



Danish Institute for International Studies

European defence cooperation and the Danish opt-out

Report on the developments in the EU and Europe in the fields of security and defence policy and their implications for Denmark

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April 2020



EUROPEAN DEFENCE COOPERATION AND THE DANISH DEFENCE OPT-OUT

Report on the developments in the EU and Europe in the field of security and defence policy and their implications for Denmark

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ABBREVIATIONS

APF	African Peace Facility
AWACS	Airborne Warning and Control System
CARD	Coordinated Annual Review on Defence
CBSD	Capacity Building in support of Security Development
CDP	Capability Development Plan
CFSP	Common Foreign and Security Policy
CSDP	Common Security and Defence Policy
DIIS	Danish Institute for International Studies
EC	European Community
EDA	European Defence Agency
EDF	European Defence Fund
EDIDP	European Defence Industrial Development Programme
EDRP	European Defence Research Programme
EI2	European Intervention Initiative
EPC	European Political Cooperation
ESS	European Security Strategy
EU	European Union
FNC	Framework Nations Concept
GDP	Gross Domestic Product
JEF	Joint Expeditionary Force
MFF	Multiannual Financial Framework
MINUSMA	United Nations Multidimensional Integrated Stabilisation Mission in Mali
MPCC	Military Planning and Conduct Capability
NATO	North Atlantic Treaty Organisation
NORDEF	Nordic Defence Cooperation
PADR	Preparatory Action for Defence Research
PESCO	Permanent Structured Cooperation
PSC	Political and Security Committee
QMV	Qualified Majority Voting
SDIP	Security and Defence Implementation Plan
TEU	Treaty on European Union
UN	United Nations
WEU	Western European Union

PREFACE

In recent years, especially since 2016, the EU has expanded its security and defence cooperation. Similarly, international frameworks of relevance to Denmark's foreign, security and defence policies have changed considerably over the same period. Due to its opt-out from EU defence initiatives, however, Denmark is not involved in some aspects of the new developments in the EU's security and defence policy.

Against this backdrop, in November 2018 the previous Government of Denmark commissioned an external report on recent developments in EU security and defence policy and their implications for Denmark from the Danish Institute for International Studies (DIIS). Funding for the report was approved by the Finance Committee of the Danish Parliament (Folketinget) on 7 February 2019, after which work on the report formally commenced.¹

The Government's request to DIIS asked for the following elements to be included in the report:

- a) A description of the *framework of the defence opt-out and developments in EU security and defence policy cooperation* in the light of global developments. The review was to contain a brief account of the EU's defence dimension in 1992 when the defence opt-out was introduced, but otherwise it should focus on developments after the latest DIIS report, issued in 2008, with special emphasis on the time period after adoption of the EU's Global Strategy in 2016, which launched a number of significant initiatives in this area.
- b) An analysis of the *significance of the defence opt-out for security and defence policy*, including developments in NATO and the position of NATO partners outside the EU (especially the United States of America, and in the future, the United Kingdom) on the Danish defence opt-out, as well as cooperation

between the EU and NATO, including whether developments in the EU could also have an impact on the capabilities of NATO member states.

- c) An analysis of the impacts on industrial policy and research policy.
- d) An analysis of the extent to which the area of defence policy is likely to interact with *other policy areas*, both now and in the future.
- e) Considerations of the *significance for European policy*, including the implications of the defence opt-out for Denmark's overall position in the EU and for the broader view of Denmark in Europe.²

This report reflects DIIS's interpretation of the task and focuses on developments in EU security- and defence-policy cooperation since the last DIIS report on the Danish opt-outs in 2008,³ especially in the period after the launch of the EU's Global Strategy in 2016. This report builds on the 2008 DIIS report, which included a comprehensive description and analysis of developments in EU security and defence policy and of the effects of the defence opt-out up to 2008.

This report has been prepared by a research team consisting of Cecilie Felicia Stokholm Bank, Research Coordinator and Senior Researcher (DIIS), Associate Professor Graham Butler (Aarhus University), Hans Mouritzen, Senior Researcher (DIIS), Christine Nissen, Researcher (DIIS), Mikkel Runge Olesen, Senior Researcher (DIIS), Associate Professor Rasmus Brun Pedersen (Aarhus University), Associate Professor Jon Rahbek-Clemmensen (Royal Danish Defence College) and Jakob Linnet Schmidt, Research Assistant (DIIS). Louise Riis Andersen, Senior Researcher (DIIS), was also linked with the group in the final phase. The research team was assisted by student assistants Emilie Sort Mikkelsen and Esther Janum Jørgensen.

In order to ensure academic quality and independence, as well as to involve the foreign, security and defence policy research environment in Denmark, the process was monitored by both an internal and an external review group. Louise Riis Andersen, Senior Researcher, Manni Crone, Senior Researcher, Flemming Splidsboel Hansen, Senior Researcher, and Lars Vissing, Senior Analyst, all from DIIS, comprised the internal review group. The external review group consisted of Kristian Søby Kristensen, Deputy Head of Centre (University of Copenhagen), Professor Thorsten Borring Olesen (Aarhus University), Dean Jens Ringsmose (University of Southern Denmark), Fabrizio Tassinari, Executive Director (School of Transnational Governance, European University Institute) and Anders Wivel, Professor with Special Responsibilities, MSO (University of Copenhagen). Furthermore, a number of seminars were held with national and international experts, government officials and representatives of the defence industry.

The report was prepared over a period of a little less than a year, during which time the research team was chosen, the research design was established, empirical data were collected, including a large number of interviews both in Denmark and elsewhere, and the report was written and published. The writing of the report was completed on 11 November 2019.

We are extremely grateful to all the relevant stakeholders who found the time to take part in interviews in connection with the preparation of the report, and to the ministries and authorities for their logistical assistance in organising interviews. We also thank the staff at the Ministry of Foreign Affairs of Denmark for facilitating a search of the Ministry's archives by the research team.

In accordance with the Danish Institute for International Studies Act (Lov om Dansk Institut for Internationale Studier), the Director is responsible for this report.

Copenhagen, 11 November 2019

Kristian Fischer, Director

SUMMARY

This commissioned report has been prepared at the request of the Danish Minister for Foreign Affairs. The report covers recent developments in the European Union and in Europe regarding security and defence policy, and the implications of the Danish defence opt-out in the light of such changes. The analysis is based on interviews with experts, officials and representatives of EU institutions and bodies, NATO, Danish public bodies and other EU member states, as well as case files in the archive of the Danish Ministry of Foreign Affairs, official documents and existing research.

THE FOLLOWING ARE THE MAIN CONCLUSIONS PUT FORWARD BY THE REPORT:

- The implications of the Danish defence opt-out have grown over the past ten years, as defence policy co-operation among the other EU member states has been strengthened.
- The consequences of the defence opt-out, in the form of lost influence on matters of importance to broader Danish security concerns and defence industry interests, will increase in the coming years if current trends in international developments continue.
- Denmark cannot participate in parts of the EU's new defence co-operation, including PESCO, nor in some aspects related to capacity development in the areas of cyber security, hybrid threats and military mobility.
- The number of grey areas where there is doubt about the applicability of the defence opt-out has increased, resulting in an indirect expansion of its potential scope.

THE REPORT ALSO DEMONSTRATES THE FOLLOWING:

- That the defence opt-out has not impacted on Denmark's narrow territorial security, which remains anchored in NATO co-operation.
- That Denmark can participate in parts of the EU's new defence policy where these relate to policy areas outside of the Common Security and Defence Policy (CSDP) and instead are in fields where the European Commission is involved, including in particular industry, research and transport policies.
- That in itself the defence opt-out does not pose an obstacle to Denmark acting outside the EU, such as entering into defence policy co-operation with other states and like-minded partners.

The report's analysis demonstrates how EU security and defence policy co-operation is being rethought and strengthened across EU institutions, as well as in a number of forums outside the EU. Denmark participates in some but not all of these initiatives because of the limitations imposed by the defence opt-out. The report suggests that the opt-out will limit the protection of Danish interests if, in the future, there is a dynamic move towards increased European strategic autonomy, for example, in response to increased transatlantic differences. Conversely, the defence opt-out will be less important if the EU's defence co-operation stagnates or is rolled back, for example, due to internal disagreements among EU member states.

INTRODUCTION

This introductory chapter provides a brief historical review of the foreign and security policy rationale behind European defence cooperation after the Cold War, including an outline of the scope of the Danish defence opt-out. What follows is a summary of the most recent initiatives in EU security and defence policy. Finally, descriptions are provided of the analytical framework of the report, the methods used and the report's empirical contents.

BACKGROUND

When the Danish defence opt-out was agreed in 1993 following Denmark's initial rejection of the Maastricht Treaty in a referendum in 1992, there was no EU cooperation on defence matters. Initially, therefore, the defence opt-out had minor, if any implications for Denmark's part in EU cooperation. It was not until 2003 that the Common Security and Defence Policy (CSDP) was declared operational, which led to Danish forces being withdrawn from the Balkans because of the opt-out when a number of operations were transferred from NATO or UN leadership to EU leadership.⁴ The objective at that time was to enable the EU to perform operations within the sphere of the so-called 'Petersberg tasks', which covered crisis management in peace-making, peace-keeping, and humanitarian and rescue tasks. Ten years later, the security situation in Europe had changed, with a stronger political desire to extend European defence cooperation to include more than

just the Petersberg tasks. This was expressed in the EU's Global Strategy 2016, which pointed to the need for the EU 'to be strengthened as a security community: European security and defence efforts should enable the EU to act autonomously...'.⁵ The need to rethink European security and defence policy has been further reinforced by the United Kingdom's withdrawal from the Union and by the new 'America First' approach of the current United States administration. Therefore, in recent years, a number of new defence initiatives have been created at the EU level that were not predicted in 1993 when Denmark sought to opt out of EU defence cooperation.

In the light of recent security and defence policy developments, in November 2018 the Danish Minister for Foreign Affairs asked DIIS to prepare a report on developments in the EU within the areas of security and defence policy and their implications for Denmark. This report analyses these developments and assesses the strategic, political and practical implications of the defence opt-out for Denmark. The legal and economic aspects of the defence opt-out are addressed in their foreign, security and defence policy contexts, while other aspects, including intelligence, for example, are not examined. The report is a follow-up to a DIIS report of 2008 on the four Danish opt-outs.⁶ The focus is on developments in EU security and defence policy cooperation from 2008 onwards, especially in the period after the launch of the EU Global Strategy in 2016. The aim of the report is not to make

recommendations as to whether the defence opt-out should be retained or abolished, but rather to add to public knowledge about current developments in EU security and defence matters and their ramifications in light of the Danish defence opt-out.

EU security and defence policy since the Cold War

In 1970, EU foreign ministers began to coordinate foreign-policy issues, when possible, through the limited ad-hoc framework known as European Political Cooperation (EPC). When the Treaty of Maastricht entered into force in 1993, it replaced the EPC and gave the EU an institutionalised forum of cooperation on foreign and security policy (CFSP) for the first time. The fact that the EU now had a *common* foreign and security policy generated expectations that the Union would be able to act as united force on the international stage.⁷ However, after almost five decades without war

or conflict in Europe, the EU was not prepared for the violent conflicts that arose in the wake of the fall of the Berlin Wall, especially what unfolded in the Balkans from 1992 onwards. These events in the former Yugoslavia demanded solutions going well beyond what the CFSP framework established by the Treaty of Maastricht could provide.⁸

Therefore, the need for stronger EU foreign and security cooperation became clear only a few years after the Treaty of Maastricht. The perception that the CFSP was not effective enough encouraged EU member states to support further cooperation in the area. Sparked by the British-French declaration of the need to develop deeper European defence integration at their bilateral St. Malo summit in 1998, and following the war in Kosovo, EU heads of state and government agreed that, in international crisis situations, the EU was to have the resources and capabilities to take decisions,

Table 1. Developments in EU foreign and security policy

1970	Establishment of European Political Cooperation (EPC).
1986	EPC formalised in the Single European Act.
1993	EU's foreign and security policy (CFSP) institutionalised in the Maastricht Treaty.
1998	St. Malo summit lays the foundation for a defence dimension to EU cooperation.
1999	The Treaty of Amsterdam establishes the High Representative of the Union for Foreign Affairs and Security Policy. The EU summit in Helsinki establishes new official bodies to make up the core of decision-making processes for security and defence policy: the Political and Security Committee (PSC), the EU Military Committee (EUMC) and the EU Military Staff (EUMS).
2002	The EU Satellite Centre is established.
2003	The EU's first security strategy is published. The Berlin Plus agreement between the EU and NATO formalises cooperation between the two organisations. The EU's first civilian CSDP mission is deployed to Bosnia-Herzegovina; the EU's first military CSDP operation is launched in Macedonia.
2004	The European Defence Agency (EDA) is established.
2009	The Treaty of Lisbon enters into force. The treaty establishes the European External Action Service, strengthens the High Representative of the Union for Foreign Affairs and Security Policy, and introduces Permanent Structured Cooperation in defence policy (PESCO), a solidarity clause (Article 222) and a mutual defence clause (Article 42.7).
2017	PESCO is activated by 25 EU Member States.

backed up by credible military force. This was followed up in December 1999 at the European Council in Helsinki, where a concrete target was adopted for EU military capabilities in connection with the Petersberg tasks, and a decision was taken to build up a political and military structure supported by new official bodies, including the Political and Security Committee (PSC), the EU Military Committee (EUMC) and the EU Military Staff (EUMS). Moreover, the EU adopted an action plan for non-military crisis management.⁹ Later, in 2003, this stronger integration of defence policy was enshrined in the Treaty of Nice, which among other things incorporated the Western European Union's (WEU) crisis management capacity into the EU. However, decision-making in this area still required unanimity between member states on the Council.

After the Treaty of Nice entered into force, the EU published its first European Security Strategy (ESS), which declared that the management of international conflicts was to be one of the EU's most important security priorities.¹⁰ That same year, the EU operationalised the Common Security and Defence Policy (CSDP) with the launch of the first EU crisis management missions in the Balkans, when it took over UN and NATO operations that had been deployed in the region since conflict had broken out in the former Yugoslavia. This increased the consequences of the defence opt-out for Denmark, which now had to withdraw its armed forces, despite their having participated in the previous NATO and UN-led operations.¹¹ As a result of the defence opt-out, Denmark does not take part in any EU military operations, including the latter's six current deployments encompassing military training in Mali and Somalia and combating human trafficking across the Mediterranean in Operation Sophia. Similarly, Denmark does not participate in the European Defence Agency (EDA), which was established in 2004 to assist member states in developing their military capabilities.

The Treaty of Lisbon, which entered into force in 2009, changed the institutional framework for EU foreign and security policy once again. The treaty brought institutional change to the EU foreign-policy system, most notably by means of an enhanced role for the High Representative (HR) of the Union for Foreign Affairs and Security Policy (HR) and with the creation

of the European External Action Service (EEAS). The main role of the HR is to conduct the CFSP, to preside over the Foreign Affairs Council (FAC), to represent the EU externally and to conduct dialogues with third countries. The EEAS was established to assist the HR with all his or her duties and to provide coordination with the diplomatic services of the member states. The Treaty of Lisbon also contains specific provisions to enhance the EU's defence capabilities. First, the Treaty introduced the possibility for a group of willing EU member states that fulfil certain criteria to enter into the so-called 'Permanent Structured Cooperation' in defence (PESCO). Furthermore, a provision on mutual defence was established, as well as a solidarity clause. The aim of both these provisions was for EU member states to stand united if a member state was exposed to attack, experienced terrorism, suffered natural or man-made disasters, etc. The Treaty of Lisbon did not lead to any change in the Danish defence opt-out because the Treaty maintained the institutional nature of EU cooperation in security and defence policy, largely retaining activity within the Council.¹² The fact that Denmark could not take part in the full array of new initiatives for the defence area under the Treaty did not attract much attention at the time, as several years passed before the Treaty's provisions were put into practice.

EU security and defence policy after 2016: towards greater strategic autonomy?

The European security architecture has been transformed in recent years. A number of external and internal factors have spurred the EU to rethink its defence and security policy. The Russian threat has re-emerged in the east following Russia's annexation of Crimea in 2014, conflict and instability in the Middle East and Africa have led to increasing migration to Europe, and a number of terrorist attacks have struck European capitals in recent years. Moreover, the demand of the United States that NATO's European member states take more responsibility for their own security and uncertainty regarding support of the United States for NATO's Article 5 have concentrated minds within the alliance, while China is setting itself up as an economic and military power, with implications for the security of Europe.

Apart from these external changes, internal dynamics have also seen increased momentum towards stronger defence cooperation in the EU. Brexit has created uncertainty about the future of Europe's security structure, since UK withdrawal means that the EU will lose one of its strongest military powers, with a defence budget accounting for around 20 percent of total EU defence expenditure.¹³ At the same time, however, the UK has generally been reluctant to strengthen the EU's security and defence apparatus, especially in recent years. Now outside the EU, it will no longer be possible for the United Kingdom to block initiatives in this area.¹⁴ Brexit has also brought home forcefully to other EU member states the fact that international institutions can be exited. This has resulted in an increased focus on cohesion in the EU. In order to avoid a domino effect in the wake of the UK's withdrawal, a number of member states and EU institutions have focused on finding new ways to demonstrate the EU's continued relevance. Strengthening EU defence and security policy has been identified as an area in which the EU can deliver concrete and visible results, for example, in tackling asymmetric and non-conventional challenges such as terrorism, hybrid and cyber threats and migration.

As already mentioned, the EU's Global Strategy of 2016, published less than a week after the UK referendum voting for withdrawal from the EU, emphasised that 'soft power is not enough'. The EU 'must be ready and able to deter, respond to, and protect [itself] against external threats'.¹⁵ As the analysis below will illustrate, the strategy and the thinking behind it should be viewed in the context of the recurring debate over the need for greater European strategic autonomy, that is, Europe's ability to act more independently on the global foreign and security policy stage and thereby take more responsibility for its own security.

The declaration of intent in the Global Strategy has been followed up with a number of specific initiatives to coordinate and strengthen the defence capabilities of EU member states. In June 2017, the European Commission proposed a European Defence Fund (EDF) to spur the development of joint capabilities. In December that same year, the Council activated Permanent Structured Cooperation (PESCO), which

had been a formal option within the architecture of EU cooperation since the Treaty of Lisbon, its aim being to develop common military capabilities. In connection with the EU's increased focus on capability development, a Coordinated Annual Review on Defence (CARD) was introduced to monitor national defence expenditure and capability development in EU member states.

These are still fledgling initiatives, and they have not yet been allocated the resources deemed necessary to be fully materialised. The extent and pace of their realisation will depend on the political commitment of the EU's member states, including, to a certain extent, their ability to draft a common direction for EU defence cooperation. With the exception of the EDF, the new EU initiatives are moving forward with a framework that builds on voluntary contributions by the participating member states. The aim is to develop specific military capabilities in which the participating member states can see practical and financial benefits. Cooperation therefore depends on the member states themselves acquiring capacities that can be used unilaterally and bilaterally, as well as under the auspices of the UN, NATO or the EU.

Given that NATO and the EU have 22 member states in common, there is broad agreement that developments in the EU must complement and not replace developments in NATO, and that it is necessary to combine the work of the two organisations in order to address Europe's security challenges effectively. In order not to bring NATO's continued role as a guarantor of the territorial security of NATO's European member states into doubt, steps have been taken towards stronger EU-NATO cooperation, which the two organisations confirmed in an agreement in summer 2016 at the NATO Summit in Warsaw. At the same time, coordination outside the institutions, including stronger bilateral Franco-German cooperation, has increased, and a number of new initiatives such as the European Intervention Initiative (EI2) are leading to increased European defence cooperation outside the institutional structures of the EU and NATO.

OBJECTIVES AND METHODS

In light of the terms of reference of this report, which is to investigate developments in the EU on security and defence policy and their significance for Denmark, this report addresses the following three research questions:

- How has security and defence policy in the EU and Europe developed since 2008, in particular since publication of the EU Global Strategy?
- What are the implications of this development for Denmark in light of the defence opt-out?
- What significance will the defence opt-out have for Danish interests in the medium term, i.e. up to 2024?

The underlying premise of the report’s terms of reference is that the implications of the opt-out in safeguarding the interests of Danish foreign policy vary over time. Even though the focus of the report is

primarily on the period since 2016, its starting point is when the defence opt-out was established. The report focuses not only on developments in the EU, but also on institutional developments outside the EU framework that are important in assessing the implications of the defence opt-out.

In order to provide a qualified assessment of the possible future significance of the defence opt-out in safeguarding Danish interests, the report includes a number of scenarios that project different and opposing trends which currently characterise European cooperation on defence and security both inside and outside the EU institutional framework.

Analytical framework

The significance of the defence opt-out in safeguarding Danish foreign policy interests has not been static, but varies in line with international developments. When these change – or are likely to change – the significance of the defence opt-out also changes. As shown in Figure 1, the report analyses how the relevant

Figure 1. How do new external developments affect the significance of the defence opt-out for Danish foreign-policy interests?



international developments (the vertical arrow) affect the significance of the defence opt-out for safeguarding Danish interests (the horizontal arrow). In other words, dynamic factors elsewhere in the world may affect the relationship between the defence opt-out and Denmark's foreign, security and defence interests.

The defence opt-out is a legal mechanism that Denmark can either retain or abolish through a popular referendum. In light of how it affects the safeguarding of Denmark's foreign-policy interests, four underlying foreign-policy interests are included in this report, of which two deal with substance and two with power.

