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# European security cooperation after Brexit

Unanswered questions for the UK and the EU

# About the Authors

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## Introduction and summary

Since the United Kingdom triggered Article 50 to start the process of withdrawal from the European Union, the debate in Parliament and in the media has largely focused on the impact of Brexit on trade and economic issues. However, the UK's exit could also have significant implications for future relations in the spheres of security and foreign policy. This aspect of Brexit merits greater attention by policymakers in the UK and the EU.

Since the referendum, the UK and EU have coordinated closely and remained broadly aligned on several foreign policy issues, ranging from the Iranian nuclear deal and global efforts to deal with climate change. However, future levels of cooperation cannot be taken as a given and neither the UK nor the EU has set out its position on future security and foreign policy coordination in detail.

The briefing overviews the landscape for future UK-EU relations in the spheres of police and law enforcement cooperation (chapter 1) as well as foreign policy and external security (chapter 2). It outlines the positions taken by the UK and the EU with regards to these areas, sets out what has been agreed in the current Withdrawal Agreement and Political Declaration, addresses the implications of a No Deal scenario, and points out the issues and questions that both sides will have to address in any Brexit outcome.

### **Summary**

Any form of Brexit brings a number of questions about future security and defence cooperation that London, Brussels and EU27 capitals have largely failed to address until now.

#### *Police and law enforcement cooperation*

A revised version of the Brexit deal remains a possibility given Prime Minister Boris Johnson's commitment to leave the EU by 31 October. If a Withdrawal Agreement (WA) is ratified, the UK would continue participating in **police and law enforcement** cooperation measures until the end of a transition period, during which negotiations over successor arrangements for the future would take place. There is a strong logic for both sides in maintaining high degrees of operational capacity but new arrangements will need to be found that reflect the UK's independent status outside the EU. The non-binding Political Declaration (PD) on future relations does not provide much clarity on what exactly will be negotiated, although there are many known factors, for instance the fact that some EU databases cannot currently be accessed by non-Schengen countries.

#### *Security and defence cooperation*

There have been concerns raised about the **foreign policy and defence** obligations of the UK under the WA and PD. The new Government is seeking to address these concerns with additional language emphasising the UK's sovereign independence after Brexit.<sup>1</sup> Under the current WA, the UK would be bound by the EU's foreign and defence policy decisions during the transition period, without having a formal decision-making role, but it could refuse to apply them if it judges that they go against its national interests.

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<sup>1</sup>Financial Times, 'New European Council president warns of Brexit impact on welfare', 5 September 2019: <https://www.ft.com/content/217d64f0-d014-11e9-99a4-b5ded7a7fe3f>

The deal agreed by Theresa May's Government does not legally oblige the UK to follow EU policies or to seek a close future partnership that would bind the UK to EU decisions. However, as noted in chapter 2, the PD sets out a variety of frameworks for future UK-EU cooperation. The EU appears keen to benefit from UK assets in EU-led missions. It is unclear why the UK would be attracted by such a subordinate role and therefore how this would lead to meaningful cooperation. The UK is likely to prefer the flexibility of bilateral relationships in cooperation but outside formal EU structures, where it could guarantee that its role in decision-making would be commensurate to its ability to contribute significantly in this sphere.

### *The implications of a No Deal Brexit*

As things stand, a No Deal Brexit scenario is also a possible outcome, notwithstanding Parliament's intervention and the possibility of a further extension to the Article 50 deadline.

In a No Deal outcome, there will be different practical implications in different areas. This scenario will have more significant practical effects in the sphere of policing and judicial cooperation, where EU measures have created a high level of cooperation between law enforcement authorities based on EU legal acts.

In traditional defence and foreign policy issues, the formal impact will be minimal. Cooperation within NATO (the UK's preferred defence framework) as well as bilateral intelligence sharing used, for instance, for counter-terrorism operations, would not be directly affected by Brexit, as these operations are conducted largely outside of EU frameworks.

### *The wider geopolitical context*

Any form of Brexit nevertheless raises questions for both the UK and the EU. The UK's withdrawal is happening at a moment of geopolitical change in the global environment, and so it is all the more important to consider the impact of the UK's withdrawal for the future of European geopolitics.

Following the Brexit vote, and potentially partly in response to it, the EU appears to be embarking on a course of greater integration in foreign policy. The briefing does not go into detail about the ways the UK could structure its foreign relations with non-EU actors or the concept of 'Global Britain'. However, it suggests that post-Brexit, London will need to re-assess the ways and means of achieving its foreign policy objectives, both on the European continent and in the world.

Acknowledging that the impacts of Brexit for security are wide-ranging, the briefing begins by looking at the formal implications of the UK withdrawing from EU internal security measures. It then moves on to the bigger picture questions concerning sanctions, space programmes, overseas development, cooperation on migration, and defence capabilities.

# 1. Police and law enforcement cooperation

EU integration in the area of justice and home affairs (JHA) comes in the form of various measures and agencies which provide for cooperation on internal security. They allow for the exchange of information between the police forces of EU member states, mutual extradition of criminals and joint work to prevent cross-border crime and terrorism.

Despite having secured 'opt-outs' to several EU measures, the UK has become closely integrated with the EU on police, judicial and criminal matters. It is currently part of measures and agencies such as:

- The **European Arrest Warrant (EAW)**, a measure facilitating fast-tracked surrender of criminals between member states.
- The **Schengen Information System II (SIS II)**, which gives access to real-time alerts and information on missing and wanted people and objects.
- The **Passenger Name Record (PNR)**, which gives access to information on passengers on flights to and from the EU.
- The **Prüm Convention** system, which allows access to other member states' national databases for DNA profiles, fingerprints and vehicle registration data.
- The **European Criminal Record Information System (ECRIS)**, which enables automated exchange of criminal record data.
- **Eurojust** and **Eurojust**, EU agencies which facilitate police and investigation cooperation.

As most of these measures are reserved to EU or Schengen area members, the UK will automatically leave them after it ceases to be an EU member state (it is already outside the Schengen area), either at the end of a transition period or on day one of a No Deal scenario.

This section overviews the possible new frameworks for the future relationship on police and law enforcement in the spheres of extradition, data exchange and agencies.

If a Withdrawal Agreement is ratified, negotiations on such arrangements would begin during the transition period. During this time the UK would remain part of the security measures on almost exactly the same terms as now, although these can be superseded by new arrangements before the end of the transition period if both sides agree.<sup>2</sup> Both sides have stated their willingness to reach an agreement on future arrangements which would be as close as possible to the current level of cooperation. There are millions of EU nationals in the UK, and vice versa, and a loss of information sharing about citizens would affect both sides.

Brexit is a unique situation, where both sides have a strong incentive to continue cooperation but there are also important new constraints. As described in the PD, the future relationship will need to be a "balance between rights and obligations." From the EU's perspective, this means that if the UK Government will be seeking the closest form of partnership, it must be ready for more obligations, notably a role for the jurisdiction of the European Court of Justice (ECJ), something that the UK government might find difficult to accept.

There will be a trade-off between maintaining operational capabilities and the sovereignty of the UK and EU's legal systems. How many obligations the UK is willing to accept, and whether more flexibility from the EU is possible, will be the main issue to resolve in future talks.

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<sup>2</sup>HM Government, 'Draft Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community,' 25 November 2018, Article 127(2).

An abrupt end to the UK's participation in these measures and databases would have implications, specifically for police cases reliant on a quick and efficient cross-border data exchange. Moreover, unlike in the spheres of trade or transport connectivity, where both the UK Government and the EU have put in place unilateral mitigation measures to limit the damage of No Deal, there are fewer 'fallback' measures available to make security cooperation as effective, according to law enforcement officials.<sup>3</sup>

## 1.1. Extradition

Introduced in 2004 in order to make the extradition process within the EU more efficient, the EAW allows EU member states to request the surrender of an individual from another EU country, while imposing strict time limits on the procedures. In 2016-17, 1,735 individuals were arrested in the UK on an EAW, while over 1,000 individuals have been surrendered by other EU member states to the UK, including hundreds of UK nationals.<sup>4</sup>

From a law enforcement point of view, the EAW is a valuable instrument. Former Europol chief Rob Wainwright said that withdrawing from the EAW would have an "adverse impact on [the UK's] overall security arrangements."<sup>5</sup> At the same time, the UK's participation in the EAW has been questioned on civil liberties grounds. These are combined with concerns about the independence of the British justice system. In a 2012 report for Open Europe, Dominic Raab MP, now the Foreign Secretary, noted that the UK's participation in the EAW "puts an operational strain on UK policing and increasingly sweeps up innocent British nationals without proper checks to prevent miscarriages of justice."<sup>6</sup> A few high-profile cases, such as the one of Andrew Symeou, a British citizen extradited to Greece in 2009 and detained in poor conditions before being acquitted, have illustrated the potential operational shortcomings of the EAW across 28 member states where different standards of legal procedure apply.

An alternative to the EAW system will need to be found after Brexit. According to the EU's chief Brexit negotiator Michel Barnier, the UK cannot remain in the EAW as it does not intend to accept European Court of Justice (ECJ) jurisdiction or free movement of people – conditions likely to be unacceptable to the UK.<sup>7</sup> Certain EU member states' concerns about sovereignty also mean that keeping the exact same arrangements is likely to be impossible. As soon as the UK leaves the EU, around 22 countries will be able to refuse extradition of their nationals to the UK due to constitutional hurdles on extradition to non-EU states.<sup>8</sup> Germany has already stated its intention to do so.

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<sup>3</sup>The Guardian, 'Brexit: no deal would harm UK security, senior officer warns', 7 August 2019: <https://www.theguardian.com/uk-news/2019/aug/07/no-deal-brexit-would-harm-uk-security-senior-officer-warns>

<sup>4</sup>House of Commons Home Affairs Committee, 'National Crime Agency written evidence to Home Affairs Committee inquiry into UK-EU security cooperation after Brexit (PSC009)', February 2018: <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/home-affairs-committee/home-office-delivery-of-brexit-policing-and-security-cooperation/written/78338.pdf>

<sup>5</sup>House of Commons Home Affairs Committee, 'Oral evidence: EU policing and security co-operation', 3 July 2018: <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/home-affairs-committee/eu-policing-and-security-cooperation/oral/86380.html>

<sup>6</sup>Open Europe, 'Cooperation Not Control: The Case for Britain Retaining Democratic Control over EU Crime and Policing Policy', 2012: <http://archive.openeurope.org.uk/Content/Documents/Pdfs/CooperationNotControl.pdf>

<sup>7</sup>European Commission, 'Speech by Michel Barnier at the European Union Agency for Fundamental Rights', 19 June 2018: [http://europa.eu/rapid/press-release\\_SPEECH-18-4213\\_en.htm](http://europa.eu/rapid/press-release_SPEECH-18-4213_en.htm)

<sup>8</sup>House of Lords EU Home Affairs Sub-Committee, 'Corrected oral evidence: Brexit: future EU-UK security and police co-operation', 2 November 2016, p6: <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/eu-home-affairs-subcommittee/brexit-future-ukeu-security-and-policing-cooperation/oral/42904.pdf>

In the absence of a successful agreement, the ‘fallback’ measure will be the 1957 Council of Europe Convention on Extradition, which was in place before the EAW.<sup>9</sup> The Convention does not follow the principle of mutual recognition and does not allow a time limit for extradition. The UK could also agree bilateral arrangements, though this may make the extradition procedure more complex. The UK and Irish Governments, for instance, have agreed post-Brexit extradition arrangements based on the 1957 Convention.<sup>10</sup>

<b>The extradition agreement between the EU and Norway/Iceland</b>
In 2014, a treaty was finalised between the EU and Norway and Iceland regarding the extradition of criminals. The agreement is not yet ratified but is based on the principles of the EAW with the aim to simplify the process of surrendering individuals for prosecution. The main difference is that the treaty allows all sides to refuse to extradite their own nationals, a provision which could address some criticisms and concerns over the EAW’s effects on UK citizens.

