclear weapons programmes, as they can expect, over time, the acceptance of their status as nuclear powers by other states.

The problem for the EU as a whole is that there is no possible common position that will solve the problem of India's integration into the nuclear non-proliferation regime. So, the EU faces two difficult choices. On the one hand, if India remains outside the regime, the effectiveness of the nuclear non-proliferation regime may be compromised by the exclusion of a key actor. Especially in the long term, India may conclude that it is no longer necessary to play by the rules of a regime from which it is continually excluded. On the other hand, if India becomes integrated, the basic compensation of the regime may become unbalanced with other unpredictable consequences. In other words, the EU faces a dilemma in the implementation of its nuclear non-proliferation policy in general between strict adherence to the non-proliferation norms and the need to integrate an emerging power into multilateral structures, but ignoring its own rules and norms. While recent developments may look like Brussels has chosen the

second option, India's *de jure* integration in the non-proliferation regime is not on the EU's agenda. It is more plausible to assume, on the basis of the 2018 strategy for India and the 2020 European Atomic Energy Community (EURATOM)-India agreement for research and development cooperation in the peaceful use of nuclear energy, that the EU has decided that it is better to approach non-proliferation affairs in future discussions with New Delhi through other means that don't involve political conditionality.

Conclusions

More than forty years of Europeanisation of nuclear non-proliferation have produced limited results that have been widely contested. In this regard, there are three main factors that foster contestation to the EU in the field of nuclear non-proliferation: The first one is EU Member States and their heterogeneity of preferences. For instance, at the RevCons it is often possible to identify points of friction between them. Inadequate preparation not only leads to European disunity during the conference, but also prevents the EU from playing a role. The fact that the preparation of international conferences is too often limited to the laborious drafting of a common declaration makes it difficult for Europe to influence these negotiations. Until the differences between NWS and NNWS within the EU are resolved, the EU's position as a non-proliferation actor will be contested.

The second parameter is EU's external competence. The EU does not have *de jure* a mandate to act or negotiate on behalf of its Member States in the RevCons, where individual Member States preserve their autonomous presence and express their own positions, and often actively participate in alternative formations outside the EU, such as the New Agenda Coalition or the Vienna Group.

The third parameter is the negotiating context in which the EU seeks an international role, which directly affects its negotiating power. An example of this is the lack of progress and understanding with India, which systematically rejected any inclusion of political conditionality linked to its nuclear programme, which also confirms the importance of the negotiating power and negotiating context in which the EU operates, and is an evidence of contestation by not accepting the norms that the EU seeks to impose or expand on nuclear non-proliferation.

Based on this assessment, and by way of policy recommendations, internal consistency of the EU needs to improve. The level of concreteness and coherence of the Member States and the Union is hampered by the conflicting or non-complementary views on substantive issues on the nuclear non-proliferation agenda. In this regard, and as a first step, it would be appropriate to create a unified and comprehensive framework for common action. This would consist of a series of pre-agreed and institutionalized actions and/or positions for immediate intervention by EU authorities, and would look to replace the long processes of negotiating positions, declarations and joint actions.

Furthermore, the EU must better link its strategic, operational and capability needs in the field of nuclear non-proliferation. In this sense, the EU has begun a process known as strategic compass which seeks to provide an improved political-strategic direction for the EU's security and defence, with a special focus on crisis management; promoting the partners' capabilities; and protecting the EU and its citizens (European External Action Service, 2020). Regarding the second point, nuclear non-proliferation should

be discussed in the framework of the EU's on-going strategic compass process. In this regard, in order to guarantee its own security, the EU should address its international partners in this policy area according to their strategic needs instead of focusing on political conditionality.

Ultimately, Europe's prospects in the fight against nuclear proliferation will remain limited and contested as long as European divergences on the future of nuclear weapons are so blatant. It will be necessary to bring European concepts sufficiently close together. This imperative is related with EU's challenge of revitalizing the nuclear non-proliferation regime in order to prevent it from being contested by both NWS and NNWS. In this context of great uncertainty, Europeans seem to be the only ones who want to safeguard the non-proliferation regime and its logic, but this preservation must be done in a way that advances the normative objectives of the regime. If not, the EU will continue to be contested and described as a *status quo* power.