The former pair of interests cover state *security* and maintaining and/or increasing its *resources*. These resources may be industrial, scientific or economic in a broader sense. First, security refers to Denmark's territorial integrity, particularly regarding military threats. Second, it refers to a broader conception of security, which also includes non-traditional threats such as cyber or hybrid attacks, terrorism, climate change or environmental disaster.

The power categories, *influence* and *autonomy*, include a set of less tangible but vital categories, which can be used as a general 'currency' by the state to achieve the substantive interests mentioned above. Influence is defined as the ability of a state to affect other players. Autonomy is defined as the ability to avoid the influence of other actors, that is, the ability to act independently of other states and institutions. Influence is a broad category with some specific indicators: the administrative resources (officials) available, access to relevant international forums (membership or observer status) and, not least, the member state's reputation in these forums. Reputation refers to the status one enjoys among other relevant players (synonyms include 'status' or 'political capital'). The better one's reputation by virtue of one's credibility or one's previous 'favours' or a specific expertise, the better one's opportunities to influence other players. Reputation can either be linked to one specific area, for example, defence policy, or can spill over into other policy areas and assume a more general character. In certain circumstances, reputation may also contribute to a state's ability to withstand external pressures, that is, its autonomy.

A state's influence and autonomy are therefore often interrelated, but this does not apply in all situations. A small state may acquire more influence as tensions increase between major powers because the value of its resources increases. At the same time, however, its autonomy may dwindle, producing greater exposure and vulnerability.

Different states prioritise their interests differently, and an individual state changes its priorities over time. A dilemma between these two interests can arise in specific situations. The so-called 'integration dilemma' usually arises in connection with an integration process. For example, membership of the EU gives a member state more influence over the other member states, but it usually also reduces its ability to avoid the influence of others (autonomy). The same dilemma is apparent on a smaller scale if a member state considers an opt-out from part of the integration process. One of the original objectives of the Danish EU opt-outs in 1992 was to preserve Danish autonomy, i.e. 'the possibility to carry out a more independent policy in the areas concerned', despite the consequential loss of Danish influence.¹⁶ A factor further complicating this is that both influence and autonomy can work in both directions. For example, a loss of autonomy in the EU integration process could be accompanied by increasing autonomy in relation to states outside the EU. Thus, Finland joined the EU without opt-outs, which in turn increased its autonomy in relation to Russia.

Discussions between supporters and opponents of the defence opt-out are to some extent linked to disagreements about what is generally most important for Denmark: autonomy or influence? They are also linked to empirical differences: How much influence is actually lost as a consequence of the defence opt-out? Does this affect other areas of EU policy, as opponents of the defence opt-out often argue? Is there a slippery slope in the integration process, as supporters of the defence opt-out point out, such that any modest loss of autonomy will lead rapidly to more extensive losses?

Attempts to safeguard basic interests use one or several strategies and tactics. One of Denmark's pivotal strategies since the start of the twentieth century has been to support international legal norms through multilateral diplomacy. The thinking behind this has

been that it would increase the country's influence and autonomy and perhaps even the security of a small state like Denmark, compared to a world of only bilateral diplomacy and raw power politics.

Two developments beyond Danish control are considered to have been crucial for the significance of the defence opt-out: developments in the Atlantic relationship (EU-US), and the dynamics of European defence cooperation. The latter is what Denmark is 'missing out on' or is 'avoiding' due to its opt-out, including whether there are compensating European alternatives outside the EU, which the defence opt-out does not prevent. The former, namely recent developments in the Atlantic relationship (EU-US), is crucial because since 1949 Danish defence policy has primarily been developed in relation to its NATO membership, with the United States and the United Kingdom being its main allies.

These developments are affected by some underlying dynamics. Actions by Russia could affect both developments. Controversial Russian initiatives could strengthen Atlantic solidarity, all else being equal, as well as directly encourage European security and defence integration. Global power shifts, including the ascent of China and the consequential 'pivot to Asia' by the United States, have made some within the European political sphere question the US long-term commitment to Europe, which in turn has strengthened the wish to deepen European security and defence integration. The latter shows that the two developments may be inter-related. Finally, the Atlantic relationship can be affected by American domestic politics and long-term demographic shifts in the United States.

In addition to structuring the report's analysis of the opt-out today (i.e. 2016 to 2019), these two global developments also form the basis for a set of medium-term scenarios (i.e. from 2019 to about 2024). The purpose of the scenarios is that their simplifications of reality will help stimulate public debate.

Data

The empirical basis for the report has four categories of sources:

- Interviews
- Government archive material
- Official documents
- Existing studies

The majority of the empirical material consists of data collected using in-depth, semi-structured interviews with Danish and international diplomats, officials from Danish public bodies and EU institutions and bodies, experts and representatives from the defence industry and Danish political figures. A total of 119 individuals were interviewed in the period from December 2018 up to and including October 2019. Some were interviewed on more than one occasion. The interviews lasted, on average, around one hour. They were all based on a semi-structured interview guide that ensured standardisation of the individual interviews. The interviews were conducted both in Denmark and elsewhere in Europe, including Brussels, Berlin, London, Madrid and Paris, and including, though more at a distance, representatives from Norway, Poland, Sweden and the United States. The data from the interviews were processed on the basis of a number of considerations, including, in particular, finding a balance between a transparent database and ensuring confidentiality in relation to the individual interviews. The report contains a list of the names and positions of the interviewees (see sources and literature). In order to ensure anonymity for those interviewees who contributed data, interviewees were each allocated a random number, which are referred to in the notes.

The Danish Ministry of Foreign Affairs granted those researchers conducting the report access to review all the files in the Ministry's archives of relevance to the study¹⁷ on the basis of a list of selected subjects. The material includes reports from Denmark's diplomatic missions, including Denmark's Permanent Representation to the European Union, as well as

minutes of discussions between Danish and international actors. The material also includes notes, including legal opinions, as well as correspondence with, and materials drawn up by, other Danish ministries and public bodies.

In addition to these two sources, the empirical material consists of a large number of publicly available documents, including political agreements, negotiating positions, cooperation agreements, strategies, policy papers, reports, declarations, legal documents, notes from Danish public bodies and materials published by EU institutions and bodies, as well as by NATO.

Finally, the report uses existing research and area-specific literature, including the 2008 DIIS report on the four Danish opt-outs.

STRUCTURE

The report is divided into three parts. Apart from this introduction, Part 1 includes Chapter 2, which presents the historical and political context for the defence opt-out, as well as an account of how the defence opt-out has been interpreted since its introduction in 1993. The legal issues related to the defence opt-out are also addressed in Chapter 2, which provides the foundation for the remainder of the report. The subsequent analysis in Part 2 is the main part of the report. This analyses three different elements of defence cooperation in Europe: developments within the EU (Chapter 3), developments in the relationship between the EU and NATO (Chapter 4) and finally, developments in European cooperation outside of the EU legal order (Chapter 5). Part 3 discusses scenarios for future developments (Chapter 6) and assesses the importance of the Danish defence opt-out in light of the most recent trends within European security and defence policy (Chapter 7).

THE DEFENCE OPT-OUT – HISTORICALLY, LEGALLY AND IN PRACTICE

This chapter analyses the framework of the defence opt-out and developments in EU security and defence cooperation. It reviews the historical and political context up to the referendum on the Treaty of Maastricht and the subsequent ‘national compromise’ that paved the way for the Edinburgh Decision, in which Denmark was granted four opt-outs, including the defence opt-out. The historical and political analysis is followed by a legal analysis of the defence opt-out and of how it has been administered since its adoption.

FROM CAUTIOUS MEMBER STATE TO MEMBER STATE WITH AN OPT-OUT

In the period leading up to the Danish referendum on the Treaty of Maastricht on 2 June 1992, the political environment in the country was characterised by considerable scepticism concerning defence and military collaboration within the EU. Since acceding to the former EC in 1973 Denmark had focused on the economic aspects, generally being cautious with regard to different member states’ visions for closer political cooperation. This scepticism extended to the formulation of defence policy. When European Political Cooperation (EPC) was incorporated into the Single European Act in 1986, it was crucial for Denmark that this integration remained light touch and that EPC did not extend to defence policy. From the Danish perspective, defence policy was solely a matter of NATO membership.¹⁸ However, it was not only when it

came to the EU that Denmark was critical of inter-state defence cooperation: it was also hesitant in a number of areas of relevance to NATO, including the stationing of nuclear weapons and allied forces in Denmark in times of peace.¹⁹

This direction in Danish security policy was challenged in the mid-1980s, when France took the initiative to strengthen European security cooperation by suggesting revitalising the Western European Union (WEU), which had existed in the shadow of NATO since the signing of the Western European defence pact in 1948. Like Greece and Ireland, Denmark remained outside the WEU and saw no need for a forum to discuss specific European security issues. In contrast to the centre-right parties, the Social Democrats were sceptical of the WEU, which they perceived as an encumbered, Cold-War, neo-colonialist organisation from which Denmark should keep its distance.²⁰

The concrete proposal to add a security dimension to the EU’s repertoire was made in connection with the Intergovernmental Conference initiated in 1990 on the establishment of a political union, held in parallel with a international conference on the establishment of an economic and monetary union (EMU). One of the four objectives for a political union was to define a Common Foreign and Security Policy (CFSP).²¹ Prior to the Intergovernmental Conference, the coalition government of the Conservative People’s Party, the Liberal Party and the Social Liberal Party was joined by

the Social Democratic Party in developing a negotiating position, leading to a memorandum that was also supported by the Centre Democrats and the Christian People's Party. Even though the memorandum was influenced by a number of the Social Democrats' concerns about the EU turning into a political union, the memorandum still marked a change of direction for Denmark's relationship with the EU, and it has been described as Denmark's hitherto most pro-integration declaration.²² However, the change of direction did not cover all policy areas. In continuation of the previous Danish line, the negotiating position states that the government will not allow the EPC to extend to defence cooperation, including the establishment of joint military forces.²³

There was no support for Danish opposition to this point at the intergovernmental conference of other EU member states. The majority of member states wanted not only wider, but deeper cooperation. The Treaty of Maastricht (formally the Treaty on European Union or TEU) was accordingly signed by the heads of state and government on 7 February 1992. Article J.4 on the common defence policy states that '[t]he common foreign and security policy shall include all questions related to the security of the Union, including the eventual framing of a common defence policy, which might in time lead to a common defence.'²⁴ However, the adoption of such a policy would require unanimity among the EU's member states. Article J.4 also stated that '[t]he Union requests the Western European Union (WEU), which is an integral part of the development of the Union, to elaborate and implement decisions and actions of the Union which have defence implications.'²⁵ However, it also stressed that it should respect the obligations of individual member states in relation to NATO.²⁶ Finally, it stated that the Article could be revised subsequently on the basis of an evaluation of progress.²⁷

The Treaty of Maastricht thus made the WEU a 'defence operator' for the EU. At that time Denmark's ties to the WEU were became an issue regarding a naval blockade in the Persian Gulf, since Denmark did not take part in the security policy discussions, nor could it take part in the blockade, which was coordinated by the WEU until the UN took over the role.²⁸ In addition to establishing the link to the WEU, Article J.4 in the Treaty of Maastricht

formed the basis for further political decisions on the future of a common security and defence policy. The provisions on security and defence presented no problems for Denmark, as the two government parties, the Conservative People's Party and the Liberal Party, were keen on Danish membership of the WEU. The Social Democratic Party were more sceptical about the defence dimension and the link to the WEU, and indeed they rejected Danish membership of the latter. However, it was placated by the principle of unanimity, which in reality meant that Denmark would have a veto in the overall decisions within the CFSP. The Social Democrats stressed that Denmark was not obliged to participate in the WEU, whose role should be addressed at a later intergovernmental conference at which Finland, Sweden and Austria would join the EU, all being considered to share Denmark's attitudes to the CSDP. Against this backdrop, the Social Democratic Party supported the government's recommendations to Danish voters to vote yes to the Treaty of Maastricht when it was put to a referendum on 2 June 1992. This was also because of guarantees in other areas, for example, clarification that Denmark would not transition to the third phase of an EMU without a new referendum.²⁹

To the great surprise of the political establishment, 50.7 per cent of Danish voters voted 'no' to the Treaty of Maastricht. A survey after the referendum showed that the depth of the cooperation, and in particular questions related to a feared loss of sovereignty and of Denmark's room for manoeuvre, had influenced the vote, including in areas related to foreign, security and defence policy.³⁰ Among examples pointed to by 'no' voters were the fear of joint European armed forces that could gradually undermine NATO and the transatlantic relationship, leading to the EU becoming a superpower with its own nuclear capability. It was also felt that such a policy would be a tool for large EU member states to pursue pre-existing colonial interests, for example, in Africa.³¹ Even though the Treaty of Maastricht did not seek to establish joint EU armed forces or supranational defence cooperation, the wording on defence policy created fears in Danish voters' minds that this could become the result in the long term. Going along with this could be the first step towards establishing a European army. It became known as the 'slippery-slope' argument.

As such, the Danish ‘no’ put a brake on the ongoing process of treaty ratification. A possible solution had to be found in the form of a special arrangement for Denmark. Therefore, as a somewhat unusual initiative, negotiations commenced between the three opposition parties, the Social Democratic Party, the Social Liberal Party and the Socialist People’s Party, while the government was kept on the periphery and had to put up with just being briefed about the situation. The negotiations had the double objective of finding a solution that was acceptable to the other EU member states while also finding support in another referendum. The negotiations resulted in ‘a national compromise’, reached in October 1992 and also approved by the Conservative People’s Party, the Liberal Party, the Centre Democrats and the Christian People’s Party, with only minor adjustments. The Progress Party was thus the only one of the eight parties in the Danish Parliament (Folketing) that did not support the compromise.³² The memorandum, entitled ‘Denmark in Europe’, proposed four areas in which Denmark would possess opt-outs: defence policy, economic and monetary union, EU citizenship, and justice and home affairs.³³

In relation to defence policy, the ‘national compromise’ established that Denmark would have an opt-out on defence matters, including membership of the WEU, as well as a common defence policy, or a common defence. Furthermore, the national compromise stated that any agreement reached would be legally binding and have no sunset clause. However, Denmark would not oppose closer cooperation between the other EU member states within the four areas.³⁴ At the European Council meeting in December 1992 in Edinburgh, a solution was agreed that both Denmark and the other eleven member states could accept. The Edinburgh Decision stated the following about defence policy:



The Heads of State and Government note that, in response to the invitation from the Western European Union (WEU), Denmark has become an observer to that organisation. They also note that nothing in the Treaty on European Union commits Denmark to become a member of the WEU. Accordingly, Denmark does not participate in the elaboration and the implementation of decisions and actions of the Union which have defence implications, but will not prevent the development of closer cooperation between member states in this area.³⁵



The summit in Edinburgh marked the culmination of lengthy negotiations with disagreement between Denmark and the other eleven member states about the formulation and legal effect of the opt-outs.³⁶ The Edinburgh Decision provided a solution to this crisis, and in a new referendum held on 18 May 1993, 56.7% of Danish voters supported Danish ratification of the Treaty of Maastricht and the Edinburgh Decision. The four Danish opt-outs, including the defence opt-out, entered into force on 1 November 1993.³⁷

THE DEFENCE OPT-OUT IN A LEGAL PERSPECTIVE

The ‘national compromise’ stated that the political agreement was to be legally binding not have a sunset clause.³⁸ Therefore, during the international negotiations to resolve the impasse over Denmark’s future ratification of the Treaty of Maastricht, it was crucial for Denmark that such understandings were secured through a legally binding instrument. This resulted in the Edinburgh Agreement and Edinburgh Decision, comprising three parts. First of all, the agreement set out the four opt-outs in Sections A to D in Part B of the Conclusions of the Presidency from the Edinburgh Summit. In addition, Section E listed some final provisions. The second part of the agreement contained two declarations from the heads of state and government meeting within the European Council, one of which concerns defence. The third part of the agreement contained two unilateral declarations from Denmark. The opt-outs as such were set out in the form of a decision by the heads of state and government meeting within the European Council. Consequently, the agreement was legally binding under international law, as it complied with the relevant international legal criteria. Because the Edinburgh Decision was not

formally made by the European Council, but by the heads of state and government, the Edinburgh Decision was not part of the EU legal order but made as a separate arrangement altogether. This meant that the national parliaments of the other member states did not have to ratify it.³⁹

The Danish defence opt-out is unique; no other EU member state has one. A noticeable legal characteristic regarding the defence opt-out is that Denmark formally gave up its veto right in the Council with regard to legal acts that had defence implications. Even though the defence opt-out was worded as a guarantee that Denmark would not take part in actions if the EU were to engage in certain types of defence cooperation, the legal arrangements resulted in Denmark surrendering its influence over EU defence policy and, moreover, it committed itself to not preventing other member states from engaging in such cooperation. This latter issue was a requirement on the part of the other EU member states to ensure that the Danish defence opt-out applied to both decision-making and implementation regarding EU defence matters. Without this stipulation, Denmark could have obtained concessions and could have used its defence opt-out to justify not implementing a specific policy.⁴⁰ Danish decision-makers considered this stipulation an acceptable compromise to ensure that the Treaty of Maastricht could be ratified. Since the defence opt-out was implemented, its premises have remained intact. However, the specific wording has been adjusted over time in line with changes to EU treaties to ensure that the defence opt-out remains in line with overall treaty developments. These changes have not altered its scope.

The defence opt-out as clarified in the Edinburgh Decision was incorporated into the Treaty of Amsterdam when the latter was signed at an inter-governmental conference in 1997. Thus, the new protocol on the position of Denmark, which brought the defence opt-out within the EU legal order, stated that Denmark does not participate ‘in the elaboration and the implementation of decisions and actions of the Union which have defence implications, but will not prevent the development of closer cooperation between member states in this area’. It also states that Denmark will not participate in the adoption of these measures and will not be obliged to ‘contribute to the financing of

operational expenditure arising from such measures.’⁴¹ The changed wording of the defence opt-out in the Treaty of Amsterdam as against the wording of the Edinburgh Decision was due to changes in the overall wording of the EU treaties on EU defence matters. The Treaty of Amsterdam stipulated that the security and defence tasks that the EU could engage in were the Petersberg tasks, covering humanitarian actions and rescue, peace-keeping and crisis management, including peace-making. At the same time, the EU’s relationship with the WEU was made more instrumental in the sense that the EU now wanted to use the WEU for tasks that had defence implications: under the Treaty of Maastricht, the EU could ask the WEU for assistance to elaborate and implement EU policy.⁴² Finally, the progressive framing of a common defence policy was mentioned in the new text, clarifying that the European Council was to decide on this framing. The text stated that ‘[t]he common foreign and security policy shall include all questions relating to the security of the Union, including the progressive framing of a common defence policy’. In the longer term, it stated that this common defence policy ‘might lead to a common defence, should the European Council so decide.’⁴³

The defence opt-out in the current version of the EU treaties states that Denmark does not participate ‘in the elaboration and the implementation of decisions and actions of the Union which have defence implications.’ It further states that Denmark does not participate in the adoption of such measures, but also that it will not prevent other member states from further developing their cooperation in this area, just as it did from the outset. Furthermore, the text states that ‘Denmark shall not be obliged to contribute to the financing of operational expenditure arising from such measures, nor to make military capabilities available to the Union.’⁴⁴

INTERPRETATION AND APPLICATION

Even though, formally, the defence opt-out is included in EU law, it is mainly up to Denmark to interpret it and define its application. However, the scope for interpretation is limited, as the application of the opt-out must comply with the text of the Protocol in which it is contained. Consequently, it is up to Denmark,

together with the Council Legal Service, to clarify whether the opt-out applies in specific cases. In practice, the Ministry of Foreign Affairs of Denmark deals with questions of a legal nature concerning its interpretation and application. Irrespective of whether the Ministry of Defence or other Danish public bodies are involved, they will approach the Ministry of Foreign Affairs for legal guidance on how to deal with the opt-out.⁴⁵

Cooperation between Denmark and the EU concerning the opt-out is primarily exercised through the Permanent Representation of Denmark to the European Union in Brussels, direct contact between the Ministry of Foreign Affairs of Denmark and the Council Legal Service or other EU bodies being rare. In general, Denmark and the Council Legal Service have managed to agree over how to interpret the opt-out.⁴⁶ Both parties have had, and still have, an interest in agreeing on what it does and does not cover. There are no indications that their respective interpretations have ever diverged significantly. Ultimately, however, the Court of Justice of the European Union is the only body authorised to interpret the defence opt-out in the event of a dispute over its interpretation between Denmark, the Council and/or the member states. In other areas, the Court of Justice of the European Union has previously made it clear that opt-outs and exemptions in protocols annexed to the EU treaties are to be construed narrowly.