In the future, the closest arrangement the EU and UK could likely agree is an extradition treaty similar to the one the EU has agreed with Norway and Iceland. Although not yet in force, this type of treaty provides the opportunity for close collaboration, while allowing countries to refuse extradition, including on political grounds. It also establishes an independent ‘mechanism’ for supervision rather than relying on the jurisdiction of the ECJ or on the EFTA court. Ultimately, if there is a substantive divergence in interpretation of the Norway/Iceland agreement, it may be terminated with six months’ notice. Such an arrangement is likely to take some time for the UK and EU to negotiate.<sup>11</sup>

<b>Questions on future extradition arrangements</b>
<ul style="list-style-type: none"> <li>• How quickly are both sides prepared to work in order to reach new extradition arrangements to be implemented as soon as possible after the transition period/in a No Deal Brexit outcome?</li> <li>• What is the likelihood of negotiating a post-Brexit agreement similar to the one with Norway/Iceland?</li> </ul>

## 1.2. Data exchange

The UK currently has access to tools which allow law enforcement agencies to share information for their work. The swift and efficient exchange of information benefits both sides in their joint operations to combat crime. In 2017, there were 9,832 UK hits on non-UK alerts in SIS II, including terrorists, sex offenders and fugitives. Meanwhile, there were 13,103 non-UK hits on UK alerts, also including criminals and potential terrorists.<sup>12</sup>

<sup>9</sup>House of Commons Home Affairs Committee, ‘Oral evidence: Government Preparations for Brexit: Border and Security Operations’, 30 October 2018:

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/home-affairs-committee/government-preparations-for-brexit/oral/92133.pdf>

<sup>11</sup>BBC News, ‘Brexit: Governments agree plans to replace European Arrest Warrant’, 4 September 2019: <https://www.bbc.co.uk/news/uk-northern-ireland-49576159>

<sup>11</sup>House of Commons Home Affairs Committee, ‘Home Office preparations for the UK exiting the EU’, 7 December 2018, p13: <https://publications.parliament.uk/pa/cm201719/cmselect/cmhaff/1674/1674.pdf>

<sup>12</sup>House of Commons Home Affairs Committee, ‘National Crime Agency written evidence to Home Affairs Committee inquiry into UK-EU security cooperation after Brexit (PSC009)’, February 2018:

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/home-affairs-committee/home-office-delivery-of-brexit-policing-and-security-cooperation/written/78338.pdf>

After a transition period, or on day one of a No Deal Brexit, the UK's access to databases such as SIS II and ECRIS will end, unless an alternative arrangement is negotiated. The EU would also lose access to UK databases. The UK makes an important contribution in intelligence sharing, particularly on counter-terrorism operations.<sup>13</sup>

The 'fallback' option would be to use the International Criminal Police Organisation (Interpol) databases, where the transmission of information is not immediate. The Interpol I-24/7 database contains a smaller amount of people and that the process of issuing a red notice does not automatically lead to an arrest warrant as it currently does with the EAW.<sup>14</sup>

When he was Home Secretary, Sajid Javid said that both parties would try to approximate current arrangements as they are valued in both the UK and the EU. Post-Brexit, discussions about the UK's participation in some databases are likely to resume, but they promise to be difficult, as there is no legal base for non-EU and non-Schengen countries to have access to EU-only databases. While Norway and Switzerland have some access, this is by virtue of their membership of the Schengen area.

Any future negotiation will also have to rely on the Commission's decision to assess whether a third party has an "adequate level of data protection."<sup>15</sup> Under the Law Enforcement Directive, the EU has to follow a procedure to allow member states to share data with third countries, which includes evaluating rule of law and respect for human rights. There are currently twelve such decisions in place, as well as partial ones with the US and Canada.<sup>16</sup> The UK would need to obtain an adequacy decision if it wants to retain access to data exchange after Brexit.<sup>17</sup> As Michel Barnier explained, "There is no possibility for the EU to compromise on data protection. This stems from EU primary law. The UK's data protection standards will therefore have to remain in line with ours, and confirmed by an adequacy decision from the EU."<sup>18</sup>

The process of evaluation will begin only once the UK is a third country. The EU has until now refused a 'side deal' on data in a No Deal scenario, and it is unclear at what point the EU would be willing to grant an adequacy decision. It should be noted that this is a unique situation, which has as much to do with political will as technocratic procedure, as on its departure the UK will be starting off with the same legal order as the EU.

#### Questions on exchange of criminal data

- What is the desired level of integration on data exchange for both sides?
- Which databases would be a priority in future negotiations?
- Will the UK seek access to the SIS II and ECRIS databases after Brexit?
- Can the EU adapt its rules to allow the UK some form of participation in its databases, despite the UK not being a member of the Schengen Area?
- Can the EU issue an adequacy decision quickly enough in order to ensure new data

<sup>13</sup>House of Lords EU Home Affairs Sub-Committee, 'Corrected oral evidence: Brexit: the proposed UK-EU security treaty', 7 March 2018: <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/eu-home-affairs-subcommittee/brexit-the-proposed-ukeu-security-treaty/oral/80534.html>

<sup>14</sup>House of Commons Home Affairs Committee, 'Home Office preparations for the UK exiting the EU', 5 December 2018, p17: <https://publications.parliament.uk/pa/cm201719/cmselect/cmhaff/1674/1674.pdf>

<sup>15</sup>Official Journal of the European Union, 'Directive (EU) 2016/860 of the European Parliament and of the Council of 27 April 2016', <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016L0680&from=EN>

<sup>16</sup>European Commission, 'Adequacy decisions': [https://ec.europa.eu/info/law/law-topic/data-protection/international-dimension-data-protection/adequacy-decisions\\_en](https://ec.europa.eu/info/law/law-topic/data-protection/international-dimension-data-protection/adequacy-decisions_en)

<sup>17</sup>House of Commons Home Affairs Committee, 'UK-EU security cooperation after Brexit: Follow-up report', 24 July 2018, p11: <https://publications.parliament.uk/pa/cm201719/cmselect/cmhaff/1356/1356.pdf>

<sup>18</sup>European Commission, 'Speech by Michel Barnier at the European Union Agency for Fundamental Rights', 19 June 2018: [http://europa.eu/rapid/press-release\\_SPEECH-18-4213\\_en.htm](http://europa.eu/rapid/press-release_SPEECH-18-4213_en.htm)

exchange arrangements are in place immediately after the transition period? Would it be willing to swiftly agree a contingency arrangement in a No Deal scenario?

### 1.3. Agencies

EU law enforcement agencies such as Europol and Eurojust contribute to police and judicial cooperation between member states respectively. In 2017, the UK sent and received 46,918 messages through Europol channels. It was also one of the highest contributors to various Europol Analysis Projects in 2016, especially in relation to firearms, money laundering and organised immigration crime. In 2018, it was leading 25 of the 150 planned operational actions.<sup>19</sup>

Former Europol chief Rob Wainwright highlighted the importance of the UK's contributions to Europol projects and intelligence sharing in the EU, as well as to the overall development of the agency, saying that the UK is in the "top three leading contributors of intelligence."<sup>20</sup> Europol's new director, Catherine De Bolle, also stressed that a "strong relationship on the level of security is needed [with the UK]" for the internal security of both the UK and the EU.<sup>21</sup>

Any No Deal 'fallback' is likely to rely on Interpol.<sup>22</sup> According to Wainwright, "Interpol would not be able to substitute for Europol's ability to do high-end analysis work in intelligence cooperation, and it does not have anything like the databases that we have... The only effective substitute would be a return to a network set of bilateral cooperation arrangements, where the UK would again have to build up a network of officers in Paris, Rome and Berlin, for example."<sup>23</sup>

As stated in the PD, both parties "recognise the value in facilitating operational cooperation between the UK's and Member States' law enforcement and judicial authorities" through Europol. There are precedents for third countries, such as Norway, Switzerland or the US, having operational agreements with the agency.<sup>24</sup> These countries' liaison officers can access databases, but do not take part in the decision-making process guiding the future of the agency. Third parties are not able to lead operational projects, although they can join the projects upon unanimous agreement of the other member states.

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<sup>19</sup>House of Commons Home Affairs Committee, 'National Crime Agency written evidence to Home Affairs Committee inquiry into UK-EU security cooperation after Brexit (PSC009)', February 2018:

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/home-affairs-committee/home-office-delivery-of-brexiteu-policing-and-security-cooperation/written/78338.pdf>

<sup>20</sup>House of Commons Home Affairs Committee, 'Oral evidence: EU policing and security issues', 7 March 2017, Q146:

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/home-affairs-committee/eu-policing-and-security-issues/oral/48471.pdf>

<sup>21</sup>Reuters, 'Europol's new chief - work with UK must go on post-Brexit', 19 June 2018:

<https://uk.reuters.com/article/uk-britain-eu-security-europol/europol-s-new-chief-work-with-uk-must-go-on-post-brexit-idUKKBN1JF2EH>

<sup>22</sup>Institute for Government, 'Negotiating Brexit: policing and criminal justice', 6 September 2018, p17:

[https://www.instituteforgovernment.org.uk/sites/default/files/publications/IfG\\_Brexit\\_policing\\_criminal\\_justice\\_w eb.pdf](https://www.instituteforgovernment.org.uk/sites/default/files/publications/IfG_Brexit_policing_criminal_justice_w eb.pdf)

<sup>23</sup>House of Commons Home Affairs Committee, 'Oral evidence: EU policing and security issues', 7 March 2017, Q168:

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/home-affairs-committee/eu-policing-and-security-issues/oral/48471.pdf>

<sup>24</sup>Open Europe, 'Striking a Balance A blueprint for the future UK-EU economic partnership', 4 June 2018, p97:

<https://openeurope.org.uk/intelligence/britain-and-the-eu/striking-a-balance-a-blueprint-for-the-future-uk-eu-economic-partnership/>

One precedent for a ‘bespoke’ relationship with Europol is the case of Denmark, which despite being an EU member has an opt-out from full participation. Danish police forces have access to and share data on a more developed level than operational partners of Europol and attend meetings of the agency’s Management Board, but only as an observer.<sup>25</sup> In addition, Denmark, as an EU member state, respects the jurisdiction of the ECJ. The EU has stressed that the arrangement is Denmark-specific and contingent on Denmark’s EU and Schengen membership.<sup>26</sup>

<b>Denmark’s agreement with Europol</b>
In a referendum in 2015, the Danish people voted to maintain the country’s justice opt-outs from the EU. Two years later the country formally left Europol, after agreeing on a deal that allows both sides to continue sharing information. Denmark is allowed to participate in Europol board meetings with observer status but has no decision rights. The deal took months to negotiate and resulted in Denmark not having access to the Europol databases - although it does receive instant responses to requests for information. The deal is conditional on Denmark remaining in the EU as well as in the Schengen area.

