Written evidence from Chatham House & The University of Kent (EUR0016)

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About the authors
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Summary of evidence
The evidence submission focuses on the UK’s future EU and European diplomatic strategy post-Brexit. It argues that the Prime Minister’s proposal for a ‘Security Treaty’ and future EU-UK foreign, security and defence policy collaboration needs to be considered within the UK’s broader diplomatic strategy for Europe.

Evidence

EU-UK foreign, security and defence policy relationship post-Brexit

1. The Prime Minister has made clear in both her Lancaster House and Florence speeches that her Government’s objective is to replace the UK’s EU membership with a ‘deep and special partnership with the European Union.’ A considerable proportion of the Florence speech was devoted to ‘a new relationship on security’ alongside a new economic relationship. The Prime Minister’s proposal was that the security relationship would be underpinned by a treaty between the UK and the EU.

2. More detailed UK Government ambitions for broader foreign policy, security and defence policy relationship have been set out in two ‘future partnership’ papers on foreign policy, defence and development, and security, law enforcement and criminal justice. Both papers stress the degree of shared values, objectives and threat perception between the UK and the EU. The thrust of the papers is that the UK has much to lose from being more detached from the EU.

3. Neither of these documents, nor the Prime Minister’s proposal for a security treaty, have triggered detailed EU responses. The EU27 position has been to maintain a focus on the Article 50 process, interpreted in a sequenced fashion, with discussions on a future relationship conditional on the delivery of the narrowly drawn mandate currently being pursued by the European Commission negotiator, Mr Barnier.
4. The UK government’s aspiration to agree a treaty-based relationship on security is a serious declaration of intent. But the complex distribution of EU security policy - operating on the basis of different degrees of integration between the member states, pursued across different institutions (with differing roles for the European Commission, other EU agencies and member states) and based upon different EU treaty articles - throws up similar complexities as negotiating a future trade relationship.

5. For the UK to seek the closest possible relationship with the EU and its member states on internal security, and especially on issues of crime, terrorism and borders, will mean particularly acute negotiating challenges if the UK is outside the EU’s institutions, legal order and jurisdiction of the European Court of Justice (ECJ). Moreover, because additional elements of the UK’s external relations, such as the environment, food security, energy and development policy - all of which contain security dimensions - are all currently intertwined with EU policies, the scope of an EU-UK security treaty could be impressively broad.

6. When it comes to foreign and defence policy, there appear to be fewer formidable institutional and legal barriers than other areas of future EU-UK security collaboration. The EU’s member states retain the preeminent role in foreign and defence cooperation. But the recent evolution of Brussels-based decision-making and implementation structures of the EU’s Common Foreign and Security Policy (CFSP) and Common Security and Defence Policy (CSDP) present a ‘docking problem’ for a non-member state. Only member states are members of the EU’s key foreign, security and defence decision-making bodies such as the Foreign Affairs Council (FAC) and the Political and Security Committee (PSC).

7. Non-member states have been granted a range of formats to share views and to facilitate collaboration on foreign policy issues and security missions outside of these decision-making bodies. But none of these existing arrangements are likely to prove sufficiently attractive to the UK as they would not allow for sufficient influence on EU policy formation (via direct participation in key institutions). They only allow for signing up to EU foreign policy positions and security and defence operations after decisions on content, scope and action have already been determined. This is essentially participation and partnership on a ‘take it or leave it’ basis.

8. The position set out by the Prime Minister in her Florence speech envisages something rather different: “…it is vital that we work together to design new, dynamic arrangements that go beyond the existing arrangements that the EU has in this area - and draw on the legal models the EU has previously used to structure cooperation with external partners in other fields such as trade.” In short, her government appears to seek a higher degree of integration with the EU than has been realised with other states to date.

9. Achieving such an ambitious goal depends on two key conditions. First, whether the EU’s member states share the scale of ambition for a security agreement. Second, and more crucially, whether the UK and the EU are able to reach the exit agreement envisioned by Article 50 covering the UK’s exit from the EU and terms for the negotiation of a post-membership relationship.
10. A challenge will be to strike the right balance between autonomy and collaboration. The EU is unlikely to accept any arrangement in which the UK retains its place as a formal member of the CSFP and CSDP, and in decision making bodies like the Foreign Affairs Council. The UK is unlikely to join policies or operations that it has had no role in designing. But both sides retain an interest in close cooperation.

11. The principle that could form the basis of cooperation in the future is institutionalised non-binding collaboration. Under such an approach, the UK should seek to achieve a new status as a partner or associate (rather than member or observer) of the EU on CSFP and CSDP matters, present by default - unless there is a formal objection from a qualified majority of member states - in both the PSC and FAC.

12. The UK should seek the right to participate in FAC discussions, propose agenda topics, and make proposals for joint conclusions or policies. However, the UK should have no veto power on issues that require unanimity, nor voting power on issues decided by QMV. It would have a voice, but not a vote.