Lastly, this research paper and this Special Issue, have sought to shed light on the diversity of causes, modes and effects of contestation in EU foreign policy. This article in short has answered one of the research questions set out in this Special Issue, being these: How is the EU's foreign policy challenged, from the outside and why do we see a major challenge in this political area? We have been able to observe throughout this article that the contestation to the EU's nuclear non-proliferation policy is the result of its actions and positions in both in multilateral forums as well as in bilateral relations with other nuclear powers. The contestation is evidenced either by ignoring the presence and positions of the EU, or even criticizing them openly, by third party actors, as is the case with the NWS and NNWS in the RevCon, or by a blunt and continuous rejection of the norms that the EU itself is trying to expand, as is the case with India. We hope that the conclusions of this article will help to advance research on contestation to the EU's foreign policy and its relation with EU's policy formulation processes as well as its activity in the international system.

Acknowledgments

I would like to thank the guidance received from Dr. Inês Marques Ribeiro, Dr. Pedro Seabra and Dr. Luis Nuno Rodrigues during the preparation of this article. I would also like to thank Franziska Petri, Elodie Thevenin and Lina Liedlbauer for organizing this special issue, and to the peer reviewers of the Global Affairs journal for their helpful suggestions. This article is based upon work from COST Action ENTER CA 17119, supported by COST (European Cooperation in Science and Technology).

Disclosure statement

No potential conflict of interest was reported by the author(s).

Notes on contributor

Manuel Herrera is a PhD candidate at the Universidad Rey Juan Carlos of Madrid and Integrated Non-Doctorate Researcher at the Instituto Universitário de Lisboa (ISCTE-IUL), Centro de Estudos Internacionais

References

- Acharya, A. (2017). After liberal hegemony: The advent of a multiplex world order. *Ethics & International Affairs*, 31(3), 271–285.
- Acheson, R. (2011). *Latest news from RCW*. Received June 7, 2020, from <https://www.reachingcriticalwill.org/news/latest-news/463-march-2011>
- Allen, D. (2013). The EU and India: Strategic partners but not a strategic partnership. In T. Christiansen, E. Kirchner, & P. B. Murray (Eds.), *The Palgrave handbook of EU–Asia relations* (pp. 571–586). Basingstoke: Palgrave Macmillan.
- Anthony, I., & Bauer, S. (2009). Controls on security related international transfers. In *SIPRI Yearbook 2009: Armaments, disarmament and international security* (pp. 467–471). Oxford: Oxford University Press.
- Anthony, I., Fedchenko, V., & Ahlström, C. (2007). *Reforming Nuclear Export Controls: The Future of the Nuclear Suppliers Group* (SIPRI Research Report no.22). Oxford: Oxford University Press.
- Badescu, C. G., & Weiss, T. G. (2010). Misrepresenting R2P and advancing norms: An alternative spiral? *International Studies Perspectives*, 11(4), 354–374.
- Barbé, E., Costa, O., & Kissack, R. (2016). *EU policy responses to a shifting multilateral system*. London, United Kingdom: Palgrave Macmillan.
- Barbé, E., & Morillas, P. (2019). The EU global strategy: The dynamics of a more politicized and politically integrated foreign policy. *Cambridge Review of International Affairs*, 32(6), 753–770.
- Blavoukos, S. (2015). Capturing the EU's international performance. In S. Blavoukos, D. Bourantonis, & C. Portela (Eds.), *The EU and the non-proliferation of nuclear weapons* (pp. 12–33). Basingstoke: Palgrave Macmillan.
- Buzan, B., & Lawson, G. (2015). *The global transformation: History, modernity and the making of international relations*. Cambridge: Cambridge University Press.
- Carle, C. (1994). L'Europe et la non-prolifération nucléaire. Institut français des relations internationales (IFRI).
- Council of the European Union, Annual Progress Report on the implementation of the European Union Strategy against the proliferation of weapons of mass destruction (2019/C 202/01), 14 June 2019.
- Council of the European Union, Council Decision, (94/509/CFSP, OJ: L 205/ 1), 25 July 1994.
- Council of the European Union, Six-monthly Progress Report on the implementation of the EU Strategy against the proliferation of Weapons of Mass Destruction (2009/I), (8240/09 PESC 428), June 2009.
- da Conceição-Heldt, E., & Meunier, S. (2014). Speaking with a single voice: Internal cohesiveness and external effectiveness of the EU in global governance. *Journal of European Public Policy*, 21(7), 961–979.
- Dee, M. (2012). Standing together or doing the splits? Evaluating European Union performance in the nuclear non-proliferation treaty review negotiations. *European Foreign Affairs Review*, 17(2), 187–210.
- Dee, M. (2014). Explaining EU performance in the NPT review conferences: Limited ambitions but pragmatic positioning. *UNISCI Discussion Papers*, 0(30), 11–26.
- Dee, M. (2015). The European Union and its performance in the NPT negotiations: Consistency, change and challenges. In S. Blavoukos, D. Bourantonis, & C. Portela (Eds.), *The EU and the non-proliferation of nuclear weapon: Strategies, policies, actions* (pp. 77–94). Basingstoke: Palgrave Macmillan.
- Deitelhoff, N., & Zimmermann, L. (2013). Things we lost in the fire: How different types of contestation affect the validity of international norms. *PRIF Working Papers*, pp. 1–18.
- Dinan, D., Paterson, W. E., & Nugent, N. (2017). *The European Union in crisis*. London: Macmillan Education.
- European Commission. (2018). *EU India Strategy*. pp. 3–21.
- European External Action Service. (2016). *Shared vision, common action: A stronger Europe: A global strategy for the European Union's Foreign and Security Policy*. pp. 1–60.