Michel Barnier previously suggested that “UK authorities should be able to participate in Europol analysis projects dealing with live investigations, if they are interested and if Member State participants agree.” The EU could “invite the UK to send their liaison prosecutor and liaison officers to these Agencies,” but “the UK will not be in a position to shape the strategic direction of EU agencies,” just as in the case of Denmark.<sup>27</sup> The EU’s position seems to be limited by its previous agreements, such as the one with Denmark, as it does not want to give the UK further concessions with the fear that other third parties might demand the same. In a No Deal scenario, the EU is unlikely to agree a ‘bespoke’ arrangement for the UK in the near future.

<b>Questions on the UK’s relation with security agencies</b>
<ul style="list-style-type: none"> <li>• Can both sides reach an arrangement which maintains operational cooperation at a similar level as the current one, in order to avoid a downgrade of operational capacity?</li> <li>• Are both the UK and the EU willing to move beyond the precedent of Europol’s agreement with Denmark or arrangements with third countries for the future relationship?</li> </ul>

<sup>25</sup>European Commission, ‘Commission welcomes Europol’s new mandate and cooperation agreement with Denmark’, 29 April 2017: [http://europa.eu/rapid/press-release\\_STATEMENT-17-1169\\_en.htm](http://europa.eu/rapid/press-release_STATEMENT-17-1169_en.htm)

<sup>26</sup>House of Commons Home Affairs Committee, ‘UK-EU security cooperation after Brexit: Follow-up report’, 24 July 2018, p14: <https://publications.parliament.uk/pa/cm201719/cmselect/cmhaff/1356/1356.pdf>

<sup>27</sup>European Commission, ‘Speech by Michel Barnier at the European Union Agency for Fundamental Rights’, 19 June 2018: [http://europa.eu/rapid/press-release\\_SPEECH-18-4213\\_en.htm](http://europa.eu/rapid/press-release_SPEECH-18-4213_en.htm)

## 2. Foreign policy and external security

Foreign and external security policy is an area where EU national governments play a more important role than EU institutions, as decisions are largely made on an intergovernmental basis or outside the EU framework altogether. This makes the implications of the UK's withdrawal more straightforward than in areas where there are high levels of legal integration, such as trade and law enforcement cooperation.<sup>28</sup> This section overviews the different options for future UK-EU relations in this broad category, which includes sanctions, space and satellite programmes, overseas development aid and defence operations.

There will be domestic debates about the extent to which the UK should engage with EU foreign policy and defence policies, and balancing this with other frameworks, specifically NATO and cooperation with the US. Under the current Conservative Government, the US and NATO are likely to remain the UK's priority, and any future security partnership with the EU will therefore be seen as complementing, not superseding, the UK's role in NATO.<sup>29</sup>

However, the UK has also stated its intention to remain a "committed partner" to European security after Brexit.<sup>30</sup> As Foreign Secretary, Boris Johnson stated in 2016 that "Whatever our relationship is going to be with the treaties of the European Union, the United Kingdom is not leaving Europe broadly conceived, we are a European country, we're a dedicated European power."<sup>31</sup> In March 2019, the then Foreign Secretary Jeremy Hunt said, "One of the few things that unites British politicians of all parties and our European counterparts is that we plan to work hand-in-glove on foreign and security policy after Brexit."<sup>32</sup>

On the EU side, Michel Barnier said in May 2018 that the UK will "remain a permanent member of the UN Security Council and a member of NATO. It will remain a diplomatic, nuclear and military power. We are linked by shared values and a common destiny, and we will remain so for the long term."<sup>33</sup>

The UK will leave the EU's common foreign and defence policies (CFSP and CSDP), but cooperation in these areas does not need to end completely. The UK's and EU's long-term foreign policy strategies and goals show several points of convergence (see Annex I). They have similar approaches towards many international issues, including their efforts to combat climate change, and recognise that they face a series of common security challenges and threats, as well as the importance of maintaining close links. There are some areas where the

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<sup>28</sup> *Politico Europe*, 'EU deputy Brexit negotiator: UK leaving will have 'limited' impact on EU security', 11 February 2019: <https://www.politico.eu/article/eu-deputy-brexit-negotiator-uk-leaving-will-have-limited-impact-on-eu-security/>

<sup>29</sup> *HM Government*, 'National Security Capability Review', March 2018, p8: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/705347/6.43\\_91\\_CO\\_National-Security-Review\\_web.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705347/6.43_91_CO_National-Security-Review_web.pdf)

<sup>30</sup> *HM Government*, 'The future United Kingdom's exit from and new partnership with the European Union', 17 July 2018, p63: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/786626/The\\_Future\\_Relationship\\_between\\_the\\_United\\_Kingdom\\_and\\_the\\_European\\_Union\\_120319.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/786626/The_Future_Relationship_between_the_United_Kingdom_and_the_European_Union_120319.pdf)

<sup>31</sup> *AFP*, 'Britain will remain "dedicated European power": Boris Johnson', 1 September 2016:

<https://news.yahoo.com/britain-remain-dedicated-european-power-boris-johnson-005812285.html>

<sup>32</sup> Jeremy Hunt, 'Britain has been shaping the world for centuries. That won't change with Brexit', *The Washington Post*, 28 March 2019: [https://www.washingtonpost.com/opinions/global-opinions/britain-has-been-shaping-the-world-for-centuries-that-wont-change-with-brexit/2019/03/28/98767866-5194-11e9-88a1-ed346f0ec94f\\_story.html?noredirect=on](https://www.washingtonpost.com/opinions/global-opinions/britain-has-been-shaping-the-world-for-centuries-that-wont-change-with-brexit/2019/03/28/98767866-5194-11e9-88a1-ed346f0ec94f_story.html?noredirect=on)

<sup>33</sup> *European Commission*, 'Speech by Michel Barnier at the Berlin Security Conference', 29 November 2017: [http://europa.eu/rapid/press-release\\_SPEECH-17-5021\\_en.htm](http://europa.eu/rapid/press-release_SPEECH-17-5021_en.htm)

UK's outlook is closer to that of the EU rather than the US, most notably the support for the Iranian nuclear deal (Joint Comprehensive Plan of Action).<sup>34</sup>

### The CFSP and the CSDP

The **Common Foreign and Security Policy (CFSP)** is the framework through which EU member states coordinate their actions in the spheres of foreign policy and security. It was first mentioned in the Maastricht Treaty (1993), when member states committed to developing a common foreign policy. The Treaty of Lisbon (2007) strengthened the CFSP with the European External Action Service (EEAS), the EU's diplomatic network, and the role of High Representative for Foreign Affairs and Security Policy – currently held by Federica Mogherini, to be replaced in November by Spanish Foreign Minister Josep Borrell. As this sphere is considered a matter of national security, the European Commission is usually excluded from the decision-making process. Decisions are taken on the basis of unanimity, meaning that any member state can veto a decision. The general strategy for CFSP is determined by heads of state and government at the European Council.

The **Common Security and Defence Policy (CSDP)** is part of the CFSP, and is based on the European Security and Defence Policy (ESDP), formally set up by the Treaty of Amsterdam in 1999. The Lisbon Treaty states that the CSDP “shall provide the Union with an operational capacity drawing on civilian and military assets” for “peacekeeping, conflict prevention and strengthening international security.” The first CSDP mission was deployed in 2003 to Bosnia and Herzegovina. 34 CSDP operations and missions have been launched since then.<sup>35</sup>

Whether a Brexit deal is agreed does not practically change much in the sphere of foreign policy. The Government's assessment notes that the UK would no longer have “formal agreements with the EU on foreign and security policy cooperation.” In many areas, this would also be true if the UK leaves with a deal. In sanctions, for instance, there is currently no formal agreement on aligning with the EU regime, in any Brexit outcome. There is a variety of possible outcomes even in No Deal. The UK and EU could diverge on some foreign policy issues in the short-term, but they could eventually come back to an active dialogue about ways and mechanisms to strengthen cooperation on defence and international action.

However, what is clear is that without the UK's presence and veto, the EU27 are planning further integration in this field, as they are also reflecting upon their new global role ahead of the new institutional cycle. Incoming European Commission President and former German Defence Minister Ursula von der Leyen has made it one of her top priorities in her programme to “ensure a coordinated approach to all of our external action” and has proposed moving from unanimity to qualified majority voting in foreign policy.<sup>36</sup>

The UK will need to set out a policy towards these EU initiatives, whatever the prospects of their success might be. A major question remains about how to conduct future dialogue and the format in which such conversations will take place. Would it be a ministerial forum, ad-hoc

<sup>34</sup> Foreign and Commonwealth Office, 'More important than ever to preserve the JCPOA', 26 June 2019: <https://www.gov.uk/government/speeches/more-important-than-ever-to-preserve-the-jcpoa>

<sup>35</sup> House of Lords EU External Affairs Sub-Committee, 'Brexit: Common Security and Defence Policy missions and operations', 14 May 2018, p10: <https://publications.parliament.uk/pa/ld201719/ldselect/lddeucom/132/132.pdf>

<sup>36</sup> European Commission, 'A Union that strives for more: My agenda for Europe', 16 July 2019: [https://ec.europa.eu/commission/sites/beta-political/files/political-guidelines-next-commission\\_en.pdf](https://ec.europa.eu/commission/sites/beta-political/files/political-guidelines-next-commission_en.pdf)

meetings, or the UK engaging in a European Security Council (as suggested by French President Emmanuel Macron)?<sup>37</sup>

There is a historical precedent for UK engagement on European security policy in the absence of economic integration. The UK was a founding member of the Western European Union (WEU), the first framework for dealing with security and defence, in 1954 – well before it joined the European Economic Community (EEC) in 1973. The WEU was dissolved in 2011, following the incorporation of many of its functions in the Lisbon Treaty.

## 2.1. Sanctions

Sanctions form an important part of the EU's foreign policy toolkit, given the bloc's economic weight. The UK has played a leading role in developing the EU sanctions regime, contributing both in terms of developing policy and providing expertise for the implementation.<sup>38</sup> More than half of existing EU sanctions are estimated to be based on UK evidence and informed by UK intelligence.<sup>39</sup>

### EU restrictive measures against Russia

As a consequence of the illegal annexation of Crimea in March 2014, the EU imposed a series of sanctions against Russia. These include diplomatic measures, individual restrictive measures and economic sanctions as well as restrictions on economic cooperation. The United Kingdom was a strong propagator for these measures and also called for more sanctions following the Salisbury incident in March 2018.