13. Similarly, the EU would have no ability to compel the UK to be bound by a policy or conclusion it has not chosen to adopt. It would be up to the UK to choose whether to associate itself with a particular policy or conclusion of the Council. Should EU members agree to something to which the UK dissents, then such a policy or conclusion could still be adopted as an EU position in the usual manner. Each side could then be free to go further than the other, if it so chose.

14. Such an arrangement would increase the opportunities for collaboration, exchanges of views and even collective actions, while limiting the potential risks of divergence of views over the longer term. This will require a flexible mind-set on all sides.

Security Treaty needs connection to new UK diplomatic objectives

15. Agreeing a security treaty with the EU would be a major foreign and security policy commitment. However, currently the security treaty proposal is detached from any wider process of reflection on the objectives for the UK’s foreign, security and defence post-Brexit.

16. In the absence of a clear articulation from the government as to the scope and ambition of a ‘Global Britain’ (currently being used by government ministers as shorthand for post-Brexit foreign policy) the EU-UK security treaty proposal appears to make a major commitment, divorced from a critical reflection on the extent to which the UK’s European diplomatic strategy should have a dominant focus on the EU.

17. As Brexit was not anticipated, it is not currently reflected in the UK’s current National Security Strategy (NSS) or in the last Strategic Defence and Security Review (SDSR) completed in 2015. The scope and scale of the security commitments made to the EU via the security treaty, if as ambitious as the Prime Minister’s Florence speech suggests, would need to be reflected in a future SDSR and NSS.

18. The current national security capability review, which looks at the existing UK policy and the plans to support implementation of the current NSS, is, in part, a recognition of the consequences of Brexit for UK foreign and security policy. But the UK needs
to conduct a broader evaluation of the ambition for its post-Brexit foreign and security policy, especially in the European neighbourhood where the EU is a significant payer and player.

19. Importantly there is the need to evaluate how the UK sees itself fitting with existing EU foreign, security and defence policy objectives. To what extent does the UK want to seek a division of labour with the EU and/or outsourcing the delivery of policy objectives by aligning with existing EU policies?

20. The UK also needs to consider the relative balance between its EU-focused diplomacy and other key diplomatic arenas for UK influence such as the G7, the UN and NATO. These could provide with a more effective impact on EU policies than within an EU-UK structure.

21. Additionally, the UK needs to prepare for the risk that the interests or approach of the EU and the UK significantly diverge in some areas. It is foreseeable that the UK may seek a closer relationship with the United States, despite differences with the present administration, or pursue a more overtly commercial approach to some emerging economies, potentially leading to divergences with the EU.

22. A different future relationship with the EU may be desirable if security and defence policy integration among the remaining 27 member states moves significantly further (the operationalisation of PESCO shows this ambition) in a manner that may conflict with the UK’s interests and influence.

**UK European diplomacy needs Post-Brexit**

23. Alteration of Britain’s status in relation to the EU will also require an extensive recalibration of its bilateral relationships with both its EU and non-EU European neighbours.

24. There is perhaps greater scope for new European state-to-state bilateral, trilateral mini- and multi-lateral relationships. However, these need to be embedded within a new European diplomatic strategy with clear ambitions and objectives for UK foreign and security policy within Europe, a continent where Britain’s diplomatic network has been thinned as part of a rebalancing of resources towards emerging powers.

25. The UK’s bilateral relations with France and Germany, and the future triangular relations between the three, will be important as a way to bring together Europe’s leading allied diplomatic, economic and military powers. However, the format and operation of this triadic is difficult to predict at present, given the political uncertainty and the political investment made by France and Germany in both their bilateral relationship and the EU’s growing capacity in this area.

26. Negotiating the exit from the EU itself will now occupy extensive diplomatic and political bandwidth for at least the next two years – limiting capacity to focus on the other extensive and pressing set of security challenges currently faced by the UK.

27. Aside from negotiating its own exit from the EU the UK also has to determine its own strategic objectives for its future relationship with the EU and other European states. The EU will remain the UK’s neighbour and most important market for goods and
services for the foreseeable future. The political and economic stability of the EU will be a first-order concern for the UK.

28. Membership of the EU has provided the UK with significant efficiencies in enabling it to address a wide range of policy issues via a multilateral format with 27 other European countries. The EU has provided a forum for the resolution of interstate disagreements between its members, the ironing out of differences with other European states and the pursuit of collective policies and positions on issues of common concern. Consequently, the UK will need to broaden and deepen its bilateral links with the 27 member states to seek to maximise its influence on EU policies.

29. The UK will also need to ensure that, on exit from the EU, UKREP is transformed into a diplomatic post with extensive resourcing and status adequate to the task of exercising significant influence in Brussels.