- European External Action Service. (2019). *Speech on rethinking Europe by high representative/vice-president Federica Mogherini at the celebrations for Helmut Schmidt's 100th anniversary of birth*. Retrieved June 6, 2020, from https://eeas.europa.eu/delegations/libya/58598/speech-rethinking-europe-high-representativevice-president-federica-mogherini-celebrations_en
- European External Action Service. (2020). *Europe security and defence: The way forward*. EEAS - European External Action Service - European Commission. Retrieved December 19, from https://eeas.europa.eu/headquarters/headquarters-homepage/81247/europe-security-and-defence-way-forward_en
- Fidler, D. P., & Ganguly, S. (2010). India wants to join the non-proliferation treaty as a weapon state. *Yale Global*. Retrieved June 7, 2020, from <http://yaleglobal.yale.edu/content/india-wants-join-nonproliferationtreaty>
- Fischer, D., & Müller, H. (1991). *A treaty in trouble: Europe and the NPT after the Fourth Review Conference*. (PRIF Reports, no. 17).
- Grain. (2007). *EU aide worried by calls to drop India WMD clause*. Retrieved June 7, 2020, from <https://bilaterals.org/?eu-aide-worried-by-calls-to-drop&lang=en>
- Grand, C. (2000). The European Union and the non-proliferation of nuclear weapons. *Chaillot Paper*, pp.1–51.
- Grip, L. (2009). *The EU Non-Proliferation Clause: A Preliminary Assessment*. Solna: SIPRI Background Paper. Stockholm International Peace Research Institute.
- Gutner, T., & Thompson, A. (2010). The politics of IO performance: A framework. *The Review of International Organizations*, 5(3), 227–248.
- Ikenberry, J. (2011). The future of the liberal world order: Internationalism after America. *Foreign Affairs*, pp.56–68.
- Ikenberry, J. (2013). The liberal international order and its discontents. In P. Gottfried (Ed.), *After liberalism?* (pp. 91–102). London: Palgrave Macmillan.
- Jain, R. K., & Pandey, S. (2010). The European Union in the eyes of India. *Asia Europe Journal*, 8(2), 193–209.
- Johansson-Nogués, E. (2018). The EU's ontological (in)security: Stabilising the ENP area ... and the EU-self? *Cooperation and Conflict*, 53(4), 528–544.
- Johansson-Nogués, E., Vlaskamp, M. C., & Barbé, E. (2020). *European Union contested: Foreign policy in a new global context*. Cham, Switzerland: Springer.
- Jørgensen, K. E. (2009). The European Union in multilateral diplomacy. *The Hague Journal of Diplomacy*, 4(2), 189–209.
- Kerremans, B. (1998). The political and institutional consequences of widening: Capacity and control in an enlarged council. In P.-H. Laurent & M. Maresceau (Eds.), *The state of the European Union: Deepening and widening* (pp. 87–109). Boulder, CO: Lynne Rienner Publishers.
- Kienzle, B. (2015). Integration without quite breaking the rules: The EU and India's acceptance within the Non-Proliferation Regime. *EU Non-Proliferation and Disarmament Consortium*, pp. 1–18.
- Kmentt, A. (2013). *How Divergent Views on Nuclear Disarmament Threaten the NPT*. Arms Control Association. Retrieved August 8, 2020, from <https://www.armscontrol.org/act/2013-12/divergent-views-nuclear-disarmament-threaten-npt>
- Krook, M. L., & True, J. (2012). Rethinking the life cycles of international norms: The United Nations and the global promotion of gender equality. *European Journal of International Relations*, 18(1), 103–127.
- Laatikainen, K., & Smith, K. (2006). *European Union at the united nations: Intersecting multilateralisms*. London: Palgrave Macmillan.
- Lipson, M. (2010). Performance under ambiguity: International organization performance in UN peacekeeping. *The Review of International Organizations*, 5(3), 249–284.
- Müller, H. (2005). A treaty in troubled waters: Reflections on the failed NPT review conference. *The International Spectator*, 40(3), 33–44.
- Müller, H. (2010). The 2010 NPT review conference: Some breathing space gained, but no breakthrough. *The International Spectator*, 45(3), 5–18.