To invoke the defence opt-out, certain criteria have to be met. Since entry into force of the Treaty of Maastricht, the wording of ‘decisions and actions’ in the Edinburgh Decision has been considered to mean legal acts, that is, legally binding EU legal acts. Therefore, the first condition for applying the defence opt-out is that a legal act is involved. The fact that only legal acts are covered by the opt-out means that Denmark participates fully in all non-legal actions. Thus, Denmark may participate in discussions on defence-related issues of a political nature, for example, the issuing of political statements. Denmark also plays an active part in the EU Common Foreign and Security Policy (CFSP) in matters that do not have defence implications, as well as in non-CFSP matters. This means that the defence opt-out does not cover all issues in the EU associated with the word ‘defence’. In order for the opt-out to apply, a legal act must be in accordance with

certain specific provisions in the TEU, and it should be deemed to have ‘defence implications’. Whether the latter are applicable depends on the analysis of each proposed measure. The purpose of such analysis is to ensure that the defence opt-out is always complied with, but also that its scope of application is not extended.⁴⁷

As the defence opt-out provides an exemption from the substance of defence cooperation, it is not possible to redefine it or to make ‘parallel agreements’, as has been the case with regard to another Danish opt-out, that related to justice and home affairs. This is because the justice and home affairs opt-out is concerned with the method of supranational cooperation, but not its substance. This type of ‘parallel agreement’ on areas covered by the defence opt-out would empty it of content and run counter to its objective should they be employed.⁴⁸

In the years immediately following entry into force of the Treaty of Maastricht Treaty, a limited number of legal acts were introduced that involved invoking the defence opt-out. At that time, the practice was to invoke it in relation to all actions whose legal basis was Article J.4. of the Treaty of Maastricht.⁴⁹ Since the wording of the defence opt-out was updated in the Treaty of Lisbon of 2009, this has meant that legal acts must be covered by the articles specifically mentioned in Article 5 of the Protocol (No. 22) and that they must have ‘defence implications’.⁵⁰ In the Protocol, one of the CFSP articles in the Treaty, Article 26(1) TEU, has been selected as being covered by the defence opt-out. However, not all parts of the EU Common Security and Defence Policy (CSDP) under the CFSP provisions are covered by the opt-out. This only applies to Articles 42 and 43 to 46 of the TEU.⁵¹

Consequently, the defence opt-out has been interpreted to mean that Denmark does not participate in legally binding decisions and actions with defence implications. A central aspect with regard to whether a legal act applies is the assessment of whether it has ‘defence implications’. Actions on the basis of the EU Common Foreign and Security Policy (CFSP), including the Common Security and Defence Policy (CSDP), can potentially involve civilian and military tasks. In cases where the EU launches a CSDP military mission, the

Table 2. List of cases and actions covered by the defence opt-out

YEAR	CASES AND ACTIONS
1996	<ul style="list-style-type: none"> ▪ Evacuation of EU citizens ▪ Anti-personnel landmines ▪ African Great Lakes Region
1997	<ul style="list-style-type: none"> ▪ Conflict prevention and resolution in Africa
1998	<ul style="list-style-type: none"> ▪ International police mission in Albania ▪ De-mining in Croatia ▪ Use of WEU Satellite Centre
1999	<ul style="list-style-type: none"> ▪ Police force in Albania
2001	<ul style="list-style-type: none"> ▪ Establishment of EU Satellite Centre
2003	<ul style="list-style-type: none"> ▪ Military operation in Macedonia (FYROM) ▪ Military operation in the Democratic Republic of Congo
2004	<ul style="list-style-type: none"> ▪ Establishment of the Athena mechanism to finance EU operations ▪ Establishment of the European Defence Agency ▪ Military operation in Bosnia-Herzegovina
2005	<ul style="list-style-type: none"> ▪ Civilian-military operation in support of the African Union's mission in Darfur
2006	<ul style="list-style-type: none"> ▪ Military operation in the Democratic Republic of Congo
2007	<ul style="list-style-type: none"> ▪ Military operation in the Republic of Chad and the Central African Republic
2008	<ul style="list-style-type: none"> ▪ Coordinating cell to combat piracy off the coast of Somalia ▪ Maritime military operation to combat piracy off the coast of Somalia
2010	<ul style="list-style-type: none"> ▪ Training mission in Somalia
2011	<ul style="list-style-type: none"> ▪ Military mission in Libya
2013	<ul style="list-style-type: none"> ▪ Training mission in Mali
2014	<ul style="list-style-type: none"> ▪ Military operation in the Central African Republic
2015	<ul style="list-style-type: none"> ▪ Advisory military mission in the Central African Republic
2016	<ul style="list-style-type: none"> ▪ Capacity-building and training for the Libyan coastguard and navy ▪ Maritime military operation in the southern part of the central Mediterranean
2017	<ul style="list-style-type: none"> ▪ Establishment of Permanent Structured Cooperation (PESCO)

Note: Prepared on the basis of data from the EU Information Centre.

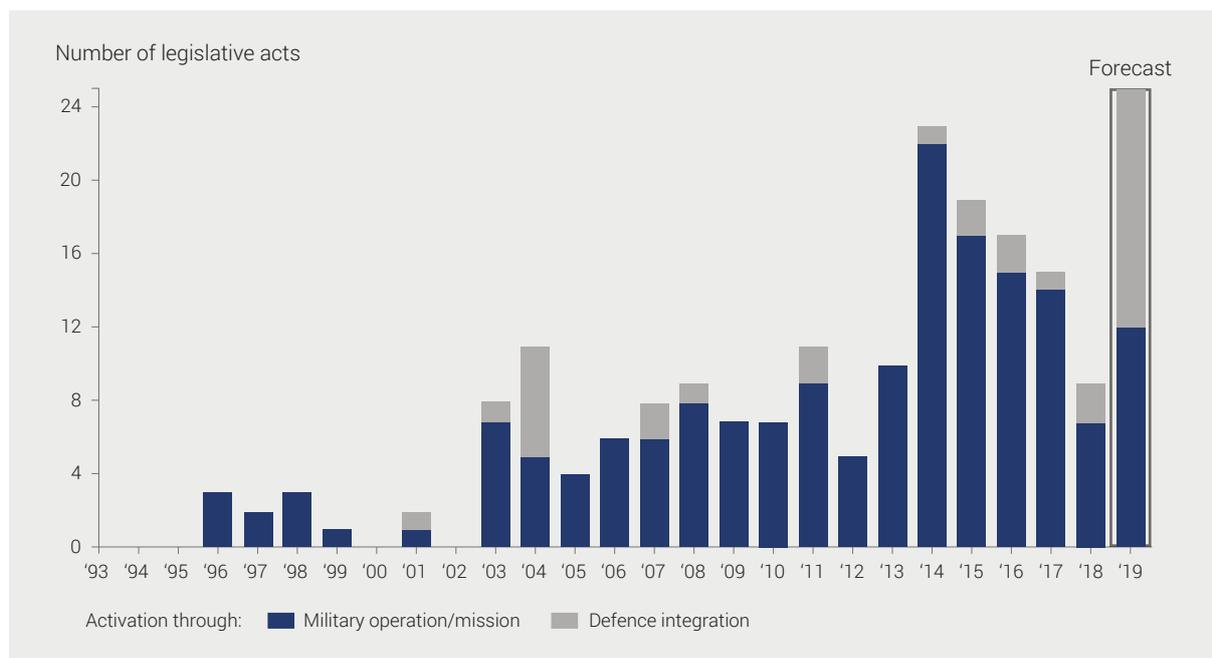
defence opt-out clearly applies: whether the operation is peace-keeping or peace-making makes no difference. By contrast, Denmark can participate in CSDP civilian missions. The decisive factor is that there should be a clear distinction between civilian and military matters.⁵²

Table 2 shows that, since its introduction in 1993 until November 2019, when the present report was completed, the defence opt-out was activated in 27 different cases and/or actions. The majority of circumstance covered by the opt-out involved actions at the ‘softer’ end of the crisis management scale, being located geographically mainly in Africa and on the periphery of Europe. The nature and geographical location of these missions meant that Denmark’s involvement has been managed through the UN, NATO or other international coalitions.⁵³ The first time the EU launched a CSDP military mission was in Macedonia in 2003. The purpose of the operation was to keep the peace in the war-affected former Yugoslavia, where Denmark had had a presence since the 1990s. The transfer of responsibility for operational matters from NATO to the EU meant that the Danish forces that had been deployed in Macedonia as part of NATO had to be sent home because of the defence opt-out. This also

happened in Bosnia and Herzegovina in 2004, when NATO handed over 80% of its operations to the EU.⁵⁴ In addition to such missions, the defence opt-out has also been activated in connection with the introduction of defence policy initiatives, such as the establishment of the EU Satellite Centre (only in relation to military personnel), the Athena mechanism for financing EU operations, the establishment the European Defence Agency and Permanent Structured Cooperation (PESCO).

Some of the cases and actions listed in Table 2 are based on several decisions. The number of cases in which the defence opt-out has been activated would be much greater if all legal acts stating that Denmark is exempt are included.⁵⁵ Recent analysis shows an upward trend in the number of times the defence opt-out has been invoked (see Figure 2), but it also shows that the legal acts covered by the opt-out make up the greatest percentage of the total number of legal acts under the EU Common Foreign and Security Policy (CFSP) (see Figure 3). Thus, defence cooperation, in which Denmark does not participate, now constitutes a larger share of the EU’s cooperation in foreign, security and defence policy.⁵⁶

Figure 2. Activation of the defence opt-out by operations/missions and defence integration



Source: Madsen and Sørensen (2019), 'Kraftig stigning i aktiveringer af forsvarsforbeholdet'.

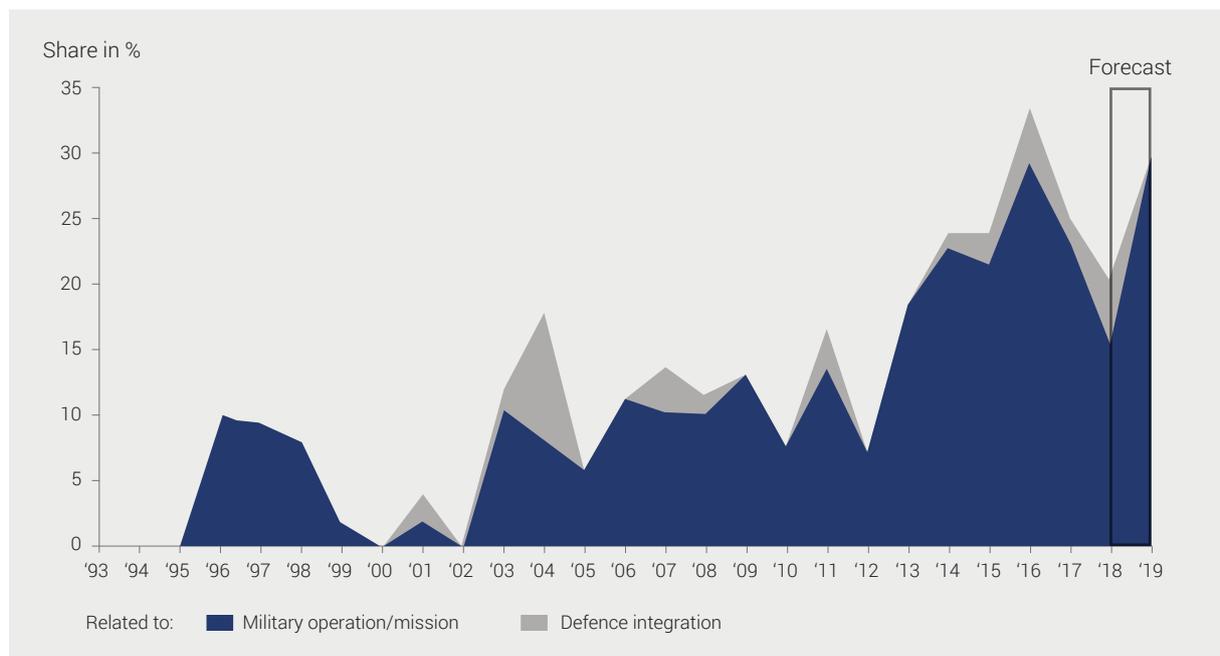
Deeper integration into the field of defence policy in recent years has also meant that not all defence issues fall within the framework of the Common Security and Defence Policy (CSDP) where the defence opt-out applies. In other words, even though a particular matter is related to defence, it is not necessarily covered by the opt-out.⁵⁷ Therefore, it has become necessary to clarify the scope of the opt-out in a number of issues relating to policy areas other than defence if there is a link between the provisions covered by the opt-out and provisions it does not cover. This trend towards closer cooperation has led to an increase in the number and complexity of circumstances in which it has been necessary to assess whether an initiative has defence implications, and thus whether the defence opt-out applies or not.

The legal nature of the opt-out means that assessing its applicability is a legal matter rather than a political one. Since its introduction in 1993, the opt-out has met its intended purpose, namely to respect Denmark's position of not participating in EU cooperation with defence implications. At the same time, Denmark gave up its option of exercising political influence in this area. If this were to change and Denmark found itself in

a situation in which it wanted to abolish the defence opt-out, it follows from Article 7 of the Protocol in which the opt-out is contained that at any time Denmark may, 'in accordance with its constitutional requirements, inform the other member states that it no longer wishes to avail itself of all or part of this Protocol.' It is further stated that '[i]n that event, Denmark will apply in full all relevant measures then in force taken within the framework of the European Union.'⁵⁸

Any decision to abolish the opt-out will be a unilateral decision by Denmark. When the seven parties behind the 'national compromise' reached a political agreement back in 1992, they also agreed that the four opt-outs then agreed can only be changed through a referendum. Since then, this requirement has been confirmed several times.⁵⁹ Abolishing the defence opt-out would not be covered by Article 20 of the Danish Constitution, as it would not involve any transfer of powers to an international organisation. Rather, a referendum could be held, as stipulated in Article 42 of the Danish Constitution,⁶⁰ which it would require a prior majority vote in the Danish Parliament (Folketinget).

Figure 3. Percentage of legislative acts on EU common foreign and security policy covered by the defence opt-out



Source: Madsen and Sørensen (2019), 'Kraftig stigning i aktiveringer af forsvarsforbeholdet'.

SUMMARY

This chapter has shown that, prior to the Treaty of Maastricht and the 1992 referendum, Denmark's approach to defence cooperation in the EU was sceptical with regard to such matters occurring within the EU legal order, out of a fear that it might gradually undermine NATO. The defence opt-out was introduced in response to this fear. Since its introduction, the opt-out has met its intended purpose in that it has respected Denmark's decision not to participate in EU cooperation with defence implications. However, Denmark also gave up its option of exercising political influence in an area that has undergone significant development, not least over the last few years, and which accounts for a growing percentage of EU foreign, security and defence policy cooperation.

EU SECURITY AND DEFENCE POLICY

In recent years, defence and security policy has moved from the periphery of the EU to become a key area of cooperation. This chapter provides an overview of the most recent developments in EU security and defence policy and discusses what these developments mean for the Danish defence opt-out. The importance of the opt-out in safeguarding Danish interests is assessed in relation to the current extent of Denmark's influence, including the impact on its reputation and autonomy, its influence on its security and its resource implications. In addition, the industrial and research policy implications of the defence opt-out are reviewed.

LATEST DEVELOPMENTS IN EU SECURITY AND DEFENCE COOPERATION

Three new trends

Three trends have shaped the development of EU security and defence policy cooperation in recent years. First, a new discussion has arisen concerning Europe's strategic autonomy and its level of ambition in this regard. Secondly, the focus has been expanded from crisis management and performance of the Petersberg tasks outside Europe to include issues concerning Europe's own internal and territorial security. Thirdly, and for this reason, a much broader range of EU instruments and institutions is now involved in defence policy issues.

Box 1.

EU GLOBAL STRATEGY

The EU's Global Strategy was launched in June 2016, a few days after the Brexit referendum, by Federica Mogherini, the EU High Representative of the Union for Foreign Affairs and Security Policy, to provide a compass for shared visions, and resulting in a number of specific initiatives. The Strategy is based on a new 21st-century threat scenario and emphasises the EU's core values: **multilateralism, the global rule-based order, resilience, the comprehensive approach to foreign and security policy, partnerships, and defence and security** as the most important topics for the EU Common Foreign and Security Policy. The strategy is not a legally binding document.

Source: The European External Action Service, 'Shared Vision, Common Action: A Stronger Europe', June 2016.

With regard to the first trend, the overall goal of the EU's Global Strategy and of its new defence initiatives is to strengthen Europe's strategic autonomy. In this context, strategic autonomy means the ability to act independently on the international scene and to take greater responsibility for Europe's own security in light of changes in global security. As it states, the Global Strategy aims to nurture the ambition of increased strategic autonomy because an 'appropriate level of ambition and strategic autonomy is important for

Europe's ability to promote peace and security within and beyond its borders.⁶¹ This is the first time the ambition to act with greater strategic autonomy has been worded so explicitly. Strategic autonomy can be understood in a much broader sense than defence autonomy, which is also how the EU views the concept. For example, strategic autonomy could cover financial autonomy, digital and technological autonomy, and/or energy autonomy. In the field of defence the definition is not clear, partly because there is no consensus among member states on what exactly the concept of strategic autonomy can and should cover, for example, with regard to military capabilities, the defence industry, intelligence capability and command and control systems.⁶² Similarly, there is disagreement on the level of ambition regarding just where and how the EU should be engaged on the international scene.

Strategic autonomy can be seen as having greater scope to protect European security and to ensure that the capabilities to do so exist within the overall Atlantic framework. This is a question either of being able to safeguard European influence in relation to the United States or of being able to act independently within a changed security structure in which relationships with the United States are unpredictable.⁶³ Many EU member states are critical of the latter interpretation of strategic autonomy in particular, as they perceive it to involve a duplication of effort that consequently challenges the idea of NATO as the cornerstone of European security. The ambition of the EU Global Strategy and the most recent initiatives is to deliver on all three dimensions, but still as a supplement to NATO.⁶⁴ Despite the ambiguity, however, there is a growing understanding among member states of the need to strengthen the EU's ability to act more independently and thus to take more responsibility, including in matters related to military capabilities, preferably in close collaboration with NATO.

Closely linked to the EU's ambition to strengthen its strategic autonomy is another new trend: a focus on protecting Europe's territory and citizens. Since the EU's Common Security and Defence Policy (CSDP) was established in the late 1990s, the policy has primarily been concerned with crisis management, stabilisation and peace-keeping initiatives beyond the EU's borders.⁶⁵

Cooperation on defence policy developments and issues with regard to Europe's internal security has largely taken place through NATO or through bilateral defence cooperation. Some of the most fundamental changes currently taking place reflect an ambition to expand the EU's security and defence policy to include issues related to Europe's internal security, including protection of the EU's territory and its citizens. Thus, the EU Global Strategy starts at home.⁶⁶ However, this does not necessarily imply any plans to establish supranational military forces. Force generation for the EU's military operations through the CSDP is similar to that of NATO and the UN, where member states decide for themselves the nature and extent of the forces they want to contribute. Although the option of working towards a common defence is mentioned in the TEU, EU member states have no ambition to move defence cooperation towards a uniform military structure.⁶⁷ Therefore, the assessment remains that any such development is highly unlikely, as it would require a unanimous decision by the European Council. Today, the expression 'European army' is used rhetorically to indicate the urgency of stronger defence cooperation in the EU.⁶⁸

In connection with the ambition for greater strategic autonomy and better protection of EU citizens, the scope of EU defence policy cooperation has been expanded. The EU has always considered security to be more than just a military matter, and previous operations have been characterised by a comprehensive and sometimes integrated civil/military approach. The new initiatives in this area draw on a number of civilian policy areas and instruments, which now include, for example, industry, research and transport. In contrast to the past, EU institutions such as the European Commission and the European Parliament have now been given a substantial role in EU defence policy that is considered to fall outside CFSP defence policy. For example, for the first time in EU history, the EU budget can be spent on defence-related matters. Similarly, new problems such as hybrid threats, terrorism and migration affecting internal European security call for an increase in the use of non-military instruments and for developing greater cohesion between the EU's military and non-military policies and instruments.⁶⁹

Combined with a new role for the European Commission, the stronger focus on strategic autonomy and on Europe's own security is the driving force behind several of the new initiatives. Table 3 provides an overview of all the new defence initiatives launched after publication of the EU Global Strategy. These initiatives are described in more detail in the following sections of this chapter. The two most important ones are PESCO and the European Defence Fund (EDF), which were presented in 2017 and focus particularly on defence capabilities. Moreover, a number of initiatives have been launched that are operational in kind, for example, the establishment of the Military Planning and Conduct Capability (MPCC) and the intention to strengthen EU civilian missions.

Permanent Structured Cooperation (PESCO)

The Permanent Structured Cooperation (PESCO) is an initiative enabling EU member states, acting within the EU's legal order, to strengthen their cooperation in developing new defence capabilities if they so wish. This is related to the goal of achieving greater strategic autonomy. The legal basis for PESCO is the relevant provisions of the Treaty of Lisbon in 2009, but due to the changed security policy situation in Europe, this form of cooperation was only activated in 2017.

The original idea behind PESCO, as set out in the Treaty of Lisbon, was that member states who wanted to cooperate more on defence policy within the CSDP should be able to do so. It was important, however, that cooperation was left open to other member states as well should they wish to join later.⁷⁰ On 11 December 2017, PESCO was formally launched with the participation of 25 of the 28 member states, that is, all member states except Denmark, Malta and the United Kingdom. Thus, PESCO has not become a small exclusive club of member states leading the way in strengthening EU defence policy, as was intended in the TEU. Instead, from the start, it has constituted a more inclusive framework for cooperation including almost all EU member states. This is the result of a compromise between French ambitions for narrow cooperation and Germany's desire for greater inclusion.⁷¹ PESCO has now been implemented in a form that is closer to the German vision. This means

Table 3. Recent developments in EU security and defence policy

2016

JUNE

The EU Global Strategy is presented

JULY

The EU-NATO Declaration is adopted in Warsaw

NOVEMBER

The European External Action Service publishes a Security and Defence Implementation Plan (SDIP) aimed at implementing the defence aspects of the Global Strategy. The European Commission presents a European Defence Action Plan (EDAP)

2017

MAY

The Council establishes coordinated annual reviews of Member States' defence capabilities (CARD) and launches a 'trial run' of CARD

JUNE

The European Commission launches the European Defence Fund (EDF)

JUNE

The Council establishes the Military Planning and Conduct Capability (MPCC)

DECEMBER

PESCO is activated

2018

JUNE

The European Commission presents the Regulation on the EDF in force from 2021-2027

JUNE

The High Representative of the Union for Foreign Affairs and Security Policy presents a proposal for a new peace facility

NOVEMBER

An agreement on Civilian Common Security and Defence Policy is adopted

2019

APRIL

An agreement on the Regulation on the EDF is adopted

that an (almost) united EU is moving towards greater defence coordination, but with a framework that is far less powerful than what France had wished or the TEU had intended.