30. The UK needs to pursue four interconnected goals to influence the future development of the EU in a direction that best suits British interests:

- first, to see the EU maintain and to deepen its single market as a liberalization and deregulation project, and committed to a global free trade agenda;
- second, to see the EU maintain a commitment to an ongoing programme of enlargement—especially in the Western Balkans;
- third, to see the development of greater fiscal and banking-sector integration among the members of the Eurozone to provide stability and eliminate uncertainty as to the viability of the monetary union;
- fourth, to ensure that the UK maintains a leadership role in foreign and security affairs as one of Europe’s largest member states and that the UK is not frozen-out of influence on the future strategic priorities of the EU and Europe more generally. These are an ambitious set of objectives that will test the capacity of the UK’s diplomacy to its limits.

The EU-UK diplomatic and defence relationship during transition

31. One of the most recent Brexit controversies is the question of a transition (‘adjustment’ in the Prime Minister’s language) phase between the UK’s formal departure from the EU under the terms of Article 50 on 31st March 2019 and the entry into force of a post-membership agreement to cover EU-UK relations.

32. By extension, transition arrangements would be in place covering foreign, security and defence policy.

33. In this case the EU would need to determine the degree to which it wants to see the UK continue to participate in EU policies as a ‘privileged partner’ and to provide the necessary legal and political arrangements in anticipation of ‘final status’ EU-UK agreement. Such an arrangement can be dubbed as a ‘reverse Denmark’: Denmark has an opt-out from the EU’s Common Security and Defence Policy (alongside that of single currency membership) but otherwise participates as a normal EU member state.

34. An alternative for the EU could be to ‘lock out’ the UK and to treat it as non-privileged, non-member state associated with EU security, foreign and defence
policies on similar terms as Norway (on foreign policy and defence). However, unlike Norway, the UK is a non-Schengen state, and the relationship with the EU on internal security issues would be most conditional on what form of Europol and information sharing collaboration is agreed to cover the transitional period. An operational agreement (allowing for personal data sharing) is already in place with non-member state third counties who are not members of the Schengen area.

35. The alternative to reaching an agreement on a transition period is a ‘cliff edge’ or ‘hard Brexit’ with the UK exiting the EU at the end of March 2019 and leaving all EU institutions and policies. The implications for the UK differ for foreign, security and defence policy.

36. The greatest immediate dislocating effect of a hard Brexit would be for the UK to be abruptly outside the EU’s institutional and information sharing arrangements facilitating cross border security. Notable would be the loss of information sharing via the termination of access to data systems such as Schengen Information System (SIS) II and Prüm, together with the termination of access to the use of the European Arrest Warrant (EAW).

37. For foreign policy there will be a departure from the formal structures of policy making and loss of direct access to information sharing between the EU member states. With no formal structures of foreign policy consultation in place between the EU and the UK, the fallback would be on informal information gathering in Brussels and seeking influence via member state capitals, for which the UK would likely to need a greater investment of time and personnel. Sanctions as a foreign policy instrument, where currently conducted through the EU, would present a legal and operational challenge.

38. On defence, the UK’s contributions to the CSDP would likely cease as the legal and political basis for their continuation would have ended. The degree to which this would impact on the EU would depend on the provisions that the UK is making to the CSDP in Spring 2019. UK personnel would likely be removed from CSDP operations in third countries, and from Brussels institutions such as the military committee. The Operational Headquarters (OHQ) would no longer operate as a facility available to the EU and the UK would leave the roster of EU Battle Groups. The UK would, however, remain connected to the CSDP through the EU-NATO Strategic Partnership and operational collaboration.

39. More generally, a hard Brexit would, of course, have implications for the UK’s wider bilateral and trilateral relationships with the remaining EU member states, other European states and outside Europe.

**Security Treaty objective needs to be reconsidered**

40. The Prime Minister’s ambition, set out in her Florence speech, is for an EU-UK security treaty which positions UK’s foreign, security and defence policy as separate but not separable from the EU. Such a wide-ranging security agreement is, however, a formidable undertaking, and will be conditional on agreement on the future economic relationship.
41. The Security Treaty also needs to be considered as only one component of a fully developed UK EU diplomatic strategy which brings together the UK’s ambitions for its multilateral and bilateral European relationships alongside that of its relationship with the EU.

42. The Security Treaty may not be the best approach to securing the UK’s interests. A less ambitious, but more attainable goal, may be to separate out the various strands of the security, foreign policy and defence policy into separate agreements. This could be under the umbrella of a more widely drawn strategic partnership with the EU.

43. Consideration also needs to be given to the possibility of a hard Brexit, and the implications of dislocation replacing the existing embeddedness of the UK in the EU’s foreign, security and defence policy.

44. The foreign, security and defence policy of the EU of 27 member states without the UK has been given less attention in Brussels or national capitals than the other, short-term issues, like the Brexit financial settlement. With the tight mandate and rigid negotiating approach currently being pursued in Brussels, it cannot be assumed that the current shared foreign, security and defence policy interests between the EU and the UK will be saved from the shadow of the broader dislocation that results from Brexit.

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