Currently the UK implements most of its sanctions through EU membership, where measures are decided by consensus. After Brexit, through the Sanctions and Anti-Money Laundering Act (2018), the UK will be enabled to independently “continue to implement the UN sanctions regimes and to use sanctions to meet national security and foreign policy objectives.”<sup>40</sup>

The Government recognises the importance of coordinating sanctions measures with the EU, not only to make them more effective and mutually supportive, but also to show a symbolic political message about European coordination in the international arena. Even in the case of No Deal, the UK intends to carry over all existing EU sanctions in order to provide continuity.<sup>41</sup>

It is also in the EU's interests to continue working with the UK. The UK's departure could have significant impacts for the EU27 sanctions regime, given the UK's contributions in terms of personnel and experience, particularly as regards the City of London in the case of financial

<sup>37</sup> Anna Nadibaidze, 'Emmanuel Macron launches EU election campaign by calling for “European renewal”', *Open Europe*, 6 March 2019: <https://openeurope.org.uk/today/blog/emmanuel-macron-launches-eu-election-campaign-by-calling-for-european-renewal/>

<sup>38</sup> House of Lords EU External Affairs Sub-Committee, 'Brexit: Sanctions Policy', 17 December 2017, p21: <https://publications.parliament.uk/pa/ld201719/ldselect/lddeucom/50/50.pdf>

<sup>39</sup> HM Government, 'Framework for the UK-EU Security Partnership', 9 May 2018, p32: <https://www.gov.uk/government/publications/framework-for-the-uk-eu-security-partnership>

<sup>40</sup> Foreign and Commonwealth Office, 'Sanctions and Anti-Money Laundering Bill [HL] Explanatory Notes', 18 October 2017', p3: <https://publications.parliament.uk/pa/bills/lbill/2017-2019/0069/18069en.pdf>

<sup>41</sup> Foreign and Commonwealth Office, 'Sanctions policy if there's no Brexit deal', 1 February 2019: <https://www.gov.uk/government/publications/sanctions-policy-if-theres-no-brexit-deal/sanctions-policy-if-theres-no-brexit-deal>

measures. In the future, the EU's regime would rely on a few member states for expertise and intelligence, including France, Germany and the Netherlands.<sup>42</sup>

In the PD, both sides agreed on the “benefits of close consultation and cooperation” on sanctions, and declare their willingness to exchange information, and continue dialogue “with the possibility of adopting sanctions that are mutually reinforcing.” Although various countries, including the EEA member states, often coordinate with EU positions on sanctions, there is no precedent for a formal arrangement for third parties to align with Brussels.

Norway has transposed a large amount of EU sanctions into domestic legislation, despite not being obliged to do so, and despite no threats of material consequences for refusing to do so.<sup>43</sup> Norwegian officials hold various informal meetings with EU officials, such as discussions and contacts with European External Action Service (EEAS) representatives.<sup>44</sup> At the same time, it does not take part in the decision-making process, which is unlikely to be an appropriate arrangement for the UK, given its economic power and its expertise in the area.

The precedent of the EU-US sanctions relationship could prove to be more appropriate for the UK. There is often joint alignment on restrictive measures between the US and the EU, although they do not always adopt the exact same measures. The fact that EU sanctions are decided by consensus often limits the scope of measures, given the need to find unanimity between member states with different interests. There will be some situations in which the UK would be willing to diverge or to adopt different measures, especially when they are targeted against specific individuals. For instance, by implementing its own version of the ‘Magnitsky Act’ legislation<sup>45</sup> which targets human rights violations, the UK has already shown its willingness to shift towards the sanctions practices of countries like the US and Canada.

The UK's new legal framework for sanctions will allow it to diverge from EU sanctions. Therefore, it will be up to the future UK governments to decide how they want to use the financial power of the City of London, which is an important lever, in its vision for post-Brexit British foreign policy and in its new approach towards sanctions.

#### Questions on future sanctions cooperation

- How does the UK intend to use its position of a global financial centre to promote its values and interests abroad through sanctions and other measures? To what extent will this involve institutionalised cooperation with the EU?
- Could both parties reach agreement on a more formal arrangement to exchange information and reinforce sanctions?
- How does the EU intend to fill the gap of UK expertise and knowledge about sanctions?

<sup>42</sup>Richard Nephew and David Mortlock, ‘Brexit’s Implications for UK and European sanctions policy’, *Columbia Center on Global Energy Policy*, October 2016:

[https://academiccommons.columbia.edu/download/fedora\\_content/download/ac:206467/CONTENT/Brexit\\_s\\_Implications\\_for\\_UK\\_and\\_European\\_Sanctions\\_Policy.pdf](https://academiccommons.columbia.edu/download/fedora_content/download/ac:206467/CONTENT/Brexit_s_Implications_for_UK_and_European_Sanctions_Policy.pdf)

<sup>43</sup>Centre for European Reform, ‘Plugging in the British: Foreign Policy’, March 2018, pp8-10,

[https://www.cer.eu/sites/default/files/pbrief\\_plugin\\_foreignpolicy\\_march18.pdf](https://www.cer.eu/sites/default/files/pbrief_plugin_foreignpolicy_march18.pdf)

<sup>44</sup>House of Lords EU Committee, ‘Brexit: sanctions policy’, 17 December 2017, p24:

<https://publications.parliament.uk/pa/ld201719/ldselect/ldecom/50/50.pdf>

<sup>45</sup>This refers to the ‘Magnitsky amendment’ to the Sanctions and Anti-Money laundering Act passed by Parliament in 2018 in order to target those who commit human rights violations. See more House of Commons Library Briefing Paper ‘Magnitsky Legislation’, 27 July 2018:

<https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-8374#fullreport>

## 2.2. Satellite technology and space programmes

Cooperation in the space industry has become more integrated following the Lisbon Treaty, especially with the development of key EU programmes such as Galileo, the EU's Global Navigation Satellite System (GNSS, due to start operating fully in the mid-2020s), and the Earth Observation programme Copernicus.

The UK is a key contributor to the EU's space projects, not only financially, but also in terms of expertise and technology. It has been involved in the design of both Galileo and Copernicus. The British space sector has a turnover of £14 billion per year, representing approximately 7% of the global share.<sup>46</sup>

While negotiating the Withdrawal Agreement, both sides have said that it would be mutually beneficial to continue cooperation on space. Although there is no standard formal way of third country participation, non-EU member states are allowed access to the programmes, including attending committees and cooperation on satellite navigation for both Galileo and Copernicus. For instance, Norway, Switzerland and Iceland have full access to Copernicus, though without taking part in the decision-making process.<sup>47</sup>

The major challenge in UK-EU space cooperation negotiations has revolved around having access to the secure parts of space programmes. Specifically, the Government has previously been seeking UK involvement in the Public Regulated Service (PRS), Galileo's secure signal, which under current EU rules is not automatically available to third parties. The UK's request to have automatic access was rejected by the European Commission in June 2018, as it stressed that Galileo's components can be open to third parties only upon the condition that "the essential security interests of the Union and its Member States are preserved."<sup>48</sup>

Since December 2018, the UK is officially considering seeking to develop its own programme.<sup>49</sup> £92 million of investment was confirmed for "plans for an independent satellite system."<sup>50</sup> Former Prime Minister Theresa May explained the decision by saying, "Given the Commission's decision to bar the UK from being fully involved in developing all aspects of Galileo it is only right that we find alternatives. I cannot let our Armed Services depend on a system we cannot be sure of. That would not be in our national interest."

It is possible for the EU to conclude agreements for third country participation in the encrypted systems (except for very sensitive information). Norway and the US have applied for access, although the decision has not yet been taken. Meanwhile, the cost of a national

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<sup>46</sup>HM Government, 'Technical Note: UK Participation in Galileo', 24 May 2018: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/710790/FINAL\\_GALILEO.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/710790/FINAL_GALILEO.pdf)

<sup>47</sup>HM Government, 'Collaboration on science and innovation: A future partnership paper', 6 September 2017, p12: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/642542/Science\\_and\\_innovation\\_paper.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/642542/Science_and_innovation_paper.pdf)

<sup>48</sup>European Commission, 'Involvement in the EU's space-related activities (slides)', 13 June 2018: [https://ec.europa.eu/commission/sites/beta-political/files/slides\\_on\\_the\\_eus\\_space-related\\_activities.pdf](https://ec.europa.eu/commission/sites/beta-political/files/slides_on_the_eus_space-related_activities.pdf)

<sup>49</sup>HM Government, 'UK to tell EU it will no longer seek access to secure aspects of Galileo', 1 December 2018: <https://www.gov.uk/government/news/uk-to-tell-eu-it-will-no-longer-seek-access-to-secure-aspects-of-galileo>

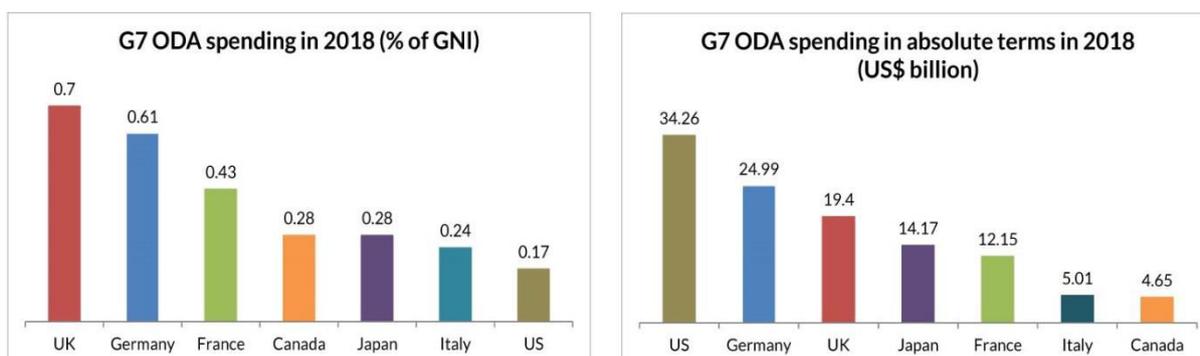
<sup>50</sup>HM Government, 'Space sector to benefit from multi-million pound work on UK alternative to Galileo', 29 August 2018, <https://www.gov.uk/government/news/space-sector-to-benefit-from-multi-million-pound-work-on-uk-alternative-to-galileo>

replacement to Galileo is estimated at £3bn to £5bn.<sup>51</sup> Galileo’s purpose, in part, is to reduce EU member states’ dependence on other countries’ GNSS systems. If the UK leaves EU systems, it could mean pivoting elsewhere, specifically towards the US and its GPS system.

Questions on space programmes
<ul style="list-style-type: none"> <li>• Would the UK change its position on seeking access to Galileo, even if it cannot have automatic access to the secure parts of the programme?</li> <li>• Would the EU reconsider its stance on third-party access to the PRS, in order to benefit from UK expertise in the space area?</li> </ul>

### 2.3. Overseas Development Aid

The UK and the EU are two of the world’s biggest contributors to international development aid. The EU’s collective Overseas Development Assistance (ODA) constituted 56.5% of global ODA in 2018.<sup>52</sup> The UK is the fifth biggest spender on aid (in terms of % of GNI) in the EU, and is a leading global spender in terms of gross contributions.<sup>53</sup> In accordance with the International Development Act 2015, it spends 0.7% of its Gross National Income (GNI) on ODA, as defined by the Organisation for Economic Co-operation and Development (OECD).



 Source: OECD

The UK is also one of the most important contributors to the European Development Fund (EDF) – the main instrument coordinating the EU’s spending on external assistance to Least Developed Countries (specifically in the African, Caribbean and Pacific Group of States, or ACP).