PESCO consists of two separate pillars: permanent defence cooperation between the 25 PESCO member states, and ad hoc, project-based cooperation in which different groups of member states can join forces on specific PESCO projects.⁷² The permanent part of PESCO constitutes the framework for increased defence policy coordination. To become part of PESCO, participating member states have to accept a number of legally binding criteria (see box 2) aimed at increasing national defence budgets and coordinating their respective defence planning. The PESCO member states have agreed to meet these criteria in the long term, instead of having to fulfil the criteria in advance, as was originally intended.

The second PESCO pillar enables members to join specific defence projects within the PESCO framework, the idea being that small groups of member states can team up to develop projects that match their own particular security and defence policy interests. PESCO projects are motivated by the level of demand in member states, meaning that there is great variation with regard to which member states have expressed an interest in individual projects.⁷³ The voluntary nature of the cooperation involved is underlined by the fact that defence materials procured within the PESCO framework are individually owned by the member states participating in the cooperation. New acquisitions are therefore not owned by the EU, meaning that PESCO's role is not to establish or equip centralised military capabilities. The costs associated with PESCO projects are also financed by the individual participating member states in accordance with their respective national policy-making processes. Consequently, participation in PESCO may have implications for the capabilities of NATO members.

Currently there are 47 concrete projects, seventeen launched in December 2017, seventeen in November 2018 and thirteen in November 2019. The projects are divided between seven overall areas: training facilities, air systems, land formation systems, maritime, cyber,

Box 2.

PESCO COMMITMENTS

- 1 Increase national defence budgets
- 2 Successively increase defence investments to 20% of total defence spending
- 3 Strengthen collaborative defence capabilities projects
- 4 Increase investment in defence research and defence technology
- 5 Establish a regular review of these commitments
- 6 Participate in capability development within the EU
- 7 Support the CARD process
- 8 Involve the EDF in multinational procurement
- 9 Draw up common, harmonised requirements for all capability development projects
- 10 Consider joint use of existing capabilities to optimise cost-effectiveness
- 11 Increase efforts in cooperation on cyber defence
- 12 Improve the availability and deployability of military forces
- 13 Improve the interoperability of military forces
- 14 Strive for an ambitious approach to common funding of military CSDP operations and missions
- 15 Help to overcome capability shortcomings identified under the CDP and CARD
- 16 Consider as a priority a joint European approach to filling capability shortages identified nationally
- 17 Take part in at least one PESCO project
- 18 Use EDA as a framework for joint capability development
- 19 Strengthen the competitiveness of the European defence industry
- 20 Ensure that cooperation programmes and acquisition strategies have a positive impact on the European defence industry and technology

Source: The Council, 'COUNCIL DECISION (CFSP) 2015/528 of 27 March 2015 establishing a mechanism to administer the financing of the common costs of European Union operations having military or defence implications (Athena) and repealing decision 2011/871/CFSP', 28 March 2015.

joint enabling and space.⁷⁴ For the PESCO member states, the 2019 projects reflect a desire to ensure quality rather than to increase the number of projects. EU member states and EU institutions do not expect any new projects to be launched in 2020; the focus will be on implementing projects that have already been identified.⁷⁵

Returning to the dual nature of PESCO, the governance structure partly consists of a general level regulating access to and commitments under PESCO, and partly of a level with subordinate and self-governing modules – the specific projects – on which several member states cooperate more closely. At the overall level, governance is performed by the Foreign Affairs Council (the ministries of defence) in a special PESCO format in which all member states (including Denmark) participate. Decisions are taken unanimously by PESCO member states. Member states outside PESCO cooperation can neither influence PESCO's general development nor affect decisions on individual projects. How non-EU member states can participate in individual PESCO projects has yet to be finally decided. The issue of third-country participation attracted significant attention in 2019, not least from the United States. The latter has made diplomatic moves in several European capitals, and has also directly approached the High Representative of the Union for Foreign Affairs and Security Policy over the significance of an inclusive European defence cooperation.⁷⁶ So far, the response from the EU has been that the European defence market is more open than the American market.⁷⁷ Subsequently, dialogue has been established between the EU and the United States at the technical as well as political levels.⁷⁸

PESCO is also supported by a joint secretariat composed of staff from the European External Action Service (EEAS), the European Defence Agency (EDA) and EU military staff, which together constitute a common point of contact for the participating member states.

PESCO is closely linked to a number of other new initiatives launched since 2016, including the new Coordinated Annual Review of Defence (CARD), the Capability Development Plan (CDP) of 2018 and

the European Defence Fund (EDF), described in the next section. CARD aims to map existing military capabilities in Europe, while the CDP identifies the military capability priorities on which member states should focus.

PESCO cooperation was evaluated in the summer of 2019, just under two years after it was launched. The evaluation was conducted by the PESCO member states themselves reporting on their national implementation plans to meet their twenty PESCO commitments and reports on progress with the projects.⁷⁹ The evaluation clearly revealed teething problems with regard to inconsistencies and delays in reporting. Nevertheless, the evaluation report concludes that compliance with several of the commitments is progressing well in a number of areas, including increased defence budgets and national investment in defence materials, as well as the relationship between national defence planning and the EU Capability Development Plan (CDP). However, there are other areas in which compliance with PESCO commitments is not progressing as desired. For example, this applies to the commitment to deploy more military forces within the CSDP framework, to ensure joint financing of defence capabilities and to manage the capability gaps identified in the CDP.⁸⁰ Most of the 47 PESCO projects identified so far in the CDP are small projects still in the

Box 3.

THE EUROPEAN DEFENCE AGENCY

The European Defence Agency (EDA) was established in 2004 to help the then 27 Member States (i.e. all EU Member States except Denmark) develop their military capabilities. The agency is based in Brussels and has approximately 140 employees. It falls under the High Representative of the Union for Foreign Affairs and Security Policy. When it was established in 2004, the EDA was expected to focus its work on developing the military capabilities needed to perform EU operations. However, until recently capability development within the EU has been limited. Developments in recent years mean that the agency has been charged with a number of new tasks in connection with initiatives involving PESCO, the European Defence Fund and CARD.

start-up phase. Presumably it will not be possible to assess the success of any of these projects until after 2020, and only then will it be possible to decide which type of project the PESCO framework can include in the future. It is expected that, during either the German Presidency of the EU in the second half of 2020 or the French Presidency in the first half of 2022, a larger-scale joint German–French PESCO project will be announced.⁸¹

Discussions on a break in new projects in 2020 and the possibility of developing a large PESCO project within a five-year timeframe highlight how member states and EU institutions are currently trying to balance the need to implement new initiatives with the ambition to ensure continued momentum. At the same time, there are ongoing considerations on whether the many defence initiatives are to be linked more closely together to ensure cohesion and a focus on increased strategic autonomy.⁸²

The European Defence Fund and other communitarian initiatives

In recent years, a number of EU defence initiatives have been launched that are outside the scope of the usual legal basis governing defence policy in the CFSP and CSDP. The most important of these initiatives is the European Defence Fund, which forms part of industrial and research policy cooperation in the EU. The purpose of the European Defence Fund is to strengthen the European defence industry and development of military capabilities. This is being done by allocating funding from the EU budget for research collaboration on innovative technologies related to security and defence, and by creating incentives for EU member states to cooperate in the joint development and procurement of defence materials.

Taking all EU member states together, the total EU defence budget in 2018 was approximately USD 280 billion, making it the second largest in the world, exceeded only by the US defence budget of approximately USD 650 billion.⁸³ However, up to now, the European defence industry has been characterised by fragmentation, duplication, and limited industrial cooperation. If the EU is to be able to take more

responsibility for its own security, the ambition of a more efficient European defence industry is crucially important for many EU member states.

Even though the European Commission emphasises that investment in defence and the development of defence capabilities remain a national matter, the aim is for the EU to help:

- enhance the competitiveness of the European defence industry in the internal market
- support targeted research and development projects that cannot be financed by one any member state alone
- reduce unnecessary duplication, thereby promoting the more efficient use of national defence budgets

The proposal for a European Defence Fund was presented by the European Commission in November 2016 as a part of the European Defence Action Plan (EDAP). In January 2017, the Commission set up a precursor to the European Defence Fund itself in the form of a three-year test programme aimed at testing the added value of EU funding for research into defence technology and capabilities (Preparatory Action for Defence Research or PADR). Subsequently, in June 2017, the Commission presented a draft legal provision that could become the European Defence Fund and enter into force in 2021, when the next EU budget is adopted. At the same time, the Commission presented a test programme to develop capabilities, the European Defence Industrial Development Programme or EDIDP.

It is noteworthy that the European Defence Fund is to be financed from the EU budget. The EDF is likely to be set up as an actual fund under the next long-term EU budget, the so-called Multiannual Financial Framework (MFF), which will run from 2021 to 2027.

A preliminary agreement on the European Defence Fund was adopted in April 2019, but this agreement does not settle the two crucial unresolved issues that the European Commission, the European Parliament and the Council have so far failed to deal with. One issue concerns securing financial resources for the

Box 4.**THE EUROPEAN COMMISSION'S CONTRIBUTION TO THE DEVELOPMENT AND PROCUREMENT OF MILITARY CAPABILITIES****RESEARCH WINDOW**

- PADR (2017-2019, EUR 90 million)
- EDRP (2021-2027, estimated at EUR 4.1 billion)

CAPABILITY WINDOW

- EDIDP (2019-2020, EUR 500 million)
- EDIDP (2021-2027, estimated at EUR 8.9 billion)

fund. The Commission has proposed that, over the next seven years, a total of EUR 13 billion (almost DKK 100 billion) should be allocated to the fund, but this amount is subject to approval by the European Parliament and the Council. The exact amount is expected to be clarified in connection with the ongoing budget negotiations and is likely to be in place before summer 2020 under the new European Commission.⁸⁴ Furthermore, as of today, it is unclear how businesses from non-EU member states can be linked to the fund. Presumably, this question will not be resolved until the outcome of the Brexit process is clear.⁸⁵

Even though the fund will not enter into force until the new MFF budgetary framework is in place, as mentioned previously the European Commission has launched two pilot programmes. Both programmes have already been running for a couple of years, and they follow the same structure as the expected structure of the fund, that is, with a research window and a capability window supplementing each other, but based on different financing mechanisms. The pilot programmes have been financed through reprioritisation within the current MFF budget for 2014-2021, and the amount available is far smaller than what will be allocated to the EDF once it has been formally established.

Both the research instrument and the capability instrument will be supported by a Coordination Board composed of the EU member states, the European Commission, the High Representative of the Union for Foreign Affairs and Security Policy, the member states, the European Defence Agency (EDA) and representatives from industry. The primary task of the Coordination Board is to ensure cohesion between the research and capability windows to improve support for the

development of the capabilities adopted by the member states. These capabilities are determined on the basis of separate processes in the member state-driven Coordinated Annual Review on Defence (CARD), in which the EDA plays a crucial role. The EDA has also had a key part to play in both pilot programmes, but the nature and importance of its future role is still uncertain. The general assessment is that it will continue to be involved in the research instrument, but that its role in the capability instrument will be limited.⁸⁶

Although the current budget proposal of EUR 13 billion has not been accepted at the time of writing, changes have already occurred as a result of the pilot programmes launched since 2017. These programmes, as well as the prospect of a European Defence Fund from 2021, have created new cooperation structures between industry partners in various EU member states.⁸⁷ One aim of the fund is to activate such programmes across defence industries in EU member states. In connection with the PADR and EDIDP pilot programmes, transnational cooperation between European defence industry partners has already increased, and this is linked directly with the most recent EU initiatives.⁸⁸ Previously, such cooperation was only limited, mostly involving the largest defence industry partners, such as the Italian Leonardo and the French Thales. Establishing such cooperation used to take years, and it was difficult for small industry partners to join transnational cooperation in Europe. This is now changing, and small and medium-sized industry partners are more engaged in cooperation across member states.⁸⁹

To safeguard the viability of the EDF, it is crucial for both the European Commission and the other EU actors (the Council, the High Representative, the EEAS,

the European Parliament) that are working to strengthen EU defence policy that there is cohesion between the many defence initiatives that have followed in the wake of the EU's Global Strategy. The European Commission, the High Representative and most member states consider cohesion between the different policy areas and actors as the way forward for EU defence. As mentioned above, CARD and EDA will be involved in selecting projects for the EDF. The CDP, which identifies key priorities for both EDF and PESCO projects, also plays a role.⁹⁰ Furthermore, a PESCO bonus of 10% of the amount allocated to EDF projects will be granted if there is a clear connection with PESCO.⁹¹

The European Defence Fund is the most important example of the new role of the European Commission in defence policy, but it is not the only one. The European Commission has intensified its work in relation to cyber threats and hybrid threats, as well as military mobility, and it also plays an important role in dealing with the migration flows entering Europe. In the European Commission's budget proposal for 2021-2027, which also includes money for the European Defence Fund, an entire chapter has been devoted to security and defence. The European Commission further recommends allocating an additional EUR 1.5 billion to the internal security of the EU, including border controls, as well as EUR 6.5 billion to military mobility, which involves securing critical infrastructure in the EU, so this can be used to transport military forces.⁹²

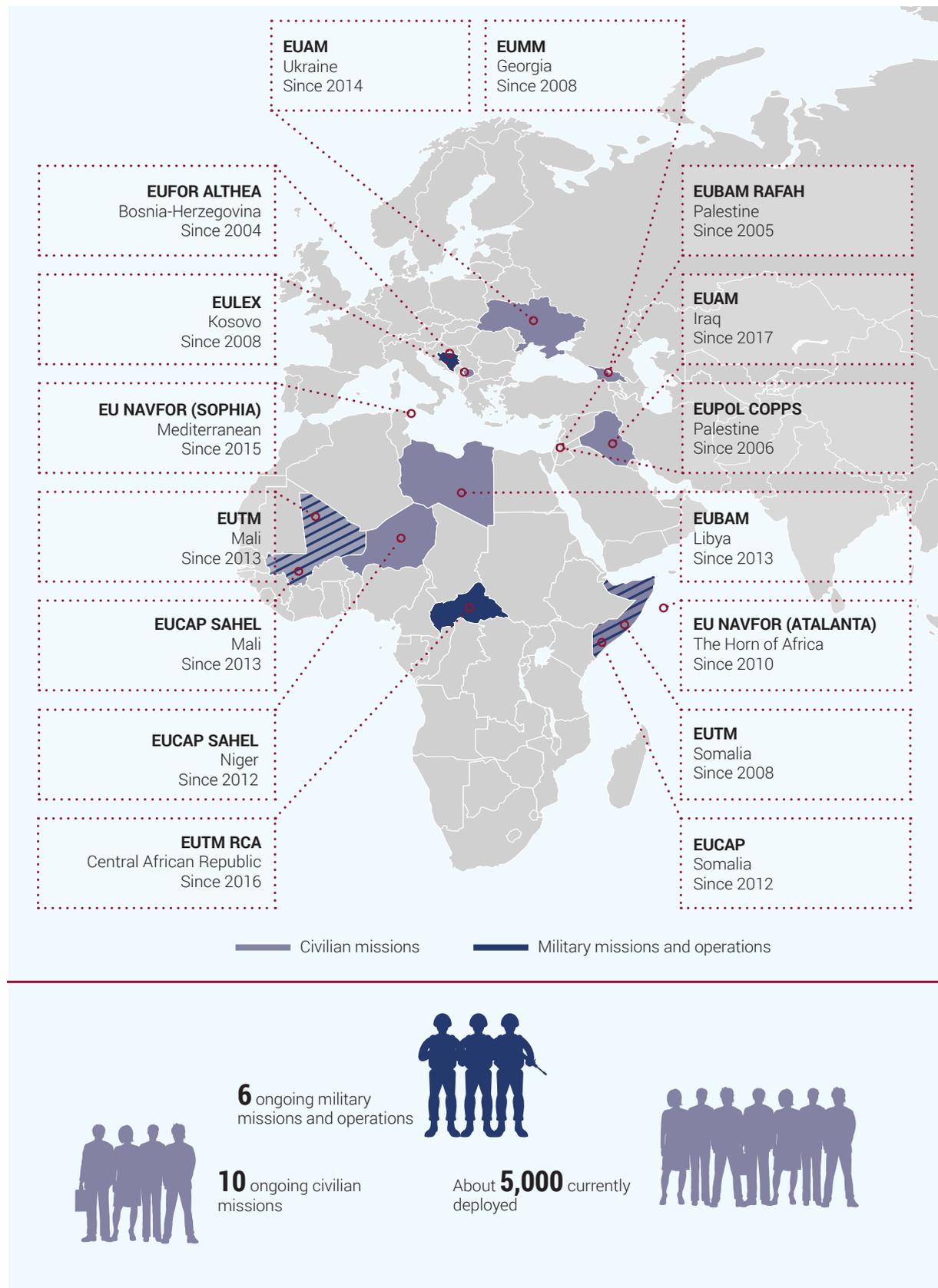
As the EU budget cannot be used for military purposes, these initiatives are not categorised as defence and security policy initiatives. The European Defence Fund is described as an industrial policy initiative, while military mobility (see box 6 in chapter 4) falls under transport and logistics. However, the initiatives are promoted and given legitimacy with reference to their contributions to European security, including protection of the European continent and its citizens.⁹³ The new Commission will set up a Directorate General for defence, industry and internal security, including military mobility, to be led by Commissioner responsible for industry, defence and space.⁹⁴

CSDP missions and operations

The latest developments in EU defence policy focus particularly on cooperation in industrial policy and the development of military capabilities. Operations have been less dominant, despite the fact that civilian and military CSDP missions and operations have made up a considerable part of EU security and defence policy since the latter was operationalised in 2003. Throughout the 2000s there was widespread political support for missions and operations, but over the last decade military interventions have become less popular. Most of the CSDP missions and operations launched in the 2010s have been of short duration, based on narrow mandates and involving a relatively small number of deployments. This reflects the Council's unwillingness to contribute, especially operationally. As already noted, CSDP operations have previously focused on the Petersberg tasks. However, the new priority – Europe's own security – is increasingly having an impact on which EU civilian and military operations are launched. Thus, a number of ongoing CSDP operations are explicitly justified by a desire to protect EU territory and citizens. For example, this applies to the maritime military operation, Operation Sophia in the Mediterranean and the EU training mission in Mali. Both operations are described as part of EU's fight against human trafficking and terrorism in order to protect the territory of the EU and its citizens.⁹⁵

Even though the new momentum for security and defence cooperation in the EU has not yet spread to the operational pillar of the CSDP, there are ongoing considerations about revitalising the EU's crisis management operations to ensure better alignment with the EU's broader security policy, including in relation to EU institutions and instruments outside the scope of CSDP operations.⁹⁶ A central case in point is the Council's Decision in November 2018 to strengthen the civilian pillar of EU security and defence policy. The aim is to increase the EU's capacity to deploy civilian CSDP missions and to do so more flexibly, so that, in the future, civilian CSDP missions can be deployed within thirty days. Furthermore, the intention is that CSDP missions will increasingly be able to cope with new types of threats such as terrorism, migration, hybrid threats, cyber security and organised crime, as well as the protection of land and maritime borders, airspace and critical infrastructure. All these areas have

Map 1. Ongoing CSDP missions and operations



Source: The European External Action Service, 'Military and civilian missions and operations', 5 March 2019.

external as well as internal security dimensions, and they affect the European Commission, the Council and other EU bodies. Another aim is that in future civilian CSDP missions will cooperate with other EU players, including the European Police Office (Europol), the European Border and Coast Guard Agency (Frontex) and the European Commission. Stronger institutional cooperation with NATO, the UN and other regional and sub-regional organisations, especially in Africa, is also a goal.