- Müller, H., & Wunderlich, C. (2018). Not lost in contestation: How norm entrepreneurs frame norm development in the nuclear non-proliferation regime. *Contemporary Security Policy*, 39(3), 341–366.
- Müller, P. (2016). EU foreign policy: No major breakthrough despite multiple crises. *Journal of European Integration*, 38(3), 359–374.
- Narlikar, A. (2011). Is India a responsible great power? *Third World Quarterly*, 32(9), 1607–1621.
- Nayan, R. (2010). The NPT and India: Accommodating the exception. *Strategic Analysis*, 34(2), 309–321.
- Newman, E., Thakur, R. C., & Tirman, J. (2006). *Multilateralism under challenge? Power, international order, and structural change*. Tokyo: United Nations University Press.
- Potter, W. C. (2005). The NPT review conference: 188 states in search of consensus. *The International Spectator*, 40(3), 19–31.
- Presidency of the French Republic. (2008). *The French White Paper on defence and national security*. pp. 1–48.
- Rosamond, B. (2019). Brexit and the politics of UK growth models. *New Political Economy*, 24(3), 408–421.
- Tsebelis, G. (2002). *Veto players: How political institutions work*. New York: Russell Sage Foundation.
- Underdal, A. (1983). Causes of negotiation ‘failure’. *European Journal of Political Research*, 11(2), 183–195.
- Underdal, A. (2002). One question, two answers. In E. Miles, A. Underdal, S. Andresen, J. Wettestad, J. Skjaereth, & E. Carlin (Eds.), *Environmental regime: Effectiveness: Confronting theory with evidence* (pp. 1–45). Cambridge, MA: MIT Press.
- Van Schaik, L. G. (2013). *EU effectiveness and unity in multilateral negotiations: More than the sum of its parts?* New York: Palgrave Macmillan.
- Wiener, A. (2012). *The invisible constitution of politics: Contested norms and international encounters*. Cambridge: Cambridge University Press.
- Youngs, R. (2018). *Europe reset. New directions for the EU*. London: I.B. Tauris.