<sup>51</sup>SpaceNews, ‘UK ends Galileo talks, says it will explore a homegrown alternative’, 4 December 2018: <https://spacenews.com/uk-ends-galileo-talks-says-it-will-explore-a-homegrown-alternative/>

<sup>52</sup>OECD, ‘Development aid drops in 2018, especially to neediest countries’, 10 April 2019: <http://www.oecd.org/dac/financing-sustainable-development/development-finance-data/ODA-2018-detailed-summary.pdf>

<sup>53</sup>European Commission, ‘EU Official Development Assistance reaches highest level ever’, 11 April 2017: [http://europa.eu/rapid/press-release\\_IP-17-916\\_en.htm](http://europa.eu/rapid/press-release_IP-17-916_en.htm)

A large part of EU international aid is managed by the European Commission. In 2018, the UK spent a total of £14.55bn on ODA, with approximately £925mn going to the development share of the EU budget.<sup>54</sup> In 2017, approximately 8.4% of total UK ODA went to the EDF.<sup>55</sup>

Both sides have stressed value in maintaining cooperation on ODA spending. As the Government notes, the UK's and EU's approaches "on tackling longer-term development issues are closely aligned."<sup>56</sup> The PD mentions the possibility of the UK participating in EU instruments and programmes, including in the area of "overseas development and external action," and states that both sides should "consider how the United Kingdom could contribute to the Union's instruments and mechanisms, including coordination with the Union's delegations in third countries."

**ODA definition by the OECD's Development Assistance Committee (DAC)<sup>57</sup>**

Official development assistance flows are defined as those flows to countries and territories on the DAC List of ODA Recipients and to multilateral development institutions, which are:

- a) provided by official agencies, including state and local governments, or by their executive agencies; and
- b) each transaction of which:
  - i) is administered with the promotion of the economic development and welfare of developing countries as its main objective; and
  - ii) is concessional in character.

Then Prime Minister Theresa May said at the 2018 Munich Security Conference, "While the UK will decide how we spend the entirety of our foreign aid in the future, if a UK contribution to EU development programmes and instruments can best deliver our mutual interests, we should both be open to that."<sup>58</sup> Under the terms of the WA, the Government would commit to continue contributing to the EDF until 2020, while in a No Deal scenario these contributions will end immediately. There is currently no specific framework for third countries to engage with the EU's aid programmes, but countries such as Norway and Switzerland make financial contributions. Norway contributed 50 million Norwegian Krone (€5m) to the EU's Emergency Trust Fund for Africa in 2017.<sup>59</sup>

The EDF's financial resources remain outside the main EU budget, which potentially makes it easier for the UK to continue contributing. Currently the EDF does not allow contributions from third parties, but after Brexit a more flexible framework could be adopted in order to allow for UK contributions, which currently stand at around 15% of the EDF.

<sup>54</sup> Department for International Development, 'Statistics on International Development: Provisional UK Aid spend 2018', April 2019:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/792687/Statistics-on-International-Development-Provisional-UK-Aid-Spend-2018.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/792687/Statistics-on-International-Development-Provisional-UK-Aid-Spend-2018.pdf)

<sup>55</sup> Department for International Development, 'Statistics on International Development: Final UK Aid Spend 2017', November 2018:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/771136/Statistics-on-International-Development-Final-UK-Aid-Spend-2017-jan-revisions.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/771136/Statistics-on-International-Development-Final-UK-Aid-Spend-2017-jan-revisions.pdf)

<sup>56</sup> HM Government, 'EU Exit: Assessment of the Security Partnership', November 2018:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/759760/28\\_November\\_EU\\_Exit\\_-\\_Assessment\\_of\\_the\\_security\\_partnership\\_2\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/759760/28_November_EU_Exit_-_Assessment_of_the_security_partnership_2_.pdf)

<sup>57</sup> OECD, 'Official development assistance - definition and coverage':

<http://www.oecd.org/dac/stats/officialdevelopmentassistancedefinitionandcoverage.htm>

<sup>58</sup> HM Government, 'PM speech at Munich Security Conference', 17 February 2018:

<https://www.gov.uk/government/speeches/pm-speech-at-munich-security-conference-17-february-2018>

<sup>59</sup> Norwegian Government, 'NOK 50 million to EU Emergency Trust Fund for Africa', 20 October 2017:

[https://www.regjeringen.no/en/aktuelt/trust\\_fund/id2573966/](https://www.regjeringen.no/en/aktuelt/trust_fund/id2573966/)

The UK could be allowed to take part in operational committees of EU development funds, however the extent to which it could participate in the decision-making process over spending is unclear.<sup>60</sup> Former International Development Secretary Penny Mordaunt has said that any “UK financial contribution would need to be underpinned by a shared framework that enables UK influence and oversight over UK funds at the strategic and programme levels.”<sup>61</sup>

The EU would benefit from continued contributions from the UK, particularly on issues such as humanitarian aid, as the UK is one of the leading actors responding to emergencies. Between 2013 and 2017 it contributed hundreds of experts to EU mechanisms for humanitarian responses to situations such as disease outbreaks.<sup>62</sup> The EU has the opportunity to rethink its approach towards the conditions for third countries involvement in development assistance programmes.

Brexit also gives the UK the opportunity to reconsider its foreign aid and development assistance policies, and to re-evaluate its relationship with the EDF. There have already been some signs of disagreement between the UK and the Commission over how EDF funds are distributed.<sup>63</sup> After Brexit the UK will also have the chance to reconsider the definition of development aid as part of a wider reassessment of its world role. There are many sectors to which the UK Government contributes financially, but which do not count as ODA.<sup>64</sup> For instance, 51.6% of the Conflict, Stability and Security Fund (CSSF)’s total 2018-19 spending was classified as non-ODA.<sup>65</sup>

<b>Questions on aid and international development</b>
<ul style="list-style-type: none"> <li>• Which regions and issues would the UK prioritise for overseas development funding and how does this map against EU priorities?</li> <li>• To what extent does the UK want to continue contributions through the EU’s development programmes, and specifically the EDF?</li> <li>• Is there a possibility for the EDF to adopt a more flexible framework where third countries can make contributions and allow them to take part in oversight and decision-making?</li> </ul>

<sup>60</sup>Centre for European Reform, ‘Plugging in the British: Foreign Policy’, March 2018, p4, [https://www.cer.eu/sites/default/files/pbrief\\_plugin\\_foreignpolicy\\_march18.pdf](https://www.cer.eu/sites/default/files/pbrief_plugin_foreignpolicy_march18.pdf)

<sup>61</sup>House of Commons International Development Committee, ‘Oral evidence: UK-EU Development Co-operation’, 17 July 2018: <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/international-development-committee/ukeu-development-cooperation/oral/87000.html>

<sup>62</sup>HM Government, ‘National Security Capability Review’, March 2018, p29: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/705347/6.43\\_91\\_CO\\_National-Security-Review\\_web.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705347/6.43_91_CO_National-Security-Review_web.pdf)

<sup>63</sup>The Guardian, ‘UK accuses EU of Brexit bias as it refuses to endorse aid spending’, 6 November 2018: <https://www.theguardian.com/politics/2018/nov/06/uk-accuses-eu-brexit-bias-refuses-endorse-aid-budget-spending>

<sup>64</sup>The UK could redefine the notion of ‘overseas development’ in order to spend aid more efficiently, as well as according to its future foreign policy priorities. This includes considering contributions to UN peacekeeping operations and parts of the funding of the Department for International Development (DfID) and the Department for Business, Energy and Industrial Strategy (BEIS), and could even include cultural programmes such as the BBC World Service. It could also mean looking at contributions to funds working to reduce disparities across Europe, replicating the types of arrangements Norway and Switzerland have with EU structural funds. This will be a domestic matter for the UK to consider in the future. See, for example, Henry Jackson Society, ‘Global Britain: A Twenty-First Century Vision’, 11 February 2019: <https://henryjacksonsociety.org/publications/global-britain-a-twenty-first-century-vision/>

<sup>65</sup>The CSSF has for goal to prevent conflicts and manage instability-related threats. Its spending and capabilities are divided between different Government departments. See more in HM Government, ‘Conflict, Stability and Security Fund: Annual Report 2018/19’, 18 July 2019: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/818585/CSSF-Annual-Report-2018-to-2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/818585/CSSF-Annual-Report-2018-to-2019.pdf)

## 2.4. Cooperation on external migration

The UK and EU have also agreed to pursue cooperation in a number of more general security-related areas, for instance the issue of migration and refugee flows from outside Europe. While the general levels of migration have decreased since the 2015 crisis, this issue continues to remain an important one for EU member states as they seek to reform asylum policies, and their policies towards regulating migration flows in the Mediterranean.

Given its position outside of the Schengen area, the UK has been less affected by external migration, however it has been involved in migration-related EU initiatives, such as the European Border and Coast Guard Agency (Frontex). The UK also contributes equipment such as a survey ship and helicopters to the European Union Naval Force – Mediterranean Operation Sophia (EUNAVFOR Med), whose mission is to counter human trafficking networks.

It will remain in both sides' interests to continue working together on this issue. In the PD, both parties agreed to maintain cooperation “to combat organised immigration crime,” including within Europol, if an arrangement is found. They also agree “to strengthen the Union’s External Border,” and have a “dialogue on shared objectives and cooperation, including in third countries and international fora, to tackle illegal migration upstream.”

The EU is planning to strengthen Frontex in the near future and this leaves potential for working together, where it is in both parties' interests.<sup>66</sup> There are precedents for cooperation between third countries and Frontex, with Iceland, Norway and Switzerland, and non-EEA countries, providing assistance to the agency. There are, however, no non-EEA countries invited to attend Frontex’s Management Board. After Brexit the UK will have to re-examine its relationship with the agency.

Whether there is a Brexit deal or not, the UK will not be obliged to participate in EU missions, but it will have the option to do so and the UK’s participation could be important for those advocating for an improvement in Europe’s operational capacity.

Questions on migration cooperation
<ul style="list-style-type: none"><li>• Would the UK be willing to contribute to the European Border and Coast Guard Agency if it has more opportunities to engage than current frameworks allow?</li></ul>



## 2.5. Defence missions and capability development

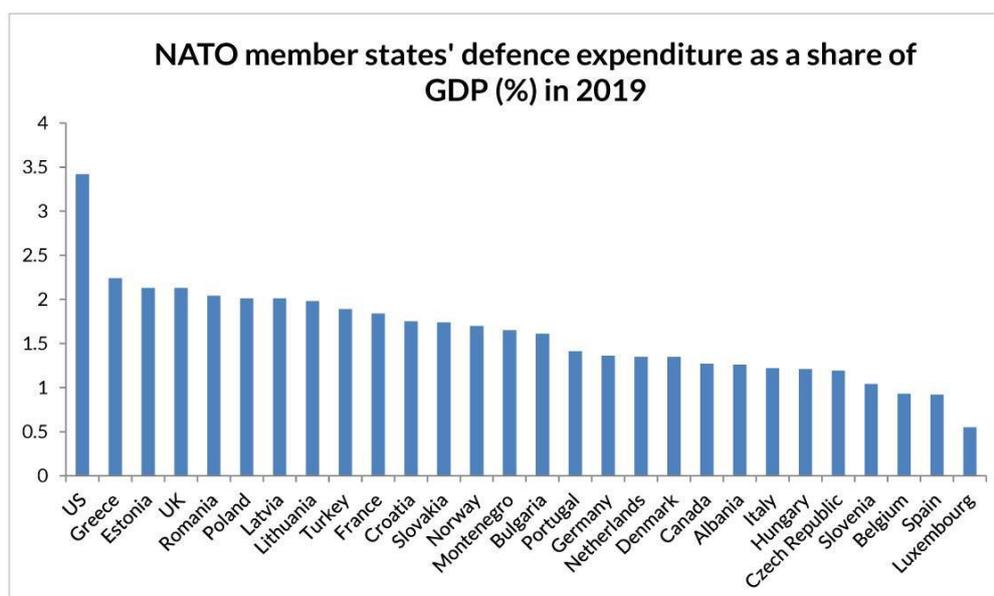
### *UK’s contributions to EU capabilities*