With regard to the military aspects of the CSDP, the establishment of the Military Planning and Conduct Capability (MPCC) within the EU's military staff structure, adopted on 8 June 2017, has also brought about institutional changes. This unit is a command structure and control framework responsible for the operational planning and implementation of EU training missions. The MPCC works closely with its civil counterpart, Civilian Planning and Conduct Capability (CPCC). When the MPCC was adopted, it soon sparked a debate on whether it was to be a first step towards a military command structure.⁹⁷ However, attracting personnel from EU member states for this new unit of only 150 staff has been difficult. So far, only half of the positions have been filled. The unit is intended primarily to serve a practical function, which is to enable local operations to concentrate on specific activities with better support from EU bodies.⁹⁸

Finance is another aspect of CSDP missions and operations that is currently undergoing change. Financing the CSDP is laid down in Article 41 of the TEU. Civilian CSDP missions are financed through the EU budget, the exact allocation being determined by the Council. Until now, military CSDP operations have been partly financed through the Athena mechanism and partly through own financing by the participating member states. All member states except Denmark are part of the Athena mechanism, which finances approximately 10% of the costs associated with military CSDP operations, the remaining 90% being financed by the member states that have volunteered to participate in a specific operation.⁹⁹

In 2018, the High Representative of the Union for Foreign Affairs and Security Policy proposed a new financing mechanism to be called the European Peace Facility (EPF). This facility is designed to replace and coordinate current initiatives financed through the Athena mechanism and the European Commission's African Peace Facility (APF),¹⁰⁰ as well as initiatives concerning Capacity Building for Security and Development (CBSD). The idea is to establish a more flexible instrument which cuts across thematic and geographical priorities. In the proposal, the EPF is to have a total level of expenditure of EUR 9.2 billion over the seven-year MFF budget period from 2021-2027. Financing of the EPF will fall outside the general EU budget and be determined by a distribution formula based on the Gross National Income (GNI) of individual member states, in line with the majority of the EU budget. The proposal is likely to be adopted in spring 2020, although a number of uncertainties still remain unresolved with regard to the financing model, which currently envisages synergies between civil and military instruments, and to how these will be financed.¹⁰¹ The EPF is to support both military and civilian tasks, and Denmark has the option to participate, as the intention is for the facility to specify which activities are military and which are not. Denmark is the only EU member state that needs to be able to distinguish between resources spent on military and civilian activities respectively.

THE IMPLICATIONS OF THE DEFENCE OPT-OUT FOR DANISH INTERESTS

Developments in the defence area in recent years have generally made it more difficult to manage the Danish defence opt-out. Several of the new initiatives, including PESCO, fall within the opt-out's scope of application, but other initiatives, including the European Commission's industrial policy initiatives, come outside its scope. In the interface between these areas, grey zones often arise in which the specific scope of the defence opt-out cannot immediately be established. These grey zones are only a concern for Denmark, not for other member states, who are endeavouring to establish consistency between the different aspects of the EU's defence policy.

The Council Decision activating PESCO specifically addresses the Danish position, stressing that: 'In accordance with Article 5 of Protocol No 22 on the position of Denmark [...], Denmark does not participate in the elaboration and the implementation of decisions and actions of the Union which have defence implications. Denmark is therefore not bound by this Decision.'¹⁰²

As Danish participation in PESCO is not possible, Denmark is also unable to participate in specific PESCO projects, whether military or civilian. According to an assessment by the Ministry of Foreign Affairs of Denmark, legally there is nothing to prevent industry partners in Denmark from contributing to PESCO projects, as private actors (i.e. non-state actors) are not covered by the scope of the defence opt-out. Denmark is also a full member of the EDF because legally the EDF does not fall under the CFSP/CSDP, being designed with industrial policy as its primary purpose and legal basis. It is therefore governed by the provisions on industrial policy and research to which the Danish defence opt-out does not apply. Denmark therefore participates fully in financing the EDF and can benefit from current programmes under it. Furthermore, Denmark may express its support for a specific project in which a company domiciled in Denmark is a consortium member without this being considered an indirect contribution to implementing activities covered by the opt-out. This also applies if the project is eligible for a PESCO bonus. Furthermore, Denmark may procure defence materials from suppliers that have received funding from the European Commission, even when these capabilities are also part of PESCO cooperation.¹⁰³

In assessing how the most recent developments within the EU affect Denmark's scope for protecting Danish interests, distinctions are made between influence, autonomy, security and resources. The implications of the defence opt-out vary according to the aspect concerned, including the industrial policy and research policy effects. In this context, influence is seen as a broad category covering Denmark's ability to affect other players and specific policies. It is examined by analysing indicators of influence, including available administrative resources, access to relevant

international forums and, not least, Denmark's reputation in such forums. Reputation refers to the status enjoyed among other relevant players. Autonomy is analysed as Denmark's ability to act independently of other states and of the influence of institutions. Security is defined both narrowly, in the sense of Denmark's territorial integrity, and more broadly, to mean widespread political and economic instability outside national boundaries. Resources means the use of the state's economic resources, as well as its impacts on industrial policy. The following subsections discuss each of these indicators in turn.

Influence

The overall assessment is that the significance of the defence opt-out has increased in relation to the scope for Danish influence. Given recent developments in EU security and defence cooperation, including the introduction of several new initiatives, the Government of Denmark spends considerably more administrative resources on assessing whether Denmark can be part of such initiatives. This applies across the relevant ministries and government agencies, including the Ministry of Foreign Affairs, the Ministry of Defence, the Ministry of Business, Industry and Financial Affairs, the Permanent Representation of Denmark to the European Union and Denmark's various diplomatic missions.¹⁰⁴

Due to the nature of the defence opt-out, a large proportion of resources currently goes on assessing the legal aspects of a proposal, instead of considering the more substantial implications of the direction of specific negotiations. More specifically, with regard to matters of practical organisation, substantial resources are spent in the preliminary phase to assess whether an area is covered by the defence opt-out and whether the negotiating proposals, etc., could have implications for it.¹⁰⁵ Much of the preparatory work therefore relates to analysing the legal aspects of initiatives, rather than the political and substantive nature of a proposal, while promoting Danish security and defence policy views is of secondary importance.¹⁰⁶ Prioritising using resources on legal clarification also means that officials representing Denmark often enter the political process at a late stage and therefore have limited flexibility in the ongoing negotiations. Consequently, the defence opt-out also affects specific negotiating behaviour.

The opt-out also makes it more difficult for Danish diplomats to influence specific political initiatives. This also applies to areas that turn out not to be covered by the opt-out, but for which the process of analysing whether Denmark can or cannot participate has taken a long time. One example is the EDF: Denmark spent more than six months assessing whether it was able to participate, and consequently was not in a position to influence the decision on how the EDF was designed.¹⁰⁷ Thus, the defence opt-out often results in Denmark adopting a slow and circumspect approach to EU security and defence policy, including in cases in which the opt-out does not apply.¹⁰⁸ This low-profile position in relation to EU security and defence policy has become more evident since the opt-out was introduced. There even appears to be a specific Danish 'mindset' when it comes to the EU and defence policy.¹⁰⁹ Across actors and industry, Danish actors are not used to thinking about the EU in the context of defence, consequently they have limited knowledge and few close contacts in this field.

In addition to the general increase in the number of initiatives covered by the opt-out, there are also more grey zones because the distinctions between defence cooperation within the CFSP framework and other areas of EU cooperation have become more blurred. Uncertainty about these new grey zones leads to a more conservative approach, where the focus is on the process and on whether the legal aspects of the opt-out have been observed. This applies not only in situations where the opt-out clearly applies, but also where there is an assumption that it could be invoked.¹¹⁰

Denmark also uses up resources in collecting information from other member states and institutions about what is happening in bodies from which it is excluded. This requires considerable political capital which could be used in other ways.¹¹¹ Furthermore, considerable resources are spent on informing partners in the EU system about the defence opt-out. There is a widespread perception that Denmark is excluded from all defence cooperation, including cooperation in the European Commission, even though Denmark can be, and is, part of the new industrial and research initiatives. Thus, the most recent EU initiatives have added an

information aspect to management of the defence opt-out that calls for an additional communicative effort and draws on Danish diplomatic resources.¹¹²

The defence opt-out can also make it difficult for Denmark to promote a special policy or a perspective that is otherwise in line with Danish agendas. An example of this is Denmark's prioritisation of the so-called 'comprehensive approach' in which military and civilian instruments are used in a combined intervention. The comprehensive or integrated approach has long been considered a Danish priority. With regard to Denmark's own participation, it is important that a clear distinction can be made between military and civilian instruments and activities to avoid Denmark finding itself in a grey zone.¹¹³ Denmark is the only member state for which it is necessary to draw a clear line between civilian and military cooperation because no other member states have a defence opt-out. Therefore, in practice, Denmark unintentionally promotes a strategy that works counter to the 'comprehensive approach' it favours.¹¹⁴

An important aspect of a member state's influence is its reputation, in this case the status and respect Denmark enjoys among other member states. When it comes to EU security and defence policy, Denmark is considered a less attractive cooperation partner because of the defence opt-out, and there is a widespread desire elsewhere for Denmark not to have one. Although the political situation in Denmark is generally understood, a higher degree of Danish participation in EU defence cooperation would be welcome.¹¹⁵ This also applies to member states that are more critical of the EU, but that still regret Denmark's lack of participation in defence cooperation.¹¹⁶ For example, it is considered a problem that Denmark is not part of the PESCO project on military mobility.¹¹⁷ Work on military mobility goes through different channels, including EU-NATO cooperation, the European Commission and the PESCO project. Therefore, it is considered unfortunate in the interests of broader cooperation that Denmark cannot participate in cooperation under the PESCO framework.¹¹⁸ Furthermore, there is a degree of suspicion that, because of the defence opt-out, Denmark sometimes seeks to

promote its own agenda, for example, advocating NATO's position instead of a stronger role for the EU for a given activity. Such suspicions have implications for Denmark's reputation and affect its ability to acquire influence.¹¹⁹

The defence opt-out also has implications for Denmark's reputation in areas of cooperation it does not cover, for example, the EDF. During initial discussions on the EDF, Danish officials had to take a passive stand until it had been clarified whether Denmark could take part in the EDF. Therefore, Denmark appeared as a less attractive cooperation partner.¹²⁰ The defence opt-out also has implications for how Denmark is perceived by its cooperation partners outside the EU. As the EU expands its defence dimension, this could have implications for Denmark's position as an ally and a cooperation partner because Denmark's options to influence this area are limited. Other EU member states could therefore appear more attractive.¹²¹

In light of the new grey zones between the different defence initiatives in the EU and Denmark's generally circumspect approach, the latter's position may seem unpredictable and incoherent. This affects perceptions of Denmark in other member states. It can be unclear whether Denmark can participate in cooperation. On occasion, the defence opt-out is perceived as Denmark shunning European cooperation because it prefers other forums and forms of international involvement. It should be emphasised, however, that Denmark's reputation only suffers in relation to EU security and defence policy. With regard to broader foreign policy and security policy cooperation, and in relation to NATO, Denmark is generally considered a proactive, reliable and committed participant.

Autonomy

Although EU defence and security policy has developed considerably since it was established in the late 1990s – not least since 2016 - cooperation in the CSDP is still an intergovernmental one. Here, decisions are taken unanimously by the Council, and the driving force for continued integration depends on the degree of political

willingness among member states acting in the Council in a policy area in which other EU bodies have little influence. Therefore, without the defence opt-out Denmark would not lose its autonomy because CSDP decision-making must be unanimous within the Council. On this basis, indeed, the 2008 DIIS report on the defence opt-out argued that without it Denmark would have a greater degree of autonomy because formally it would be able to block any development that could harm Danish interests.¹²² As stated in the Danish opt-out in the Protocol to the EU treaties, 'Denmark will not prevent the development of closer cooperation between member states in this area.'¹²³ Denmark has thereby waived its right to veto defence decisions and cannot influence future developments because it is difficult for it to influence areas that it is not part of. Even though formally speaking, without the defence opt-out, Denmark would be able to prevent any development that could harm Danish interests, it is clear that in practice it can be difficult for any one member state to promote a specific agenda on its own.

Paradoxically, areas of defence policy that are not covered by the defence opt-out and in which Denmark can participate are areas in which decisions are taken by qualified majority voting (QMV) and where supranational players such as the European Commission and the European Parliament are key players. These are all the policy initiatives of the European Commission's, including research and industrial cooperation related to defence, military mobility and cyber security. In this context, a valid argument is that, in the long term, Denmark risks losing autonomy because an individual member state cannot prevent specific policy proposals in the same way as in the CSDP, to which the Danish opt-out applies on matters that have defence implications.

Security

The most recent security and defence policy developments in the EU do not change the fact that NATO and the United States remain the most important guarantors of Denmark's security. Moreover, it has been crucial for the EU, NATO and EU member states to emphasise that the aim of the process currently taking

place in the EU is to supplement rather than to challenge or duplicate NATO. This means that, at this time, the defence opt-out is not considered as having implications for Denmark's security in the narrow sense in the immediate future.¹²⁴

Looking at security from a broader perspective, in a number of areas the defence opt-out has become more significant. The EU is becoming increasingly capable of managing and, in time, taking over tasks in areas in which defence policy overlaps with civilian policy areas and activities.¹²⁵ These policy areas include military mobility, cyber security and hybrid threats, as well as migration. These are also areas in which individual member states have difficulties working on their own but in which the EU has a broader range of relevant instruments than NATO, which is a defensive military alliance. Therefore, in the years to come, the EU is expected to take on larger tasks and more of them. Denmark could have an interest in contributing to these tasks, but the defence opt-out can make this difficult.¹²⁶ As a major part of the new defence cooperation within the EU, more is being managed by the European Commission, in which Denmark can actually participate, despite the opt-out.¹²⁷ However, Danish participation is limited in this context as well. This is due to the growing overlap between the different policy areas and actors involved in defence and security, for example, more coordination between EU military operations and EU civilian missions under the CSDP, as well as Frontex or Europol.

Denmark cannot participate in CSDP military operations that may have implications for Danish security in the broader sense. However, as recent developments in the area of operations have been limited, the importance of the defence opt-out in this context has not changed substantially since the conclusions of the 2008 DIIS report on all four Danish opt-outs. Quantitatively, CSDP operations have not increased over the last decade, but their purpose is currently changing. Unlike previously, operations are increasingly justified on the basis of their contributions to protecting EU citizens and territories. Most recently, this became clear in connection with the CSDP's naval operations in the Mediterranean, which aimed to reduce human trafficking. Thus, unlike non-EU member states such as

Norway, Iceland and Turkey, Denmark cannot contribute to CSDP military operations, even though they may agree with Danish political priorities.¹²⁸

Resources

From a resource perspective, the defence opt-out has new negative implications for industrial and research policy in particular. Given that the EDF is applicable to all member states, Danish industry partners can participate in projects supported by the EDF, to whose financing Denmark contributes through its overall national contribution to the EU budget through the MFF frame-work. The proposed budget for the EDF for 2021-2027 MFF is EUR 13 billion, Denmark's share of which is likely to be around EUR 30 million a year.¹²⁹ The hope is that Denmark and Danish industry partners will get back the same or an even larger amount by participating in specific projects. However, it may turn out to be difficult to ensure a high success rate because, due to the opt-out, Denmark and Danish industry partners do not have the same opportunities to influence work across EU defence initiatives.¹³⁰

As mentioned previously, the EDA will play a key role in identifying which research and industrial cooperation projects are to be supported by the future EDF through the CDP. It will be the CDP that sets the priorities, not only for PESCO, but also for projects under the EDF. As Denmark is not a member of the EDA, which decides on the CDP, it will have no direct influence on development areas that are assessed to be of strategic importance. Even though industry partners are not covered by the defence opt-out, Denmark will not be able to influence cooperation in areas in which Danish research projects or industry partners have special skills or strengths. Consequently, it could potentially miss out on the chance to create new jobs within the Danish research sector and defence industry.¹³¹ Through ongoing endeavours to obtain observer status in the EDA, Denmark is seeking to make up for this consequence of the defence opt-out.¹³² Observer status for Denmark at the EDA would guarantee the Minister for Defence a place in the steering committee that convenes in connection with meetings of EU defence ministers, and it could give industry partners in Denmark easier access to EDA activities.¹³³ It is still uncertain whether

Denmark will be granted observer status, nor, if so, how this would work in practice.¹³⁴ The Council Decision requires reconsideration of the EDA legal acts, which presupposes unanimity among the other member states.

However, observer status in the EDA will not guarantee full access to EDF projects for Danish industry partners. One of the challenges for the industry in Denmark is international uncertainty as to whether Danish industry partners are covered by the defence opt-out, which affects their ability to contribute to these projects. Thus, the opt-out may indirectly reduce the position and competitiveness of industry partners in Denmark, as they are not de facto considered potential partners in the new EU cooperation. There are examples of industry partners in Denmark not being able to participate in EDA meetings, although they concern the EDF, and of EU member states and partners associated with the European defence industry having tried to exclude Danish industry partners based on the assumption that Denmark was not able to participate.¹³⁵ In this connection, in 2018, Denmark's Ministry of Foreign Affairs produced a document stating that Danish industry partners are not subject to the defence opt-out and can participate in projects under the EDF. The document was presented to industry partners in Denmark and potential European cooperation partners.¹³⁶ However, making sure that Danish industry partners are allowed to participate in these projects and are not excluded because of the defence opt-out remains an extensive communication task. Nonetheless as in principle the opt-out does not prevent Danish industry partners and research institutions from taking part in these projects, the EDF, for instance, could come to play an important role in the involvement of industry partners, universities and technological institutions in future European defence research and development programmes. However, due to Denmark's circumspect approach to the EDF and its lack of influence over which projects are to be developed and implemented, the defence industry in Denmark is at risk of falling behind from the outset, while the Government of Denmark has to adopt various compensation strategies to cushion the negative effects of the defence opt-out in an area it does not cover.¹³⁷

Financially, however, the defence opt-out may also help Denmark avoid considerable expenditure, as it would require more resources if Denmark were to participate fully in the EU defence cooperation, including PESCO, EDA and CSDP military operations. Abolishing the opt-out would mean Denmark having to contribute to CSDP military operations through the Athena mechanism. However, this method of financing will soon be replaced by the EPF, of which Denmark wants to be part, despite its opt-out. The exact nature of Denmark's participation has yet to be resolved.¹³⁸ The resources required for full Danish participation in PESCO and EDA are difficult to assess, but it is clear that Danish participation in more EU initiatives would take up more resources in EU and national bodies.

SUMMARY

In line with the significant changes in the external framework conditions for Europe's security, EU defence and security cooperation has moved from the periphery to take on a more central role. Denmark is outside the parts of this cooperation that fall under the CFSP/CSDP, including PESCO, but participates fully in the most recent initiatives, including the EDF. This has resulted in an increasing number of legal grey zones where there is doubt about the scope of the defence opt-out. As a result, the scope of the opt-out has indirectly been extended beyond its formal legal status. Overall this has an impact on Denmark's options in safeguarding its interests, and the implications of the opt-out are steadily becoming more far-reaching. The opt-out makes it more difficult for Denmark to influence EU policy, and other EU member states increasingly consider Denmark a less relevant partner. These developments have no implications for Danish security in the narrow sense, as it is still anchored in NATO. However, the EU is becoming increasingly involved in broader security issues, and Denmark can only participate in parts of EU security cooperation, such as cyber security cooperation. Even though Danish industry partners can participate fully in the EDF, neither they nor Denmark have the same scope for influence as a member state with no defence opt-outs.

RELATIONSHIP BETWEEN THE EU AND NATO

Since EU defence cooperation began, it has had to navigate a complex relationship with NATO. Fundamental political disagreements between ‘Atlanticists’ and ‘Europeans’, and especially between Turkey, a NATO member state, and Cyprus, an EU member state, have reduced the potential for cooperation between the two organisations. The new security policy developments since 2014, particularly Russia’s annexation of Crimea, have increased the interest in synergies between the EU and NATO. While expanding its defence policy cooperation, the EU has also had to send a signal that this will not undermine NATO. These dynamics have created a new momentum for cooperation between the two organisations. However, fundamental political disagreements continue to restrict progress. This chapter analyses general developments in the EU-NATO relationship. It then goes on to analyse the implications of Denmark’s defence opt-out for the relationship between the EU and NATO.

BEFORE 2014: LIMITED COOPERATION

The relationship between the EU and NATO has been formalised through a number of statements and agreements from 2002 and 2003, including in particular the Berlin Plus agreement (see Box 5). This formalisation has not resolved the two fundamental political disagreements that prevent much closer cooperation between the two organisations. First, since EU enlargement in 2004, there has been disagreement

over who can participate in EU and NATO negotiations, operations and general cooperation, a disagreement referred to as ‘the participation problem’. The focal point is the relationship between Turkey, a NATO member state, and Cyprus, an EU member state (see

Box 5.

THE BERLIN PLUS AGREEMENT

This is a cooperation agreement between the EU and NATO adopted in 2003. The agreement sets out the conditions for EU-NATO cooperation in connection with crisis management operations and allows the EU access to NATO’s planning capabilities, as well as the few other joint capabilities that NATO has at its disposal, such as airborne warning and control systems (AWACS). However, individual NATO member states control by far the majority of the military capabilities of the alliance, and these capabilities are not covered directly by the agreement. The EU, for its part, is obliged to include NATO allies which are not members of the EU (for example, Turkey) as far as possible in the EU’s Common Foreign and Security Policy (CFSP). EU member states which are not members of NATO, which do not participate in NATO’s PfP programme or which do not have the necessary security agreements in place cannot take part in joint EU-NATO meetings and operations or receive confidential materials.

Source: DIIS (2008), *The Danish Opt Outs from the European Union: Developments since 2000*; Howorth (2014), *Security and Defence Policy in the European Union*.