As an EU member, the UK has been reluctant to pursue further integration on defence. The domestic debate usually stresses the primacy of commitments to the transatlantic alliance and it is generally accepted that any role in EU initiatives should only be complementary to NATO. The UK has often used its veto to block common initiatives or projects that would increase EU institutions’ power in these areas.<sup>67</sup>

<sup>66</sup>The Commission’s proposal to reinforce the agency has been approved by EU institutions in April 2019, meaning that it will be expanded 10,000 border guards by 2027. See more in *European Commission*, ‘European Border and Coast Guard’, 1 April 2019: [http://europa.eu/rapid/press-release\\_IP-19-1929\\_en.htm](http://europa.eu/rapid/press-release_IP-19-1929_en.htm)

<sup>67</sup>*European Parliament*, ‘The Impact of the UK’s Withdrawal on EU Integration’, 2018, p32: [http://www.europarl.europa.eu/RegData/etudes/STUD/2018/604973/IPOL\\_STU\(2018\)604973\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2018/604973/IPOL_STU(2018)604973_EN.pdf)

The UK is an important military actor on the European continent. Its planned defence spending for 2019/2020 is £37.6bn, and since 2010 it has consistently met the NATO target spending of 2% of GDP on defence. In 2019, the only other members of both the EU and NATO to meet the target were Greece, Estonia, Poland, and Latvia. The UK accounts for 25% of total defence procurement spending across the EU and is one of the largest spenders on defence research. In terms of equipment, it has about 50% of all heavy transport aircraft and more than 25% of all heavy transport helicopters in the EU.<sup>68</sup>



oe Source: NATO

However, the UK's military activities remain focused primarily on the NATO framework, and it is less committed to the EU's defence integration projects. In 2018 the UK only spent around €328 million on the CFSP.<sup>69</sup> Its financial contributions to EU military operations have been estimated at 3.6% of the total. It has also contributed personnel to 25 past or current CSDP operations, but they were not very significant: in 2017 the UK deployed approximately 100-150 personnel within the CSDP, compared to 13,000 UK soldiers stationed worldwide.<sup>70</sup>

### Non-EU defence frameworks

Consistent with the UK's long-term position, the Government has emphasised the importance of collaborating through the **NATO** alliance after Brexit, for instance in areas such as defence procurement. Much of the UK's defence procurement relationship with the EU has been

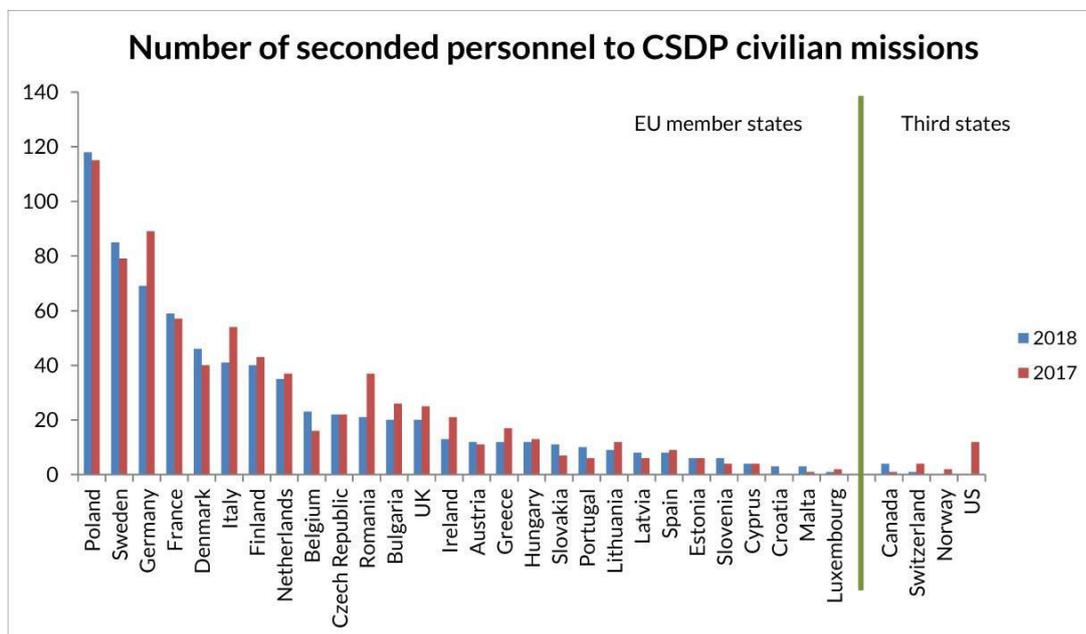
<sup>68</sup> German Council on Foreign Relations and The International Institute for Strategic Studies, 'The United Kingdom's contribution to European security and defence', February 2018, p7: <https://dgap.org/en/article/getFullPDF/30724>

<sup>69</sup> Institute for Government, 'UK-EU defence and security cooperation after Brexit', 22 May 2019: <https://www.instituteforgovernment.org.uk/explainers/uk%E2%80%93eu-defence-and-security-cooperation>

<sup>70</sup> European Parliament, 'CSDP after Brexit: the way forward', May 2018, p33; [http://www.europarl.europa.eu/RegData/etudes/STUD/2018/603852/EXPO\\_STU\(2018\)603852\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2018/603852/EXPO_STU(2018)603852_EN.pdf)

conducted within NATO, bilateral or multilateral relations, rather than through the European Defence Agency (EDA).

Another option is the **European Intervention Initiative (EII)**, an intergovernmental project complementary to the EU and NATO, of which the UK is already a member.<sup>71</sup> Launched in 2018 under the leadership of French President Macron, this initiative has the goal to strengthen crisis management, improve operational planning and coordination among European countries that have significant capabilities. It is significant that it was launched after the Brexit vote, partly in order to have a framework in which the UK can take part, as a major military actor on the continent. Macron has also suggested other structures that might provide for UK involvement in European affairs outside the EU framework, such as a European Security Council.<sup>72</sup>



oe Source: European External Action Service

Finally, the UK will continue collaboration on a **bilateral basis**, complementing UK-EU cooperation, or replacing certain structures if necessary. In January 2018, the bilateral summit between Emmanuel Macron and Theresa May confirmed the strong desire of both parties to continue cooperation after Brexit.<sup>73</sup> The Lancaster House Treaties, signed by the UK and France in 2010, cover cooperation in defence capabilities, operations, and nuclear

<sup>71</sup>Politico Europe, 'Nine EU states, including UK, sign off joint military intervention force', 25 June 2018: <https://www.politico.eu/article/uk-to-form-part-of-joint-eu-european-defense-force-pesco/>

<sup>72</sup>See more about this proposal in German Institute for International and Security Affairs, 'A European Security Council: Added Value for EU Foreign and Security Policy?', January 2019: <https://www.swp-berlin.org/10.18449/2019C02/>

<sup>73</sup>HM Government, 'UK and France commit to new defence cooperation', 18 January 2018: <https://www.gov.uk/government/news/uk-and-france-commit-to-new-defence-cooperation>

deterrence.<sup>74</sup> In October 2018, the UK signed a Joint Vision Statement with Germany to strengthen bilateral defence cooperation, including through NATO, after Brexit.<sup>75</sup> The UK also agreed on a bilateral treaty on defence capability cooperation with Poland.<sup>76</sup>

*What role does the EU envisage for the UK in European defence cooperation after Brexit?*

The EU has become increasingly active in developing initiatives in security and defence, in order to improve the Union's 'strategic autonomy', one of the goals in the 2016 EU Global Strategy, adopted shortly after the UK voted to leave. While the reality of EU cooperation is likely to remain a long way short of a 'European army' there is undoubtedly an increasing willingness to strengthen Europe's role in the world through defence and foreign policy cooperation.<sup>77</sup> However, it remains unclear how the EU envisages its relationship with the UK in this area post-Brexit. The UK's relative power and strategic alliances outside the EU is likely to require a flexible approach if it is to lead to meaningful cooperation.

EU initiatives in this sphere include the Permanent Structured Cooperation (PESCO), launched in December 2017. Within this framework, 25 member states agreed to deepen defence cooperation by developing military capabilities together, exchanging information and improving deployment. PESCO projects include a European Medical Comment, Cyber Rapid Response, a joint EU Intelligence School led by Greece and Cyprus, and the possibility to jointly use national and overseas bases.

PESCO is partially funded through the European Defence Fund (EDF), proposed by the Commission in order to help member states coordinate their defence spending, thereby helping to invest in defence projects more efficiently. In February 2019, the European Parliament and Council have agreed that EDF would receive an estimated €13bn in the next Multi-Annual Financial Framework (MFF).<sup>78</sup> The new European Commission, which takes over in November 2019, will include a new Directorate-General for Industry and Space, responsible for an "open and competitive European defence equipment market" and implementing space programmes.<sup>79</sup>

#### Examples of CSDP missions

The European Union Advisory Mission (EUAM) in Ukraine was launched in 2014 with the aim to reform the civilian security sector by providing strategic and practical support to relevant authorities such as the National Police and local courts. The mandate extends to 31 May 2019, consists of 300 personnel and has a budget of € 32 million.<sup>80</sup> In 2018, the UK contributed 6 personnel to this mission.

<sup>74</sup>See more in *Institut Montaigne and King's College London*, 'The UK-France Defence and Security Relationship: How to Improve Cooperation', November 2018: <https://www.institutmontaigne.org/en/publications/uk-france-defence-and-security-relationship-how-improve-cooperation#>

<sup>75</sup>HM Government, 'UK deepens defence cooperation with Germany', 5 October 2018:

<https://www.gov.uk/government/news/uk-deepens-defence-cooperation-with-germany>

<sup>76</sup>HM Government, 'PM announces landmark new package of defence and security cooperation with Poland', 21 December 2017: <https://www.gov.uk/government/news/pm-announces-landmark-new-package-of-defence-and-security-cooperation-with-poland>

<sup>77</sup>*Politico Europe*, 'Merkel joins Macron in calling for EU army to complement NATO', 14 November 2018:

<https://www.politico.eu/article/angela-merkel-emmanuel-macron-eu-army-to-complement-nato/>

<sup>78</sup>*EurActiv*, 'European Defence Fund agreed amid ethics concerns', 22 February 2019:

<https://www.euractiv.com/section/defence-and-security/news/european-defence-fund-agreed-amid-ethics-concerns/>

<sup>79</sup>*European Commission*, 'Mission Letter to Sylvie Goulard, Commissioner-designate for Internal Market', 10 September 2019: [https://ec.europa.eu/commission/sites/beta-political/files/mission-letter-sylvie-goulard\\_en.pdf](https://ec.europa.eu/commission/sites/beta-political/files/mission-letter-sylvie-goulard_en.pdf)

<sup>80</sup>*European Union Advisory Mission (EUAM) Ukraine*, 'Our Mission': <http://www.euam-ukraine.eu/our-mission/about-us/>

Launched in 2004, **Operation Althea** took over NATO's peacekeeping mission in Bosnia and Herzegovina. Its current aim is to provide capacity-building for Bosnia's Armed Forces and contribute to the maintenance of a safe environment in the country. It is the only EU operation deployed under the Berlin Plus Agreement which allows CSDP operations to use NATO staff and is under NATO operational command.<sup>81</sup>

The framework for future UK cooperation with the EU remains vague. Based on the PD agreed by the EU and Theresa May's Government, both parties "welcome close cooperation in Union-led crisis management missions and operations, both civilian and military." The UK's future participation in CSDP civilian and military missions would be done on a voluntary and "case by case" basis through a Framework Participation Agreement (FPA), where interaction between the two parties would be done "proportionately to the level of the UK's contribution."