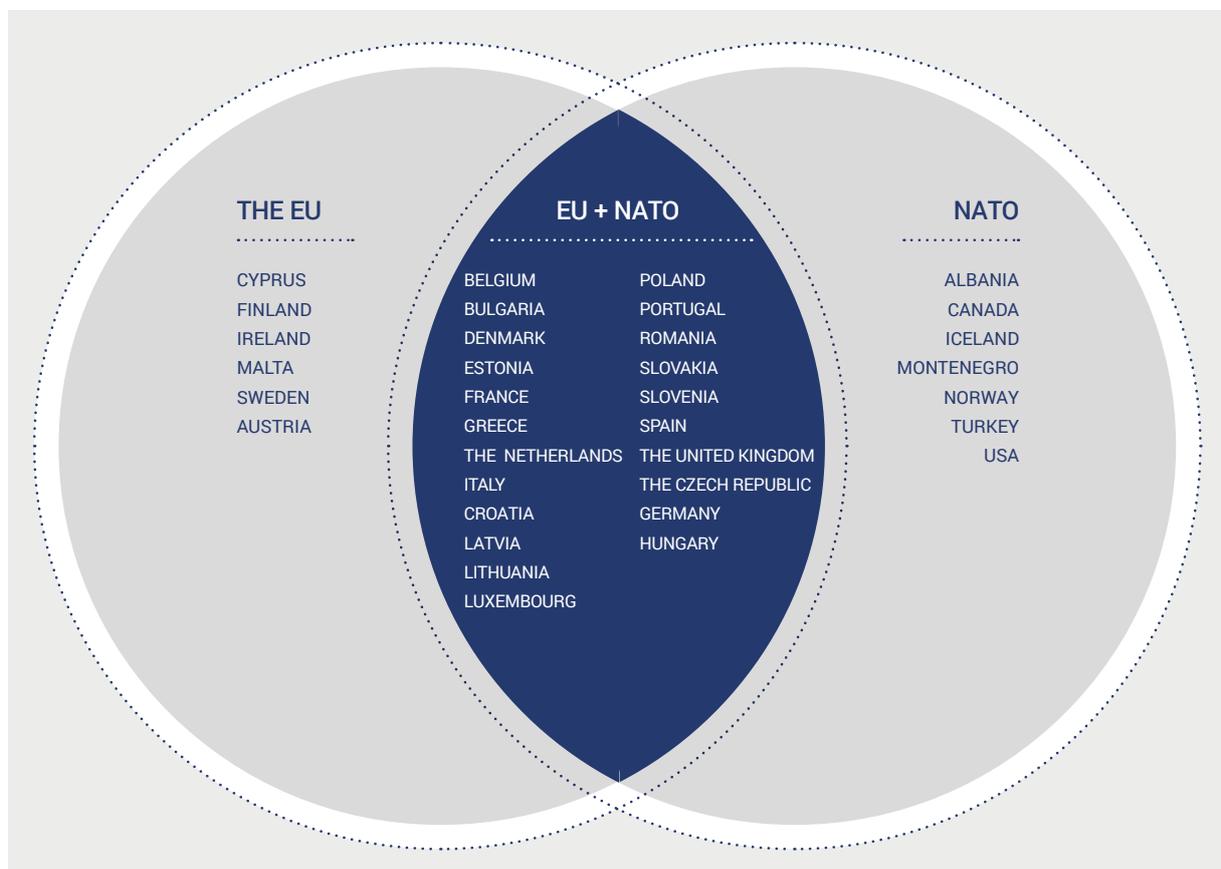
Figure 4), the domestic fault lines between the Greek and Turkish parts of Cyprus and Turkey's relationship with the EU in general. Turkey insists that EU-NATO cooperation must comply with the conditions in the Berlin Plus agreement for participation in joint meetings, operations and exchanges of confidential information (see Box 5). Cyprus is not a member of NATO or the PfP (Partnership for Peace) and does not have the relevant security agreements in place, partly because Turkey has blocked Cyprus from settling these issues. Consequently, Cyprus does not comply with the conditions of the Berlin Plus agreement, and it has occasionally blocked increased cooperation between the EU and NATO.¹³⁹

Secondly, in past decades, the EU's and NATO's respective purviews have been subject to much debate, a disagreement sometimes referred to as 'the scope problem'. This debate embraces many different positions, but overall two different positions have emerged: 'Atlanticism' and 'Europeanism'. Within the EU

the views of the 'Atlanticists' have traditionally been articulated by the United Kingdom, reflecting its fear of duplication and, in the worst case, decoupling if the EU moved into areas already covered by NATO. In this perspective, 'duplication' means EU member states wasting resources on establishing forces and structures that already exist in NATO. 'Decoupling' means that EU defence cooperation will undermine the solidarity of NATO. The 'Europeanists' are led by France, which does not want to allow the United States, through NATO, to obstruct the development of EU defence cooperation, and which does not want the EU to become a subordinate organisation whose only role is to implement political decisions made in NATO.¹⁴⁰

To some extent, the internal tensions in the EU between 'Atlanticists' and 'Europeanists' are also reflected on the other side of the Atlantic. The general approach of the United States to European defence cooperation has been driven by two partly opposing trends. Of the one hand, the United States has sought greater European

Figure 4. Membership of the EU and NATO



contributions to the common defence of Europe and has been disappointed at the limited European defence budgets and their inefficient use of them. On the other hand, the United States has feared the prospect of Europe following an independent course that could run counter to American interests.¹⁴¹ The United States has been sceptical of increased European defence cooperation, which may potentially discriminate against American industry by excluding it from European markets.¹⁴²

However, even before 2014 the relationship between 'Atlanticists' and 'Europeanists' began changing. In recent years, voices in the United States have advocated emphasising other security priorities than the defence of Europe. For example, the Obama administration identified the growing power of China as its most important foreign-policy priority, resulting in the administration trying to move its focus and resources to East Asia and the Pacific Ocean (the so-called 'pivot to Asia').¹⁴³ Some EU member states feared that this could create a power vacuum in Europe, opening up a path for Russian aggression, or that the larger Western EU member states would dominate European policy, perhaps even competing with one another.

Furthermore, over the last decade, France has slowly embarked on a more consensual course in its relationship to the United States. Thus, in 2009 France rejoined the NATO military command structures it had abandoned in 1966 due to disagreements with the United States. One of the reasons for the French shift towards NATO was that, like many other EU member states, France feared that the United States would abandon Europe completely and leave a power vacuum. Despite the improved state of affairs, the two countries continue to disagree on fundamental issues, including the design of EU defence policy, particularly for the defence industry.¹⁴⁴

The 'participation problem' and the 'scope problem' have not only reduced the extent of political dialogue between the EU and NATO, they have also complicated practical cooperation between forces deployed in EU and NATO operations at the operational level. In military

operations, it is important that different units can coordinate their efforts to avoid duplication and to ensure the best possible protection for the deployed forces. However, the 'participation problem' makes it very difficult for the two organisations to share intelligence and analyses with each other. They have to work with separate, incompatible computer systems, and they each have their own operational headquarters. However, informal and pragmatic procedures for coordination, information sharing, etc., have been established at the operational level. For example, in connection with NATO's and the EU's anti-piracy operations (Operation Ocean Shield, 2009-2016, and Operation Atalanta, 2008-present, respectively), a specific agreement was made to allow data-sharing. Computer systems were implemented to enable the sharing of unclassified information, and coordination took place at meetings concerning other topics. Furthermore, officers from states that are members of the EU as well as NATO could access the systems of both organisations, thereby overcoming the formal barriers.¹⁴⁵

SINCE 2014: NEW COOPERATION DYNAMICS

Several different and opposing trends from 2014 onwards have influenced the relationship between the EU and NATO. The Russian annexation of Crimea in 2014 renewed American awareness of European security. The 2016 Brexit referendum led to greater uncertainty about internal cohesion within the EU. The election of Donald Trump as president of the United States in 2016 caused increased tensions between the United States and its European allies in a number of policy areas, with Trump creating doubts about the American security guarantee to Europe and putting considerable pressure on European countries to increase their defence budgets.

Simultaneously with these events, the EU and NATO have expanded practical cooperation between the two organisations. The increased focus on deterrence and defence against Russia, particularly in the form of hybrid operations, highlighted the two organisations' mutual dependence. NATO remains the primary

institution for organising the necessary military forces and capabilities to deter Russia, while the EU has instruments that can enable NATO to improve the implementation of conventional and hybrid operations effectively (see Box 6 for an example).¹⁴⁶ At the same time, the EU needed to secure support for its new defence policy initiatives (described in Chapter 3) both from the more 'Atlanticist' EU member states and from the United States, both of whom might fear that its new initiatives would strengthen the EU to the detriment of NATO. By engaging in stronger formal cooperation with NATO, the EU was able to send a signal that these fears were unfounded.¹⁴⁷

Since 2016, increased cooperation between the EU and NATO has been formalised. In July 2016, Donald Tusk, the then-President of the European Council, Jean-Claude Juncker, the then-President of the European Commission, and Jens Stoltenberg, the Secretary General of NATO, agreed on a Joint Declaration stressing that 'the time has come to give new impetus and new substance to the NATO-EU strategic partnership'.¹⁴⁸ Subsequently, eight common priorities for cooperation have been identified and implemented

in 74 specific cooperation initiatives (see Box 7).¹⁴⁹ Although, seen in isolation, these initiatives have limited impact, they represent progress compared with the decade before 2014.¹⁵⁰

This new EU-NATO cooperation has emerged despite continued fundamental political disagreements. So far Turkey has implicitly accepted the new initiatives, but the 'participation problem' continues to restrict cooperation.¹⁵¹ Moreover, the 'scope problem' still affects cooperation, despite the softer positions of the 'Europeanists' and 'Atlanticists' described above. The 'Atlanticists' fear that strengthening European defence cooperation, and particularly the ambition to achieve strategic autonomy, means that the EU will duplicate NATO's initiatives or even that it aims to replace NATO. The 'Europeanists', by contrast, worry about what they see as a schizophrenic tendency in the American approach: on the one hand, the United States wants Europe to take more responsibility for its own security, while on the other hand, it will not allow European states to establish the necessary capabilities through EU cooperation.¹⁵²

Box 6.

EU-NATO COOPERATION ON MILITARY MOBILITY

Cooperation on military mobility gives a good picture of how both the EU and NATO can benefit from increased cooperation. Military mobility concerns countries' abilities to transport military forces and materials across national borders. The EU wants to make sure that infrastructure such as bridges, roads and railways can be used for this transport, that legal procedures such as customs rules and rules on the transport of dangerous goods are standardised and flexible, and that the countries involved plan and exercise such transport facilities. This is also important for NATO because it makes it easier for NATO members to respond quickly in a crisis situation. Therefore, military mobility is

among the 74 elements of cooperation that the EU and NATO have agreed on and falls under the defence capabilities priority axis (see Box 7). Unlike NATO, the EU is a suitable channel for introducing and standardising legal procedures in civil areas that are important for military mobility, for example, transport and the environment. Thus, the EU can contribute initiatives that NATO would have difficulties introducing. Conversely, NATO member states can help with the military expertise that is lacking in the EU, and NATO can also ensure that EU initiatives take account of NATO's parameters and infrastructural standards.

Source: interviews 11; 14, 15 (group); European Commission, 'Joint Communication to the European Parliament and the Council on the Action Plan on Military Mobility', 28 March 2018; EU and NATO, 'Third progress report on the implementation of the common set of proposals endorsed by NATO and EU Councils', 31 May 2018; European Commission, 'Defending Europe: Improving Military Mobility within and beyond the European Union', 20 November 2018.

Box 7.**STRATEGIC PRIORITY AREAS FOR EU-NATO COOPERATION**

- 1 Countering hybrid threats
- 2 Operational cooperation
- 3 Cyber security
- 4 Defence capabilities
- 5 Defence industry and research
- 6 Exercises
- 7 Capacity-building in partner countries
- 8 Political dialogue between the EU and NATO

Despite these overall political disagreements, EU and NATO member states have implicitly accepted that EU and NATO staffs should expand cooperation in practical areas that do not call for the adoption of a political position, such as staff-to-staff contacts and seminars, improved information-sharing and more joint training.¹⁵³ For example, one such initiative was the establishment of the Centre of Excellence for Countering Hybrid Threats. This centre was set up as a separate international body outside the EU and NATO and consequently did not require the political agreement of the two organisations.¹⁵⁴ Thus, to a great extent, the 2016 Joint Declaration has been realised and implemented by EU and NATO staffs.¹⁵⁵

However, this does not change the fact that ensuring cooperation in a joint effort is difficult without a political consensus. Instead, the staffs have set themselves less ambitious goals. By accepting that the EU and NATO pursue separate but often closely related goals, their respective staffs have instead tried to improve coordination and information-sharing.¹⁵⁶ One example of this is the way in which the EU and NATO are linked in each other's exercises. When one organisation has held an exercise in how to respond to an attack, the

other organisation has conducted a parallel exercise focusing on its own response in a similar situation, including how it would coordinate with the first organisation. The EU has focused on areas where EU cooperation is most useful, such as diplomatic pressure and economic sanctions, while NATO has focused on military defence and deterrence.¹⁵⁷ Due to political disagreements, formally the EU and NATO have to conduct exercises separately, but they have remained relevant nonetheless, for example, by identifying barriers to swift coordination and practical cooperation, including different security clearance rules and different procedures for information-sharing. Based on this experience, staff working for EU bodies and NATO have been able to work on standardising procedures in order to facilitate cooperation.¹⁵⁸

Since 2016, EU–NATO cooperation has primarily been expanded into areas that are closely linked to deterring Russia. Thus, responses to hybrid threats, cyber security and defence capabilities have undergone considerable developments. Conversely, developments related to operational cooperation, for example, have been limited. Attempts have been made to improve formal cooperation between the EU and NATO operationally in individual operations, but generally operational cooperation still primarily functions through informal channels.¹⁵⁹

THE DANISH POSITION REGARDING EU-NATO COOPERATION

Developments in the transatlantic relationship and in EU-NATO relations may also influence Denmark's options in protecting its national interests. The question is how the defence opt-out comes into play. The analysis below focuses on the implications of the defence opt-out for Danish security, influence and resource consumption. Since the relationship between the EU and NATO does not involve any additional institutional commitments for Denmark, this relationship will have no consequences for Denmark's autonomy, which will therefore not be discussed in this section.

Security

As mentioned in the introduction, a distinction is made between security in the narrow and broad senses. In the narrow sense, security concerns the defence of Denmark's territorial integrity. The renewed American engagement in Europe following the Russian invasion of Crimea has meant that Denmark can continue to base its narrow security policy on the American security guarantee through NATO.¹⁶⁰ The defence opt-out therefore has no major consequences for Danish security policy in the narrow sense. As explained in Chapter 3, the aim of EU defence cooperation is not to challenge NATO, but rather to supplement NATO's work. Both before and after 2014, EU defence cooperation has therefore abstained from establishing its own capabilities in areas such as nuclear and conventional deterrence, as these areas still fall under NATO. In this context, Denmark is not faced with a choice between the EU and NATO, as its territorial security is protected by NATO in the narrow sense.¹⁶¹

Security in a broader sense concerns security threats such as cyber threats, terrorism, migration and hybrid operations that are not direct threats to the territorial integrity of Denmark. A considerable part of EU-NATO cooperation concerns some of these aspects. To a very large extent, this cooperation relates to areas not covered by the defence opt-out, and it is largely managed by EU and NATO staffs. Consequently, the defence opt-out does not substantially affect Denmark's ability to participate in these initiatives.

Despite its limited scope, developments in EU-NATO cooperation have indirect implications for Danish security in both the narrow and broad senses. As mentioned above, since 2014 the EU and NATO have expanded their mutual cooperation in a number of areas in which the EU can support NATO. More cooperation and additional synergies improve NATO's ability to perform tasks that benefit Denmark's security interests.¹⁶² For example, cooperation in military mobility improves NATO's ability to move forces to the east in a crisis situation, thereby deterring Russian aggression in eastern Europe. Denmark's defence opt-out is not of decisive importance for this development, nor does it have indirect negative security-policy implications.

Influence and resources

So far, the consequences of the defence opt-out for Danish influence and resource consumption in relation to the EU-NATO relationship have been limited. Before 2014 EU-NATO cooperation was limited, and there was not much for Denmark to miss out on. Consequently, Denmark did not appear as a poor partner unable to take part in important projects.

However, the defence opt-out had indirect implications in so far as it limited Denmark's ability to pursue the comprehensive approach agenda that successive Danish governments had pursued in NATO, and it could not work actively for a comprehensive approach between the two organisations. The 2008 DIIS report on all four opt-outs concluded that this situation was giving rise to uncertainty about Danish policy, and it compromised Denmark's position as a proponent of the comprehensive approach.¹⁶³ Today, the comprehensive approach agenda is not as significant for the Danish and international security agenda as it was in 2008, but it is still considered unfortunate that, due to the defence opt-out, Denmark cannot work to promote the comprehensive approach across the two organisations.¹⁶⁴

From 2014 onwards, new elements have been added to EU-NATO cooperation, including a greater focus on hybrid operations. However, the Danish defence opt-out has not had any significant consequences in this respect.¹⁶⁵ The EU initiatives that contribute to EU-NATO cooperation primarily fall within other areas than pure defence policy and are therefore not covered by the defence opt-out. In EU-NATO cooperation on military mobility, for instance, most of the initiatives concern aspects such as transport policy, and here Denmark participates fully in EU cooperation.

However, in a very few instances the defence opt-out restricts Denmark when it comes to EU-NATO cooperation. First, there are a few cases where the defence opt-out means that Denmark loses access to decision-making processes. For example, the military mobility programme entailed the development of a military assessment that sought to describe how much the infrastructure of each individual member state supported military requirements. It was considered

to be in accordance with the defence opt-out that Denmark provided information about its military mobility requirements, but due to the opt-out Denmark could not participate in drawing up the overall military guidance that collated the contributions from individual member states.¹⁶⁶

Secondly, initiatives sometimes arise in respect of EU–NATO cooperation that are on the boundary between different policy areas, which may cause doubts as to whether the defence opt-out allows Denmark to participate or not. As was also emphasised above, it is difficult to establish a clear Danish position in such grey areas. Therefore, Denmark struggles to shape political decision-making processes proactively. Uncertainty about what debates and processes Denmark can take part in inhibit Danish diplomacy, which can in turn damage Denmark's reputation as a reliable and effective partner.¹⁶⁷

SUMMARY

Since the Russian annexation of Crimea in 2014, the EU and NATO have found new avenues for cooperation that are of benefit to both organisations. However, fundamental disagreements at the political level are limiting the scope and development potential of this cooperation. Generally, the Danish defence opt-out has not significantly limited narrow and broad Danish security interests with regard to the relationship between the EU and NATO. With few exceptions, the opt-out does not significantly affect Denmark's influence on the newer aspects of EU–NATO cooperation, as these aspects primarily concern areas that are not covered by the opt-out.

EUROPEAN DEFENCE COOPERATION OUTSIDE THE EU AND NATO

The rapid developments in European defence cooperation in recent years have not only taken place within the framework of the EU and NATO: the last decade in particular has also been characterised by the development of several new forms of cooperation outside the two organisations. This development raises the question of the role of the defence opt-out in Denmark's participation in these cooperation frameworks, and whether its participation can compensate for any loss of influence and foreign-policy options due to the defence opt-out. This chapter deals with the four cooperation frameworks outside the EU and NATO that are considered to be of most relevance and to offer the greatest potential for Denmark: the French European Intervention Initiative (EI2), the British Joint Expeditionary Force (JEF), the German Framework Nations Concept (FNC) and the Nordic NORDEF. Denmark's bilateral cooperation with France, the United Kingdom and Germany will also be analysed. Finally, the chapter will consider the importance of the defence opt-out in the context of these relationships.

THE EUROPEAN INTERVENTION INITIATIVE AND FRANCE

France's European Intervention Initiative (EI2) was presented as part of President Emmanuel Macron's speech at the Sorbonne on 26 September 2017. The idea of closer cooperation between a number of

European states had long been considered internally by French foreign and security practitioners. The background was France's on-going involvement in West Africa, above all in Mali, where France had encountered problems in recent years in mobilising the necessary European support.¹⁶⁹ Macron's victory in the French presidential elections of 2017 paved the way for bringing these ideas into being, in part because several of Macron's closest aides were strong advocates of the idea, and in part simply because it resonated with France's new President.¹⁷⁰

The philosophy behind EI2 is closely linked to French ideas of greater European strategic autonomy. From a French perspective, strategic autonomy requires a willingness and ability to deploy military forces – even without American participation – and to ensure the existence of significant European capabilities with regard to both defence industries and European intelligence services. This French perspective also covers the organisational level,¹⁷¹ which favours the idea that European states should pursue decision-making procedures that enable prompt security-policy decisions to be taken. The original idea of EI2 was to ensure that effective cooperation could best be established through the development of a shared strategic culture, understood as a shared mindset to identify strategic challenges and threats and how best to deal with them, as well as to improve information-sharing between states.¹⁷² The EI2 is not meant to

Table 4. List of participants in E12, the JEF, the FNC and NORDEFECO and the current status of these countries relative to EU and NATO membership

	EU	NATO	E12	JEF	FNC	NORDEFECO
BELGIUM	X	X	X		X	
BULGARIA	X	X			X	
CYPRUS	X					
DENMARK	X	X	X	X	X	X
ESTONIA	X	X	X	X	X	
FINLAND	X		X	X	X	X
FRANCE	X	X	X			
GREECE	X	X				
THE NETHERLANDS	X	X	X	X	X	
IRELAND	X					
ICELAND		X				X
ITALY	X	X	X			
CROATIA	X	X			X	
LATVIA	X	X		X	X	
LITHUANIA	X	X		X	X	
LUXEMBOURG	X	X			X	
MALTA	X					
NORWAY		X	X	X	X	X
POLAND	X	X			X	
PORTUGAL	X	X	X			
ROMANIA	X	X			X	
SWITZERLAND					X	
SLOVAKIA	X	X			X	
SLOVENIA	X	X			X	
SPAIN	X	X	X			
UNITED KINGDOM	X	X	X	X		
SWEDEN	X		X	X	X	X
CZECH REPUBLIC	X	X			X	
GERMANY	X	X	X		X	
HUNGARY	X	X			X	
AUSTRIA	X				X	

Note: The list of FNC countries refers to May 2019.