An FPA would allow the UK to participate in missions, as Norway currently does, but without being involved in decision-making, operation planning, leading operations, holding headquarters of missions or having UK staff in influential positions. EU High Representative Federica Mogherini pointed out that while the UK "will not sit at the table where [CSDP] missions and operations will be decided ... [the UK] will be, obviously, welcome to join, because cooperation with our partners in this field is not new."<sup>82</sup> As an EU member the UK mostly provides expertise in strategic guidance to CSDP missions, something that an FPA would not provide.

In the PD, the UK and the EU also commit to collaborating on defence capabilities development by allowing UK participation in the EDA, the EDF and PESCO, with both sides preserving their "respective strategic autonomy." The EDA promotes defence capability cooperation between member states and currently has Administrative Arrangements (AA) with Norway, Switzerland, Serbia and Ukraine, which allow for participation in programmes, but not in decision-making.<sup>83</sup> The possibilities for cooperation with PESCO and the EDF still remain unclear. The Commission has suggested that the UK "could participate under the same conditions as undertakings from other third countries."<sup>84</sup>

The EU and EU27 member states have indicated their willingness to continue cooperation in terms of developing defence capabilities. Michel Barnier said in May 2018, "We would of course welcome [the UK's] participation in EU-led operations in the future, considering that the UK has strategic military assets."<sup>85</sup> The European Commission's President-Elect, Ursula von der Leyen, said in February 2019 that the EU should be working to involve the UK "as close as possible" on military cooperation.<sup>86</sup> The German Foreign Ministry also stated that the EU's foreign and security policy will be weaker without the UK, adding, "That's why we're trying to

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<sup>81</sup>House of Lords EU External Affairs Sub-Committee, 'Brexit: Common Security and Defence Policy missions and operations', 14 May 2018, p23: <https://publications.parliament.uk/pa/ld201719/ldselect/ldcom/132/132.pdf>

<sup>82</sup>European External Action Service, 'Remarks by HR/VP Mogherini at the EU Institute for Security Studies event on "The future of EU foreign, security, and defence policy post Brexit"', 14 May 2018: <https://eeas.europa.eu/headquarters/headquarters-homepage/44528/remarks-hrvp-mogherini-eu-institute-security-studies-event-future-eu-foreign-security-and-en>

<sup>83</sup>European Defence Agency, 'Member states': <https://www.eda.europa.eu/Aboutus/who-we-are/member-states>

<sup>84</sup>European Commission, 'Slides on Security, Defence, and Foreign Policy', 24 January 2018, p35: [https://ec.europa.eu/commission/publications/slides-security-defence-and-foreign-policy\\_en](https://ec.europa.eu/commission/publications/slides-security-defence-and-foreign-policy_en)

<sup>85</sup>European Commission, 'Speech by Michel Barnier at the EU Institute for Security Studies conference', 14 May 2018, [http://europa.eu/rapid/press-release\\_SPEECH-18-3785\\_en.htm](http://europa.eu/rapid/press-release_SPEECH-18-3785_en.htm)

<sup>86</sup>Deutsche Welle, 'Germany wants UK military 'as close as possible' after Brexit', 15 February 2019: <https://www.dw.com/en/germany-wants-uk-military-as-close-as-possible-after-brex/a-47543777>

continue coordinating as closely as possible. It also concerns our own security.”<sup>87</sup> The foreign ministers of Poland, Lithuania and Romania argued in a joint *Politico* op-ed that without the UK, the EU’s global role may weaken, and therefore it is vital to maintain cooperation in security and defence as much as possible.<sup>88</sup>

However, the EU has also said that the UK should not expect a ‘bespoke’ relationship. The Union and some member states are keen on maintaining the EU’s ‘strategic autonomy’ by not allowing third country interference in decision-making.<sup>89</sup> Cyprus, for instance, is worried about Turkey demanding a similar status to the UK’s if it has the ability to attend “informal ministerial meetings” as foreseen under the PD.<sup>90</sup> Michel Barnier said in April 2019 that the level of consultations with the UK would be proportional to its contributions to EU projects, adding that the UK would have the “capacity to make its voice heard.”<sup>91</sup>

Overall, much will depend on the political ambitions and level of trust between both sides, whether the UK leaves with a deal or without. Even in a No Deal scenario, the UK could be willing to contribute and participate in operations that are in its strategic interests, notably those in the EU’s neighbourhood. The EU appears keen to welcome the contribution of UK assets for its objectives, but equally it wants to reserve full decision-making capabilities in order to coordinate the interests of the remaining 27 member states, in order that they speak with ‘one voice’.

It is in the EU’s interests to welcome UK participation. As one of the two major defence actors in Europe, its participation will be crucial for Europe’s capacity to act in a changing global context. For those advocates of European ‘strategic autonomy’, particularly President Macron, having the UK involved in defence projects is crucial, especially if Germany and other member states are reluctant to become more important defence actors.<sup>92</sup> The European Court of Auditors described the EU’s approach to defence integration as “vague,” adding that after the UK’s departure there would be a “mismatch” between the ambitions in this area, and the resources that member states are willing to commit.<sup>93</sup>

Little thought appears to have been given within the EU to how the UK might cooperate *jointly* with the EU or, more likely, with individual or groups of member states in various contexts, including NATO. It remains unclear why the EU’s current vision for future coordination and cooperation is likely to be attractive to the UK. Ultimately, it is likely to be impossible to find a (subordinate) role for the UK in EU-led structures that is meaningful. It is not unreasonable for the UK to expect a role comparable to its contribution. If the EU refuses to acknowledge this, the UK will likely retreat from the EU’s frameworks in favour of bilateral relationships.

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<sup>87</sup> *Reuters*, ‘Germany: We’ll miss Brexit Britain in economic and trade terms’, 25 March 2019:

<https://uk.reuters.com/article/us-britain-eu-germany/germany-well-miss-brexit-britain-in-economic-and-trade-terms-idUKKCN1R60YT>

<sup>88</sup> Jacek Czaputowicz, Linas Linkevicius and Teodor Melescanu, ‘EU and UK need each other on post-Brexit security’, *Politico Europe*, 17 September 2018: <https://www.politico.eu/article/brexit-foreign-policy-security-eu-and-uk-need-each-other-on-post-brexit-security/>

<sup>89</sup> *Dahrendorf Forum*, ‘Known Unknowns: EU foreign, security, and defence policy after Brexit’, 26 January 2018, p16: <http://www.dahrendorf-forum.eu/wp-content/uploads/2018/01/Known-Unknowns-updated.pdf>

<sup>90</sup> RTE News, ‘EU rules out UK role in foreign and defence decisions post-Brexit’, 25 November 2018: <https://www.rte.ie/news/brexit/2018/11/25/1013219-uk-eu-security/>

<sup>91</sup> European Parliament Committee on Foreign Affairs meeting on 2 April 2019:

<https://www.europarl.europa.eu/ep-live/en/committees/video?event=20190401-1500-COMMITTEE-AFET>

<sup>92</sup> Read more about the concept of ‘strategic autonomy’ in *European Council on Foreign Relations*, ‘Independence Play: Europe’s Pursuit of Strategic Autonomy’, July 2019:

[https://www.ecfr.eu/specials/scorecard/independence\\_play\\_europes\\_pursuit\\_of\\_strategic\\_autonomy](https://www.ecfr.eu/specials/scorecard/independence_play_europes_pursuit_of_strategic_autonomy)

<sup>93</sup> *EurActiv*, ‘EU defence funding far too small for big ambitions: report’, 13 September 2019:

<https://www.euractiv.com/section/defence-and-security/news/eu-defence-funding-far-too-small-for-big-ambitions-report/>

### Questions on future defence cooperation

- How do the EU27 see the UK's future role in European security and in European 'strategic autonomy'? What kind of engagement would be foreseen with PESCO, the EDF and/or a proposed European Security Council?
- Would the EU be more flexible in order to benefit from the UK's contributions, if the UK demands greater say in decision-making or access to planning of operations and missions?
- In a No Deal outcome, would both sides be willing to conclude a security partnership even in the absence of a free trade agreement?

## Conclusions

As the next step of Brexit negotiations approaches, there is still uncertainty about the terms of the UK's departure. With a new Government in the UK and a new European Commission taking office on 1 November 2019, both sides are bound to reconsider their respective roles in the world. Future UK-EU security relations will be a key part of that debate.

Not much has yet been agreed for future arrangements, whether the UK leaves with a deal or not. No Deal outcomes can vary as well – ranging from 'mild' short-term disruption with both sides coming back to similar issues in the future, to a more 'disruptive' freeze in UK-EU relations. The outcomes also vary from sphere to sphere: for instance, the UK and EU could feel more bound to agree on law enforcement and policing mechanisms, given their interdependence in this area, than on issues such as sanctions or space programmes.

Both sides have repeatedly stated their commitment to maintaining European security cooperation. This briefing has examined the possible ways they can do so on police and law enforcement measures, as well as foreign and defence policy, overseas development, and external migration. It has also highlighted some of the challenges as well as crucial questions that both sides will have to consider.

Future arrangements for internal security mechanisms will be a complicated negotiation due to the red lines set by both sides, but this broadly reflects the reality of Brexit and that the UK is leaving the EU's legal system. Flexibility will be required in order to avoid a major reduction in operational capabilities and, in any case, it is clear that existing arrangements will need to change in some respects after Brexit.

On foreign policy, the UK will continue to have leverage on the European continent and in the world. It will also need to consider how it engages with and influences an EU that appears set for more integration in this area. The EU has clearly stated its intention to continue cooperation, and it appears to value the UK's contribution in many areas. President Macron has also expressed his willingness to work with the UK in his ambitions for Europe's role in the world, especially because of the UK's military capabilities.

Without cooperation with the UK, this ambition lacks credibility. But the EU will also have to decide whether its current approach is really the right way forward to benefit from the UK's potential contribution to its European neighbourhood. The UK's engagement with EU mechanisms is unlikely to be deep and meaningful if it is simply on the current terms for third country participation.

As outlined in this briefing, there are potential obstacles to further cooperation. Both sides will need to address these questions when the next stage of Brexit comes, preferably independently of trade negotiations.