See Bundeszentrale für politische Bildung, 'Das Rahmennationenkonzept', 2 May 2019.

result in the establishment of a new independent intervention force. Instead, any deployment of forces from E12 countries will be based on separate national decisions.¹⁷³

On 25 June 2018, nine states, including Denmark, signed a letter of intent establishing E12,¹⁷⁴ with more formal agreement terms being signed on 20 September 2019.¹⁷⁵ The group of states involved is not static: indeed, in 2018 and 2019 Denmark supported Finland, Norway and Sweden in their desire to participate in this cooperation, which from a Danish perspective would meet a Danish interest, as it could result in greater Nordic influence in E12.¹⁷⁶ In addition to the three Nordic countries, Italy has also since joined E12.

E12 cooperation takes place outside the European Union and in principle is therefore not covered by Denmark's defence opt-out. However, the letter of intent and the basis for agreement both mention future ambitions that may cause complications for the opt-out. First, E12 should contribute to deepening European defence cooperation, not least through PESCO. Second, E12 can potentially be used to support operations under the auspices of the EU, NATO, the UN and ad hoc coalitions.¹⁷⁷ Should E12 activities end up taking place wholly or partly under the auspices of the EU, this could lead to the Danish defence opt-out being invoked, with the consequence that Denmark will have to refrain from participating in these specific cases.

Regarding the geographical focus of the cooperation, in his Sorbonne speech the French president had already stressed that, in principle, E12 should be able to support operations wherever necessary to protect European security interests.¹⁷⁸ Even though France has strong interests in its southern neighbourhood,¹⁷⁹ in principle there is no geographical limit to where E12 can be involved, as long as European security interests are at stake. Moreover, at least in theory, E12 can be involved in interventions both with and without French participation.¹⁸⁰ In practical terms, E12 relies on cooperation between the participating states' liaison officers in Paris and on country participation in a number of working groups with different thematic and geographical focal points.¹⁸¹

At the time of writing, E12 is largely still in a process of development, and there is a certain lack of clarity and agreement on the future level of ambition, particularly with regard to whether forces should be deployed under a E12 flag at some point in the future. France welcomes such developments, but it also recognises that cooperation has not yet reached this level.¹⁸² Indeed, disagreement on the level of ambition for E12 was expressed in connection with the celebration of Bastille Day on 14 July 2019. Here, France wanted to demonstrate progress in achieving E12 cooperation by allowing soldiers from the then ten E12 states to march together under the E12 flag. The march took place, but the idea of a common flag was not realised because of criticism from some states that E12 is not a standing force.¹⁸³ France's desire to provide E12 with a sharp military character are nothing new. According to early French statements made to Danish officials in late 2017, E12 was to contribute to close cooperation in establishing an independent intervention capability, for example, through the development of an often discussed pan-European strategic culture, with the aim of acting as a potential precursor to actual EU or NATO operations.¹⁸⁴

From a French perspective, a key prerequisite for E12's applicability in practice is that membership is limited to countries that France regards as both ready and capable of deploying forces at short notice.¹⁸⁵ Germany's membership of E12 is not unproblematic in this context. Despite developments in recent years, Germany's strategic culture, political commitment and military capabilities are still relatively far from those of France, especially regarding the will and ability to conduct international interventions abroad. In addition, Germany has been sceptical about the initiative from the very beginning,¹⁸⁶ which may constitute a problem in working to establish a shared strategic culture. As such, there is general German distrust of the role of E12 in European security and a fear that E12 will undermine PESCO.¹⁸⁷ Germany therefore originally wanted a broader and more inclusive group of states in E12. Furthermore, and of special significance to Denmark, Germany would like to see E12 incorporated into PESCO. This would almost certainly activate the Danish defence opt-out.¹⁸⁸ However, so far both German

wishes have been rejected by France, which wants to prevent the framework from becoming too bureaucratic in practice. At the same time, German participation in E12 is unavoidable due to its size and influence within Europe. For the same reason, France wanted Italy to be a member from the beginning, but this did not happen until September 2019.¹⁸⁹

Finally, it is important to note that the idea behind E12 was presented in the aftermath of Brexit. A central ambition of France for E12 has also been to maintain the British commitment to Europe's security after Brexit. E12 has therefore been designed to enable participation by the United Kingdom, but also by Denmark, in spite of the latter's defence opt-out.¹⁹⁰ The results of these efforts have so far been successful. The United Kingdom was in fact the first state to confirm its willingness to participate in E12.¹⁹¹ Even though the UK initially regarded E12 with some scepticism, presumably because the initiative came as a surprise, it was still an expression of French willingness to cooperate that could not be dismissed by Britain.¹⁹² E12 has also attracted attention from outside Europe. The United States has been more sceptical about E12 than about the other frameworks described in this chapter. For America the objective of creating a pan-European strategic culture has raised the question of why such discussions about the development of a shared strategic culture did not take place in NATO instead.¹⁹³

Denmark was one of the first states to be contacted by France regarding E12. The Ministry of Foreign Affairs of Denmark assessed the significance of the defence opt-out for Danish participation in connection with discussions about E12 in April 2018. The Ministry concluded that if, under the auspices of E12, contributions are made to implementation of the PESCO cooperation or military operations under the auspices of the EU, Denmark will not be able to participate in this part of E12.¹⁹⁴ Denmark therefore found it necessary to include in its letter of intent concerning the development of E12 that it would participate while fully respecting the defence opt-out.¹⁹⁵ Even though France in particular is opposed to the idea of incorporating E12 into PESCO, the possibility

cannot be excluded that this might happen at a later stage, nor that E12 could be activated to support an EU operation, with the consequence that Denmark will not be able to participate. These possibilities are stressed directly in the letter of intent, as well as in the basis for the E12 agreement.¹⁹⁶

Despite such potential complications, it is clear that both Denmark and France view Danish inclusion in E12 as an indicator that relationships between the two countries have become much closer than they were ten to fifteen years ago.¹⁹⁷ This was also expressed during President Macron's state visit to Denmark on 28 August 2018, which, among other things, resulted in a Franco-Danish declaration on European security.¹⁹⁸ In parallel to Danish participation in E12, Denmark and France have also strengthened their bilateral cooperation. For example, Denmark supported French actions in the Sahel region with contributions to the United Nations Multidimensional Integrated Stabilisation Mission in Mali (MINUSMA) and to Operation Barkhane, also primarily in Mali. Moreover, Denmark also provided a frigate to a French carrier strike group from March to April 2019.¹⁹⁹ Indeed, in recent years, various Danish governments have come to consider France an attractive security and defence partner. This is partly because of uncertainties concerning Denmark's traditional allies, the United States (in part due to the inclinations of President Trump) and the United Kingdom (in part due to the future ramifications of Brexit), and partly because Denmark very much shares a strategic culture with France, in respect of which Denmark has had positive experiences with operational cooperation, especially in sharp interventions. Finally, France's NATO policy has undergone a marked transformation in the past fifteen years towards greater French participation and support for the alliance. This has generally helped to reduce the differences between the two countries' foreign and security policies.²⁰⁰ As mentioned earlier, the French decision to re-join NATO's integrated command structure in 2009 has played a significant role in this regard.

The value of this partnership depends on what Denmark wants to use this partnership for and is therefore to some extent tied to its continued wish to participate in sharper international military operations. However, Denmark's relationships with EI2 and with France are intrinsically linked. Precisely because France has been deemed a core ally by various Danish governments, the French EI2 project has been accorded a high priority.²⁰¹

THE JOINT EXPEDITIONARY FORCE AND THE UNITED KINGDOM

The idea of creating a Joint Expeditionary Force (JEF) was officially presented on 17 December 2012 in a speech by the British General Sir David Richards, Chief of the Defence Staff.²⁰² Two years later, the concept was launched at the NATO Summit in Wales, and after four years of planning, the JEF was finally declared operational in June 2018.²⁰³ At the Wales Summit the JEF was also presented as a British contribution to the NATO Framework Nations Concept, the aim of which is to address the problem of the limited resources of small NATO member states in the context of maintaining a full spectrum of capabilities. Linking the capabilities of small NATO member states with those of a larger member state provides small states with access to many crucial support functions that they would not necessarily be able to supply on their own. Thus, without being an integral part of NATO, there is nevertheless a clear link between NATO and the JEF.²⁰⁴ Part of the background to the JEF includes reductions in British defence spending in the 1990s and 2000s, as well as budgetary pressures stemming from the acquisition of more costly military equipment (techflation). The ambition for the JEF is that, through pragmatic cooperation with one another, states can maintain and develop the military capabilities and volumes to address security policy challenges quickly and effectively.²⁰⁵ The JEF does not have standing military forces, but it can draw on an earmarked pool of potential forces, with each state deciding its own specific contributions on a case-by-case basis.²⁰⁶

However, establishment of the JEF also represented a formalisation of existing British cooperation relationships with a number of smaller states, including Denmark, that had been built up over a number of

years, especially during joint military involvement in Afghanistan and Iraq.²⁰⁷ Thus, the establishment of the JEF can be linked to a British desire to lead a smaller and more operationally focused framework of like-minded states, as compared to taking action within the framework of the EU and NATO.²⁰⁸ In addition, the JEF serves to consolidate and strengthen Britain's influence and alliances with a number of small northern European states.²⁰⁹ Furthermore, Britain has also used the JEF to demonstrate its continued significance to European security after the Brexit referendum and to suggest alternative frameworks for cooperation with the EU.²¹⁰ In connection with Britain's post-Brexit flagship project, Global Britain, the JEF is also mentioned as an instrument of support to the liberal world order, for example, by contributing to guaranteeing the Baltic states' continued independence of Russia.²¹¹ However, the main focus of Global Britain is on the economy.²¹²

Like EI2, the JEF's geographical focus is, in principle, global. An operation is dictated by a specific need where, in principle, the JEF can be deployed against threats at all levels, from Article 5 operations in NATO to ad hoc disaster operations and conflict-stabilisation operations. However, since it was first put forward, its

Box 8.

DIFFERENCES AND SIMILARITIES BETWEEN EI2 AND THE JEF

The JEF currently prioritises collective defence within the NATO area and supports NATO initiatives in this regard, while at present EI2 seems to be aimed more at interventions outside Europe. Furthermore, the JEF can rely on a pool of allocated forces from the nine participating states. However, these forces are also available for other national and international commitments. By virtue of its British core and operational headquarters, the JEF is therefore closer to being a military unit which can, in principle, be calibrated and deployed independently of other frameworks, while the aim of EI2 is to support operations within the framework of the EU, NATO, the UN or ad hoc coalitions.

Source: interviews 64, 67 (group); Frisell and Sjökvist (2019), 'Military Cooperation Around Framework Nations', pp. 28-29.

specific focus has continuously developed. Originally it focused on conflict management and operations, for example, in the Middle East, while positive British experiences from 2013 with efforts against the ebola outbreak were highlighted as an example of a new type of softer task that the JEF could also perform.²¹³ However, since the Crimea crisis of 2014, the JEF has begun to focus much more on Russia and collective defence, including Article 5 operations in NATO.²¹⁴ Among other things, this shift is exemplified by the JEF's Baltic Protector deployment in the Baltic Sea in the summer of 2019, its first large-scale maritime deployment featuring about three thousand military personnel and seventeen vessels from the nine JEF states.²¹⁵

Despite the EI2 and the JEF having similar objectives, both aspiring to be able to handle a wide range of tasks and, in principle, to do so without geographical constraints, a division of tasks between the two does seem to be a possibility (see Box 8).

As was the case for EI2, Danish participation in the JEF cannot be separated from Denmark's bilateral relationship with the United Kingdom. At the same time, the JEF is one of the few frameworks outside the auspices of the EU and NATO where large-scale military exercises take place – exercises in which the Danish defence forces also want to participate. Nonetheless, the main priority behind Danish participation in the JEF is to nurture Denmark's relationship with the United Kingdom and to ensure the safety of Danish forces in international operations.²¹⁶ Various Danish governments have supported a long tradition of close operational cooperation with the United Kingdom, not least in Afghanistan and Iraq.²¹⁷ Therefore, Denmark has a special interest in keeping the United Kingdom involved as a security policy actor in Europe. At the same time, however, Denmark has to take into account the fact that the UK is leaving the EU, creating uncertainty with regard to its future role in European security.²¹⁸ Added to developments in the US, this has contributed to the current Danish interest in forming a closer security policy relationship with France.²¹⁹

THE 'FRAMEWORK NATIONS' CONCEPT AND GERMANY

Like the JEF, the German Framework Nations Concept (FNC) was presented at the NATO Summit in Wales in 2014 as part of NATO's broader Framework Nations Concept. The idea behind the FNC had been long underway and had been discussed earlier in NATO, in 2013. As opposed to EI2 and the JEF, the focus of the FNC is primarily on capacity-building, and the FNC is even more closely linked to NATO than the JEF.²²⁰ This cooperation is structured around a broad spectrum divided between a series of capability clusters. Additionally, in 2016 plans were drawn up to form large combat units consisting, for example, of two to three multinational divisions of up to fifteen thousand armed forces members to form the basis for relevant contributions to force generation in NATO.²²¹ The time perspective for the FNC is long term: the clusters are only expected to deliver results by 2023, and the multinational combat units are not expected to be established until 2032.²²² Exercises, however, are held regularly. Of particular relevance to Denmark, the NATO summit in Wales in 2014 also increased the priority given to the Danish-Polish-German Multinational Corps North-East (MNC NE), with headquarters in Stettin, which was expanded under the auspices of NATO and the FNC.²²³

The German FNC initiative has been greeted with some scepticism on the part of several allies. Initially, the fear was that FNC states would risk spending time and energy on linking their military resources to Germany, which, not least for historical reasons, has traditionally had a very restrictive approach to using military instruments, especially 'out of area' (i.e. outside the NATO treaty area). This was especially a problem during the initial discussions in 2013, when crisis management was still the central security policy task for many European states. In the wake of the Crimea crisis in 2014, the FNC switched to focus more on collective defence, which has reassured some of Germany's partners, as Germany has a better reputation in this area.²²⁴

Danish involvement in the FNC is limited, apart from a contribution of about seventy soldiers to the Multinational Corps North-East headquarters. In this context, it is important to note that Denmark is to be counted as one of the countries mentioned above that has shown scepticism about Germany's willingness to participate in international military 'out of area' operations. Additionally, the FNC has a reputation in Denmark for being bureaucratic. Operational cooperation with Germany in 'out of area' operations is therefore generally given a lower priority than cooperation with the United Kingdom and France.²²⁵

In contrast, there is significantly greater Danish interest in increased Danish-German bilateral maritime cooperation in the Baltic Sea.²²⁶ Some cooperation is already taking place directly between the Danish and German armed forces on an informal basis, which some in Denmark view as a more flexible way of cooperating with German partners than cooperation based on formal political agreements.²²⁷ Moreover, Denmark also has an interest in participating in German plans under the auspices of the FNC to open a new Baltic-oriented maritime headquarters in Rostock in 2023, which aims at achieving full operational capability in 2025.²²⁸ The headquarters will be linked to NATO, but the possibility that Germany will incorporate the headquarters further into an EU framework raises Danish concerns due to the defence opt-out.²²⁹ These concerns are not limited to the Rostock headquarters, but are also more generally reflected in relation to German wishes for a more extensive integration of FNC and PESCO projects.²³⁰

NORDEFECO AND NORDIC DEFENCE COOPERATION

The idea of Nordic defence cooperation is more than 150 years old and has periodically been proposed since the nineteenth century, although with varying degrees of success.²³¹ The Nordic Supportive Defence Structures (NORDSUP), the Nordic Coordinated Arrangement for Military Peace Support (NORDCAPS) and the Nordic Armaments Cooperation (NORDAC) were direct precursors to the current cooperation. Among other things, they dealt with opportunities for cooperation between the Nordic states in operations and material procurement. In 2009, these different

frameworks were merged into Nordic Defence Cooperation (NORDEFECO), in which all five Nordic states are participants. Cooperation in NORDEFECO does not require participation by all countries in all individual projects, which sometimes makes it difficult to distinguish between it and bilateral cooperation between two Nordic states.²³²

The point of departure for establishing NORDEFECO was not least the desire for pragmatic cooperation to address problems of rising material costs (techflation), the need for close political dialogue, and the desire to maintain and if possible strengthen, military capability and operational performance.²³³ The initiative also benefited from the increased political prioritisation of Nordic cooperation, as expressed, for example, in the Stoltenberg report from 2009, commissioned by the Nordic foreign ministers.²³⁴ As a result, material procurement played a prominent role in NORDEFECO in the early years from 2009 onwards. However, this also meant that Denmark did not have the same interests at stake as Finland, Norway and, in particular, Sweden, due to the modest size of the Danish defence industry.²³⁵ Furthermore, even though all the Nordic states had agreed from the beginning that NORDEFECO was to be complementary to the EU and NATO, cooperation has been hampered by the Nordic states' different affiliations to the two organisations and by their different approaches to Russia.²³⁶

The results of cooperation in NORDEFECO were therefore mixed during the first years after its formation in 2009. Within certain areas, typically when it came to cooperation between low-level and mid-level officials, pragmatic cooperation based on cultural cohesion and the gradual building of confidence could lead to positive results.²³⁷ At the same time, however, the cooperation was burdened by difficulties with a number of high-profile projects, particularly in the field of defence material procurement.²³⁸ Moreover, operational cooperation within a Nordic framework was complicated by the Danish defence opt-out, not least in 2008, when Denmark could not participate in the EU Nordic Battlegroup because of its opt-out. For the same reason, the Nordic Battlegroup could not be directly incorporated into NORDEFECO.²³⁹ As of 2020, Denmark remains outside the Nordic Battlegroup.

The Russian annexation of Crimea in 2014 triggered a development that gradually formed the basis for a revitalisation of Nordic defence cooperation. Most importantly, with regard to threat assessments and strategies for threat management and political dialogue, Finland and Sweden have adopted a new approach to Russia that is much closer to that of the NATO average than was the case before the Crimea crisis.²⁴⁰ Furthermore, the crisis in Ukraine has increased the need for political and operational cooperation in the Baltic area. This was not least the case for Denmark, which had not considered security in the Baltic region to be a major cause for concern before the Crimea crisis.²⁴¹ Overall, these changes led to far better opportunities for cooperation within both the political and the operational domains.²⁴²

The first sign of this development was arguably pan-Nordic criticism of Russia in a number of Nordic newspapers in April 2015.²⁴³ The most important results of the cooperation since 2016 include agreements in that year on 'easy access' for the Nordic states' military forces to each other's territories²⁴⁴ and agreements in 2017 on air surveillance and mutual access to air bases. These agreements are formally limited to apply only in peacetime. However, the document 'Nordic Defence Cooperation Vision 2025' expresses a desire to expand the cooperation to include crisis and conflict situations as well.²⁴⁵ The 'easy access' agreement in particular has attracted much international attention (and has supposedly also served as an inspiration) at a time when military mobility is a pressing issue in both the EU and NATO.²⁴⁶ The progress of NORDEFECO may seem surprising given that cooperation has been hampered to some extent by differences between the EU and NATO. One reason may be that affiliation to the EU and NATO means less than it did just a few years ago because of the Crimea crisis and the convergence in the Nordic states' threat perceptions that the crisis brought with it.²⁴⁷ Furthermore, the success stories of recent years have increased confidence in NORDEFECO as a framework for cooperation that can generate concrete results.²⁴⁸

THE IMPLICATIONS OF THE DEFENCE OPT-OUT FOR DANISH INTERESTS

The fact that Denmark is the only EU and NATO member state that is part of all four frameworks (see Table 4) follows logically from the fact that it is also the only Nordic state that is a member of both the EU and of NATO. Nonetheless, the fact remains that Denmark has generally prioritised broad participation in frameworks outside the EU and NATO. None of the frameworks outlined in this chapter are, in principle, affected by the defence opt-out, as they all take place mainly outside the auspices of the EU. However, in the future some frameworks, especially EI2 and the FNC, may develop ties with the EU that limit Denmark's ability to participate, as has been the case with the Nordic Battlegroup. The mere possibility of such development means that the defence opt-out is already being considered in the context of Denmark's current and future participation in the four frameworks. These issues will be considered in the following sections based on the four dimensions, namely Danish security interests, the degree of autonomy in Danish foreign policy, resources and the significance for Danish influence. Emphasis is on the last of these because this is where the significance of the various cooperation relationships is considered the greatest. Finally, the question of whether these frameworks can be used by Denmark to compensate for the negative effects of the defence opt-out will be considered.