## Annex I: EU and UK shared foreign policy objectives

EU and UK common foreign policy goals		
Area	EU 2016 Global Strategy	UK Government's 2018 National Security Capability Review
Counter-terrorism	“We will encourage greater information sharing and intelligence cooperation between Member States and EU agencies. This entails shared alerts on violent extremism, terrorist networks and foreign terrorist fighters, as well as monitoring and removing unlawful content from the media.”	“We will publish a new counter-terrorism (CT) strategy, which will include measures to improve our ability to disrupt terrorist plots in their early stages and improve frontline integration of our counter-terrorism response.”  “We have been at the forefront of shaping the arrangements that underpin our CT cooperation within the EU. As we leave the EU, we want to find a way to continue this essential work.”
Cyber security	“The EU will increase its focus on cyber security, equipping the EU and assisting Member States in protecting themselves against cyber threats while maintaining an open, free and safe cyberspace... It will enhance its cyber security cooperation with core partners such as the US and NATO.”	“We will continue to invest in international partnerships that tackle shared threats and promote the rules-based international order in cyberspace. As we leave the EU, we want to protect our cyber cooperation so that we can continue to share information about cyber threats... deepen industrial collaboration and work together to develop cyber resilience and response options.”
Relations with NATO	“The EU will step up its contribution to Europe's collective security, working closely with its partners, beginning with NATO.”	“We reaffirm our unconditional commitment to collective defence and security through NATO... We continue to encourage collaboration between the EU and NATO to ensure they are secured and prepared for the challenges of this century.”
Global order	“The EU is committed to a global order based on international law, which ensures human rights, sustainable development and lasting access to the global commons. This commitment translates into an aspiration to transform rather than to simply preserve the existing system.”	“The rules-based system we helped to develop has enabled global cooperation to protect shared fundamental values of respect for human dignity, human rights, freedom, democracy and equality... We are committed to upholding and renewing the rules-based international system.”
Prosperity and stability	“We will act globally to address the root causes of conflict and poverty, and to champion the indivisibility and universality of human rights... The EU will engage in a practical and principled way in peacebuilding, and foster human security through an integrated approach.”	“We share a commitment with the EU to eradicate extreme poverty and help build prosperity, peace, stability and resilience in developing countries. Through our partnership, we could collaborate and align in support of the UN's Sustainable Development Goals, as well as continuing to work together on early warning, conflict prevention and stabilisation.”

## Annex II: Table comparing options for future UK-EU security and defence relations

LAW ENFORCEMENT AUTHORITIES COOPERATION					
	Description of the measure	Political Declaration agreed by the UK and the EU	'Norway-style' relationship	Other third country frameworks	No Deal scenario or 'fallback' measure
European Arrest Warrant (EAW)	Allows member states to request the extradition of criminals from other member states, while limiting the time of the surrender procedure. Member states cannot refuse extradition of their own nationals upon political grounds.	The PD states that the parties should establish "effective arrangements based on streamlined procedures and time limits enabling the UK and Member States to surrender suspected and convicted persons efficiently and expeditiously, with the possibilities to waive the requirement of double criminality, and to determine the applicability of these arrangements to own nationals and for political offences."	Norway and Iceland have an agreement with the EU which establishes a unified arrest warrant with a simplified procedure, but allows them to refuse extradition of their own nationals and on political grounds. It is governed by an independent mechanism, not the ECJ or the EFTA court. It took 13 years to negotiate, and is still not in force.	Bilateral extradition arrangements which would operate through traditional diplomatic channels or based on the 1957 Council of Europe Convention.	The 1957 Council of Europe Convention on Extradition, which imposes no time limits for the procedure and allows refusing extradition of own nationals. There is no 'fallback' measure for the member states not applying the 1957 Convention or having constitutional bans/national legislation forbidding surrender of their nationals.
Second Generation Schengen Information System (SIS II)	Database which stores information and alerts on wanted people and missing objects which member states can track for security purposes. European Arrest Warrants are shared through SIS II. Border guards, customs and police have full access and migration authorities have partial access.	They are not explicitly mentioned in the PD, but both parties agreed they "should consider further arrangements...with the view to delivering capabilities that, in so far as is technically and legally possible, and considered necessary and in both Parties' interests, approximate those enabled by relevant Union mechanisms."	Member states of the Schengen area, such as Norway and Switzerland, have direct access.	Non-Schengen states do not have access.	The Interpol I- 24/7 notice system, which EU27 member states use, but they might not replicate the same information as in SIS II. The number of alerts ('red notices') circulating is smaller. It does not lead to an automatic arrest warrant.
European Criminal Records Information System (ECRIS)	Exchange system which allows EU member states to access each other's national databases on criminal records. The length of procedure is limited to average of 10 days.		There is no precedent for a non-EU country accessing ECRIS.		The 1959 European Convention on Mutual Assistance in Criminal Matters, ratified by all Council of Europe member states, in which they agree "to afford each other the widest measure of mutual assistance" in investigating crime.

## Annex II: Table comparing options for future UK-EU security and defence relations

Passenger Name Records (PNR)	Access to national databases with data about air passengers, used by national authorities to investigate serious crimes	“The Parties should establish reciprocal arrangements for timely, effective and efficient exchanges of Passenger Name Record (PNR) data and the results of processing such data stored in respective national PNR processing systems, and of DNA, fingerprints and vehicle registration data (Prüm).”	Norway and Switzerland have no PNR agreement with the EU.	The US, Australia and Canada have a special PNR agreement with the EU which allows sharing data, but not at the same level as within the EU. Some agreements were renegotiated multiple times as their provisions on data protection did not satisfy the ECJ and the European Parliament.	An exchange of advance notices of passenger travel will continue, but not at the same level as PNR, as there is technically no ‘fallback’ measure.
Prüm Convention System	It allows access to other member states’ databases on DNA profiles, vehicle registration data, and fingerprints.		Norway has direct access to the databases.	Non-Schengen countries do not have access.	There is no equivalent to the database. An alternative would be for both sides to make manual requests for information through Interpol, which would be a less efficient and longer process.
Europol	The EU law enforcement agency which allows for police cooperation to combat terrorism and cross-border crime. Member states have direct access to databases, programmes and projects, can lead operational projects and access the Europol Information System (EIS) Secure Information Exchange Network Application (SIENA), a platform to exchange information between liaison officers, member states and third parties.	The parties will “work together to identify the terms for the United Kingdom’s cooperation via Europol and Eurojust [the agency for cooperation between investigation authorities].”	Norway, Switzerland, the US and Canada have operational agreements with Europol. They have liaison officers stationed at Europol, can participate in projects and initiatives, but do not lead them, and do not have direct access to the EIS.	Denmark has a ‘hybrid’ arrangement in which it has a seat on the management board, but as an observer. It can request information but has no direct access to the EIS.	The exchange of information would have to rely on Interpol databases such as the I-24/7 or through bilateral channels.

## Annex II: Table comparing options for future UK-EU security and defence relations

FOREIGN POLICY AND EXTERNAL SECURITY					
	Summary of the initiative	Political Declaration agreed by the UK and the EU	'Norway-style' relationship	Other third country frameworks	No Deal scenario
Operations and missions	Common Security and Defence Policy (CSDP) military and civilian missions are conducted to support the EU's Common Security and Foreign Policy (CFSP).	"The future relationship should enable the UK to participate on a case by case basis in CSDP missions and operations through a Framework Participation Agreement... The UK would participate in Force Generation conference, Call for Contributions, and the Committee of Contributors meeting to enable sharing of information about the implementation of the mission or operation. It should also have the possibility, in case of CSDP military operations, to second staff to the designated Operations Headquarters proportionate to the level of its contribution."	A Framework Participation Agreement (FPA) allows for participation in management of civil and military CSDP missions, but is not a prerequisite for being involved in an operation. Norway has such an agreement and regularly participates in CSDP missions and EU Battlegroups. Third countries are not involved in decision-making, operational planning, have no representatives at the Political Security Committee (PSC), no headquarters, and cannot lead operations or take any high positions.	NATO member states can participate in CSDP missions through the Berlin Plus agreement. For instance, Turkey contributed troops to Operation Althea in Bosnia and Herzegovina.	EU missions no longer benefit from UK contributions, but other frameworks remain open for cooperation, depending on agreement.  Other frameworks include cooperation through NATO, bilateral treaties and the Organisation for Security and Co-Operation in Europe (OSCE).
Permanent Structured Cooperation (PESCO)	Launched in 2017, it is a political framework through which 25 EU member states plan to develop military capabilities together, exchange information and improve deployment.	"The Parties agree to enable to the extent possible under the conditions of Union law... the UK's collaboration in projects in the framework of PESCO, where invited to participate on an exceptional basis by the Council of the European Union in PESCO format."	Negotiations for third country participation in PESCO are still ongoing. Participation would be done only upon invitation, subject to third country conditions.		
European Defence Agency (EDA)	An EU agency that facilitates cooperation on defence capability development, in which defence ministers decide	"The Parties agree to enable to the extent possible under the conditions of Union law... the UK's collaboration in relevant existing and future projects of the	Norway, Switzerland, Serbia and Ukraine have an Administrative Arrangement (AA) with the EDA. It allows participation in programmes and in meetings of common interest, exchange information, but not a role in decision making.		The UK leaves the EDA.

## Annex II: Table comparing options for future UK-EU security and defence relations

	on an annual defence budget and new initiatives.	EDA through an Administrative Arrangement.”		
European Defence Fund (EDF)	A European Commission proposal to include spending money on common EU defence research and capability development in the next Multi-Annual Financial Framework (MFF), the EU’s budget for 2021-2027.	“The Parties agree to enable to the extent possible under the conditions of Union law... the participation of eligible UK entities in collaborative defence projects bringing together Union entities supported by the EDF.”	Norway paid to participate in EU preparatory action for defence research but was not awarded any contracts.	Arrangements for third parties are currently being negotiated. Involvement would be possible as long as it does not put at risk the EU’s security interests and strategic autonomy.
Sanctions	The EU sanctions regime is adopted upon unanimity at the European Council, in coordination with the CFSP and the European Commission. They include visa bans, asset freezes, and embargos, on both individuals and companies.	“Consultation on sanctions should include the exchange of information on listings and their justification, development, implementation and enforcement, as well as technical support, and dialogue on future designations and regimes.”  “Intensified exchange of information at appropriate stages of the policy cycle of this sanctions regime will take place, with the possibility of adopting sanctions that are mutually reinforcing.”	Norway aligns with the EU sanctions regime on a voluntary and case by case basis. There is no formal arrangement for coordination with third countries, but regular informal meetings between officials. However, third country diplomats do not influence the EU decision-making process.	
Space programmes	EU space programmes are civilian but the EU Defence Action Plan includes commitment to security/defence space programmes. The Copernicus satellite programme provides Europe with earth observation data. The Galileo space programme (to be completed in 2020) is	“The Parties should consider appropriate arrangements for cooperation on space.”	Norway has access to the Galileo project, but is still negotiating an agreement to the PRS. It participates in the GNSS Agency which runs Galileo, but the legal basis of Norway’s participation is its EEA membership as well as a security agreement.  Switzerland participates in the GNSS Agency but has an	Third countries can get involved through a bilateral agreement but no third country has access to Galileo’s PRS service due to security reasons. The US and Norway are still negotiating a treaty.  The UK will no longer have access to and provide Galileo and Copernicus but will remain a member of the European Space Agency (ESA), which is not an EU agency.

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	Europe's global navigation system. EU members can participate and provide technical expertise, both in open access information and in the Public Regulated Service (PRS), which provides secure signals used for military/law enforcement users. Companies can bid in competition for contracts to build, operate and exploit Galileo.		observer status, and does not have access to the PRS.		
A European Security Council (ESC)	A proposal mentioned by French President Emmanuel Macron as well as German Chancellor Angela Merkel, for closer coordination on foreign policy both within the EU and externally.	Depending on whether this proposal goes ahead, the UK could have role to play in this new institution. If the ESC is not integrated in the EU framework, partners such as the UK and Norway could contribute.			

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