Security

Neither EI2, the JEF, the FNC nor NORDEFECO's significance for Danish security can be compared with the significance of NATO membership. Within all cooperation frameworks, all participants, including Denmark, stress the importance of underlining NATO's role as the main guarantor of the territorial integrity of NATO's member states. In the case of both the JEF and the FNC, the frameworks currently prioritise helping NATO to perform tasks related to collective defence and the Article 5 of the NATO Treaty. For the JEF this is expressed through exercises in the Baltic Sea, whereas for the FNC it is expressed through capacity building. For EI2 the emphasis is on the framework's ambition

to support 'out of area' operations, for example, by developing a shared strategic culture that can contribute more easily to facilitating such operations. Moreover, EI2 also clearly stresses that NATO remains a cornerstone of European security.²⁴⁹ For NORDEFECO, with projects and initiatives spread over a broad spectrum, the founding memorandum of understanding also includes a passage stating that NORDEFECO will not interfere with the individual states' obligations to the EU or NATO.²⁵⁰ The direct impact on Danish security therefore depends on whether these frameworks of cooperation can contribute to the specific performance of tasks within NATO, and, from a broader security perspective, on whether they can be used in international operations in support of the international order.²⁵¹

Autonomy

Given that all participation in specific operations within the four frameworks is voluntary, Denmark's participation in the frameworks does not limit its autonomy in the narrow sense.²⁵² However, the *raison d'être* for all frameworks is very much linked to their ability to deliver results. In this regard, it is worth noting that Denmark has previously made a C-130J transport aircraft available on a rotation basis to the MINUSMA in Mali within a Nordic framework,²⁵³ whereas neither EI2, the JEF nor the FNC have yet been activated in connection with any military operation. Given that Denmark's participation in these frameworks has been partly motivated by considerations for its bilateral connections with the lead states in those frameworks, it seems likely that, if Denmark were to show a lack of involvement, this could entail certain diplomatic costs. This would depend on the specific situation. For example, some irritation has been detected in Denmark's partners because of the currently limited degree of Danish involvement in the Multinational Corps North-East and the FNC.²⁵⁴ Finally, an important function of these forums, in addition to their substantive relevance, also includes enabling Denmark to compensate to a certain degree for not contributing to EU operations due to the defence opt-out (see also below).

Resources

Of the four general frameworks, NORDEFECO currently has the most pronounced defence industry component. For Denmark, however, this cooperation has been of less interest due to the relatively limited size of the Danish defence industry compared with those of other Nordic states.²⁵⁵ In addition, the defence industrial cooperation aspect of cooperation within NORDEFECO differs from the corresponding cooperation in the EU in several areas, partly by being more modest in size, and partly in that Denmark only contributes financially to the industrial leg of NORDEFECO cooperation when it chooses to participate in concrete projects, while, as already mentioned, the Danish contribution to the EDF is tied to the Danish contribution to the EU budget.

Influence

In any assessment of Danish influence, it is essential to analyse the extent to which the defence opt-out affects active Danish participation in these frameworks and whether it also affects how European and Atlantic allies view Denmark as a partner. The result of such an assessment should then be considered relative to the limited resource costs of participating in the frameworks.

With regard to France, it is worth noting that, during his state visit to Denmark in 2018, President Macron abstained from commenting directly on the defence opt-out. However, he did note that greater Danish participation in European defence policy would be positive for France and for Europe.²⁵⁶ The same attitude has been detected within the French foreign and security policy apparatus, where at times mild irritation mixed with bewilderment greets the defence opt-out. However, Denmark is nevertheless perceived as an interesting cooperation partner, not least due to its willingness to participate in international operations.²⁵⁷ In spite of the possibility that Danish participation in EI2 might someday be limited by the defence opt-out in cases where EI2 supports EU operations, there is generally a positive view of Danish participation in the framework. For Denmark, EI2 therefore offers opportunities for future operational cooperation with France and the other EI2 participants, while also contributing to nurturing the Franco-Danish relationship in general.

The United Kingdom does not see the defence opt-out as a problem, but rather as an indicator that Denmark is less bound to the EU than the United Kingdom is leaving. For the same reason, the opt-out is not expected to cause problems with regard to Danish participation in the JEF. Indeed, even before Brexit the opt-out was never perceived as a major problem from a British point of view. Quite the contrary, the experience in London is that Denmark and the United Kingdom have always been able to find a way to make cooperation work.²⁵⁸ However, London is aware that the opt-out has made Denmark a more circumspect player with regard to defence cooperation in the EU. This is not something that the United Kingdom has welcomed, as the Danish approach to defence policy in the EU has often been similar to its own.²⁵⁹ Conversely, a weakening of the Atlantic dimension in EU cooperation as a consequence of Brexit will be problematic for Denmark for the same reason. It may therefore be in Denmark's interest to work for British affiliation with the EU's security and defence policy, for example, by making it possible for the United Kingdom to participate in PESCO projects.²⁶⁰ Denmark would then be able to continue to depend on the United Kingdom's structural power to push the other EU states towards stronger Atlantic cooperation. Finally, the UK's significant military and intelligence capabilities will be hard for Europe to do without.

In Germany, there is a general concern about the future impact of the defence opt-out on Danish foreign and security policy. In light of the changed global context, Germany considers defence policy to be the EU's new integration project. The fact that Denmark does not participate in PESCO may therefore marginalise it in EU contexts in the long run.²⁶¹ For this reason, Germany would like to see Denmark become part of this process, not least due to the widely respected Danish strategic culture and its recent foreign and security policy track record. Furthermore, it is likely that, after Brexit, the United Kingdom will be given special status in PESCO.²⁶² This may leave Denmark in a no man's land in terms of security policy.²⁶³ Germany is therefore interested in the possibility that Denmark might one day abolish the defence opt-out, which would ease Danish-German defence cooperation and would provide Germany

with a new potential partner in European defence cooperation that might share interests with Germany. However, Germany generally hesitates in addressing the question directly to Denmark out of respect for the defence opt-out itself and the democratic process that it exemplifies as well as for historical reasons. It is still difficult for Germany to become involved in the defence issues of its smaller neighbours.²⁶⁴ Thus far, however, the opt-out has only caused minor problems for Germany. Nevertheless, in one instance Germany, as mentioned previously, would have liked to see E12 incorporated into PESCO, but France used the Danish defence opt-out, and also the impending Brexit, as arguments against such a merger.²⁶⁵ Finally, as already mentioned, stronger ties between the FNC and PESCO may problematise Danish participation in and influence on cooperation under the FNC.

Nonetheless, the fact remains that military activism, risk-taking and the ability of Denmark to quickly mobilise the necessary forces to participate in international operations demonstrated by consecutive Danish governments are still important factors in Denmark's current positive reputation with its allies. This positive reputation also rubs off in EU contexts, where there is an expectation that Denmark will engage in international operations by virtue of its history as an activist state. In this regard, an essential prerequisite for maintaining this reputation is that Denmark remains ready to participate in international operations. This is where cooperation under the auspices of E12, the JEF, the FNC and NORDEFECO is likely to become more central, as these frameworks may strengthen Denmark's ability to act outside the EU. In addition to Denmark having an independent interest in participating in these frameworks of cooperation, not least because of bilateral considerations for France, the United Kingdom, Germany and the Nordic states, participation therefore also has a central function in nurturing Denmark's general reputation as a loyal and activist-minded small state willing to contribute to meeting joint security challenges.

In any assessment of the impact of the defence opt-out, it is also crucial to consider whether Denmark generally compensates with or feels pressure to choose alternative security policy solutions to counteract any loss of influence and reputation caused by the defence opt-out. This is a question that has long been debated in academic literature on Danish foreign-policy activism.²⁶⁶ The answer is not straightforward. On the one hand, it seems that participation has served the purpose of strengthening Denmark's profile as a relevant and credible security policy partner, despite the opt-out.²⁶⁷ This was one of the reasons why Denmark joined both the JEF and E12.²⁶⁸ On the other hand, Denmark would probably have joined these frameworks in any case, even without the defence opt-out, although possibly without quite the same level of commitment.²⁶⁹

With regard to the costs associated with participation in the cooperation frameworks, resource costs associated with Danish participation have so far been limited.²⁷⁰ Day-to-day administration of the four frameworks is mainly handled by officials who also have other tasks, and few if any of them are working anything like full-time on the cooperation frameworks. For all four frameworks these costs go up when framework-related ministerial meetings and other high-level meeting activities take place. However, these meetings also provide an opportunity for dialogue and exchanges of information with a broad circle of countries, a dialogue that could otherwise potentially require more resources to establish.²⁷¹ Exercises and operations are, by their very nature, far more expensive. However, they have many benefits. The Danish defence forces need to be able to conduct exercises, and they benefit greatly from participating in exercises with major allies because they are able to practice scenarios which the Danish defence forces cannot practice independently.²⁷²

SUMMARY

In summary, the present significance of the defence opt-out for Danish cooperation in the four frameworks is limited. The same applies to Denmark's relationship with Europe's leading powers, where, although the opt-out can complicate matters at times, it is not of decisive importance. That leaves the question of how much these frameworks can be utilised to compensate for loss of influence as a consequence of the opt-out. The answer depends on how the frameworks develop in the future. Apart from NORDEFCO, they are all still in their start-up phases, and their future significance therefore largely depends on whether they are able to deliver concrete results in the years to come. If the frameworks prove to be viable and provide results, they could be used to strengthen Denmark's relationships with France, the United Kingdom and Germany, while at the same time serving as frameworks not covered by the defence opt-out for defence policy cooperation across a wide range of areas.²⁷³ However, as mentioned earlier, these factors should also be seen in light of the fact that in all likelihood Denmark would have participated in these frameworks even in the absence of the defence opt-out, although possibly not with the same level of commitment.²⁷⁴ Thus, any consideration of the significance of the opt-out should compare Denmark's current situation with the hypothetical situation in which Denmark has no such opt-out, but continues to participate in the cooperation frameworks. Therefore, it cannot be concluded that the cooperation frameworks can fully mitigate the negative effects on Denmark's reputation caused by the opt-out because the positive effects of Danish participation in the frameworks would be present to some extent with or without it.

FUTURE PROSPECTS

The three previous chapters have analysed recent developments in European cooperation on security and defence policy. This chapter looks at possible developments in the years ahead. In order to provide a qualified assessment of the possible future significance of the defence opt-out for Danish interests, this chapter presents a number of scenarios that project the different and often opposing trends that currently characterise European cooperation on defence and security, both inside and outside the EU's institutional framework. The time horizon is medium term, i.e., 2019-2024.

The significance of the defence opt-out for Danish interests varies with certain international developments that are by and large beyond Danish control. It is therefore useful to build a set of scenarios for these developments. The idea is that the scenarios will make a marked difference to the significance of the defence opt-out for Danish interests. The scenario analysis is particularly relevant for the current international situation, which seems to be even more unpredictable than is usually the case.

There are also, obviously, other factors that influence the importance of the opt-out (scenario-neutral factors). However, it is assumed that scenario simplifications will be fruitful in facilitating the analysis.

The scenario analysis follows the same structure as the analysis for 2016-2019. Two international factors will be considered to be the most important conditions for the future significance of the defence opt-out: developments in (1) the Atlantic relationship (EU-US) and (2) EU defence integration. The latter involves consideration of what Denmark 'is missing out on' or 'is avoiding' because of the defence opt-out. The former is significant because, since 1949, Danish defence interests have primarily been served within the NATO context, with the United States and the United Kingdom as the major powers.

As mentioned in Chapter 1, the two international conditions (dimensions) are influenced by some underlying factors, specifically recent actions by Russia and the ascent of China. The Atlantic relationship is also very much influenced by American domestic politics.

Since, for the sake of clarity, only two values are used for each of the dimensions (see Figure 5), there are logically four possible scenarios. The Atlantic dimension (EU-US) distinguishes between division (fragmentation) and stabilisation of the relationship, compared to the situation in 2019. The other dimension distinguishes between dynamic defence integration within the EU and its stagnation or even disintegration. In the following, the scenarios are numbered from I to IV.

SCENARIO I**ATLANTIC FRAGMENTATION FORGES DYNAMIC EU INTEGRATION**

The idea behind this scenario is to cement current disagreements between the United States and the majority of EU member states. This applies to issues regarding climate policy, trade policy and security policy. The United States continues on its unilateral course after the re-election of President Trump in 2020. Faced with this development, the United Kingdom (post-Brexit) is forced to choose sides, and for historical and cultural reasons it chooses the United States in security and defence issues. The Atlantic division is therefore likely to run through the English Channel and up the North Sea.

At the same time, EU integration in security and defence policy accelerates, encouraged by both the Atlantic fragmentation and Brexit. In terms of capabilities, Britain's exit from the EU weakens European defence, but its absence promotes the political willingness to integrate. Strategic autonomy inspired by France is the objective. More European military operations take place around Europe, and the EU experiences strong capability development. NATO still exists, but efforts to coordinate the EU and NATO come to an end because of the political division, and there is much EU duplication of NATO capabilities.

SCENARIO II**ATLANTIC FRAGMENTATION, EU STAGNATION**

As in the first scenario, this scenario envisages a continued unilateral course of action by the United States, with ensuing discord between the US and the majority of EU member states. NATO as an organisation still exists, but Trump-oriented states such as Poland and Hungary build bilateral relationships with the United States. Ad hoc coalitions are the order of the day.

Unlike the previous scenario, the EU is not assumed to be able to react collectively to the Atlantic challenge, and the current trends towards defence policy integration stagnate or are even rolled back. The argument is that defence policy integration is traditionally a very sensitive topic. Several Visegrád states and the Baltic states do not believe in the EU's ability and willingness to provide a counterbalance to Russia and fear that a European defence vision will definitively cause the United States to give up its European defence commitments.

An argument against this scenario is that, as members of the EU, the states just mentioned are heavily reliant on EU institutions and on contributions from the EU budget. It is questionable whether they will have the United Kingdom's political weight to curb EU integration, as they have serious unresolved issues with the EU in other areas. For example, Hungary and Poland oppose the EU regarding migration, the curtailment of the media and their judicial independence.

SCENARIO III**ATLANTIC STABILISATION, ENDOGENOUS EU INTEGRATION**

This scenario presupposes Atlantic stabilisation as a result of a change of president in the United States in January 2021. American foreign and security policy is now more predictable, and Europe is consulted over major security policy issues. Moreover, EU defence integration towards strategic autonomy has developed endogenously. Even though the needs in the form of Atlantic challenges are no longer urgent, and there is thus less political motivation, the visions of defence policy have their own dynamics in this scenario, facilitated by the European Commission.

The improvements in transatlantic relationships reduce the significance of Brexit in security and defence policy, as the United Kingdom avoids having to choose sides as in scenario I. In fact, the UK is able to participate in PESCO and the EDF (in addition to E12 and the JEF), and will probably also compensate for Brexit by adopting a Europe-friendly profile in NATO.

However, endogenous dynamics in the European integration process are historically infrequent, apart from the early years of European integration and the euphoria over Europe around 1990. Generally, the European Council and thus EU member states have been in full control. In addition, defence policy is one of the most sensitive areas of domestic politics. Therefore, it may be difficult to maintain the momentum for integration if it is no longer called for by external challenges. It cannot be ruled out, of course, that integration will take place for reasons other than the Atlantic challenge.

the other scenarios – has become the main strategic challenge for the United States (cf. already President Obama’s ‘pivot to Asia’).

As a consequence of this Atlantic stabilisation, EU integration in the defence area is less urgent and tends to stagnate (cf. also the counter-arguments to scenario III). EU defence policy becomes a ‘European pillar’ of NATO, as coordination between the two organisations is likely to improve. As in scenario III, the significance of Brexit is reduced in security and defence policy, as the United Kingdom avoids choosing sides in the Atlantic relationship.

SCENARIO IV

**ATLANTIC STABILISATION, EU STAGNATION:
THE EU AS A SUPPLEMENT TO NATO**

This scenario also presupposes Atlantic stabilisation, but instead there is subsequent stagnation in EU defence integration. The United States elects a more ‘conventional’ president from 2021, but does not fully return to the Atlanticism of the past, since China – as in

SIGNIFICANCE OF THE DEFENCE OPT-OUT IN THE VARIOUS SCENARIOS

The significance of the defence opt-out in safeguarding Danish interests will vary, primarily in line with the EU dimension. In the two scenarios characterised by a dynamic integration process, the opt-out will create difficulties to a greater or lesser extent, while it will be of modest significance in the two stagnation scenarios (see Figure 5).

Figure 5. Four scenarios and the significance of the defence opt-out in each of these

THE ATLANTIC RELATIONSHIP	EU DEFENCE INTEGRATION	DYNAMIC DEVELOPMENT	STAGNATION
	DIVISION	<p>I</p> <p>Atlantic fragmentation forges dynamic EU integration.</p> <p>The opt-out seriously weakens the safeguarding of Danish core interests.</p>	<p>II</p> <p>Atlantic fragmentation and EU stagnation.</p> <p>The opt-out has modest or no implications for the safeguarding of Danish interests.</p>
STABILISATION	<p>III</p> <p>Atlantic stabilisation and endogenous EU integration.</p> <p>The opt-out weakens the safeguarding of Danish core interests to some extent.</p>	<p>IV</p> <p>Atlantic stabilisation and EU stagnation: the EU as a supplement to NATO.</p> <p>The opt-out has modest implications for the safeguarding of Danish interests.</p>	

The dynamic scenarios

In scenario I (Atlantic fragmentation creates dynamic EU integration), the defence opt-out becomes a serious obstacle to Danish interests. The basis of Danish security and defence policy since 1949 has essentially disappeared here, as the bridge to the United States via the United Kingdom has gone. Instead, Denmark's defence should now be considered in a continental European (and perhaps Nordic) context. While today the opt-out is regarded with a certain degree of forbearance by Denmark's EU partners, it will be seen as disloyal or as 'free riding' in this scenario. The EU is more or less on its own in world politics and therefore cannot afford a member state with a defence opt-out, especially not a member state with Denmark's strategic location. There will be an urgent need for national contributions to European military operations.

The opt-out will damage Denmark's reputation, not only in EU defence policy, but also more generally in the EU through its 'spill-over' effect. This will also reduce Denmark's influence. At worst Denmark, with its traditional Anglo-Saxon sympathies, will be considered a 'Trojan horse' in the integration process. This comes in addition to the implications that already exist, both administratively and in respect of a certain marginalisation in the EU defence-related decision-making process. Nor can it be ruled out that the defence opt-out may endanger Denmark's security and territorial integrity in a crisis situation in the Danish neighbourhood. Politically, the defence opt-out may reduce the EU's solidarity commitment, the credibility of NATO's Article 5 already having been undermined in this scenario. However, the modest autonomy-enhancing benefits of the defence opt-out still exist, allowing Denmark to avoid sensitive dilemmas about participation in specific operations by referring to formalities (the defence opt-out). The problem is that this might do little or nothing outweigh the damage to Denmark's reputation and its loss of influence.

These conclusions also apply to some extent to scenario III (Atlantic stabilisation, endogenous EU integration). However, the consequences for Danish interests are less serious here, as this scenario takes place in a safer world of Atlantic stabilisation. Denmark's reputation and general influence will not suffer the same amount of damage, and Danish security in the narrow sense will be unaffected.

The stagnation scenarios

In scenario IV (Atlantic stabilisation, EU stagnation: the EU as a supplement to NATO), the defence opt-out is of modest significance. From a civil servant's perspective, it may be frustrating when more grey areas between the EU and NATO, as well as between the military and civilian aspects, emerge with improved EU–NATO coordination. But core national interests are not at stake. The pendulum has returned to the situation before 2016: a modest loss of influence and resources, but minor gains in autonomy. Denmark also avoids the 'slippery slope' of further integration.

The UK's relationship with the EU in security and defence policy is obviously important. On the one hand, Denmark wants the UK to have as close a relationship with the EU as possible after Brexit. On the other hand, the participation of the UK in, for example, PESCO (scenario IV) will make Denmark the only member state in its neighbourhood that is not participating. This means marginalisation.

In scenario II (Atlantic fragmentation, EU stagnation), there is very little European defence cooperation to 'miss out on' or 'avoid'. With the absence of Atlantic as well as European constraints, dramatic events will probably be the order of the day, events that will overshadow any discussion of the defence opt-out.

SUMMARY

It can be concluded that the most serious consequences for Danish interests will occur in scenario I ('Atlantic fragmentation forges dynamic EU integration'). The reputation and influence of Denmark will suffer as, at the worst, will Danish security. These losses cannot be outweighed by gains in autonomy. In scenario III, the implications are not as serious, as the scenario takes place under more favourable global circumstances. The defence opt-out is of only modest significance in the two stagnation scenarios (scenarios II and IV). If the EU is a supplement to NATO (scenario IV) a modest loss of influence and resources will be seen, but minor autonomy benefits will be obtained. The overall picture clearly shows that the scenario context – international conditions – makes a big difference to the significance of the defence opt-out for Danish interests. However, it should be stressed that scenario-neutral conditions also play a role, with changes in public opinion combining with domestic political dynamics in major EU member states.

CONCLUSION AND PERSPECTIVES FOR THE FUTURE

The nature of European cooperation on security and defence policy is undergoing change. Within the EU, cooperation has moved from being a matter of focusing on dealing with the Petersberg tasks outside EU borders to also involving the European Commission and EU internal-market mechanisms in order to bolster European defence cooperation in a general sense. At the same time, steps have been taken towards greater coordination of defence policy and cooperation within Europe, both inside and outside EU bodies. The French-led European Intervention Initiative (EI2) is an example of this, as is the British-led Joint Expeditionary Force (JEF). The question that this report was asked to answer is what this development means for Denmark in light of the opt-out, which, since 1993, has kept Denmark out of aspects of EU cooperation on matters having defence implications. Denmark is the only EU member state with such a defence opt-out, but it is always up to Denmark alone to decide whether it should remain in place or not.

The terms of reference for this report point to a series of elements which the Government of Denmark, at the time of its commissioning, considered to be of particular interest in order to assess the significance for Denmark of developments in the EU's security and defence policy. In addition to a *description* of the framework of the defence opt-out and developments in the EU and NATO, there was also a call for *analyses* of the significance of the opt-out for the country's security and defence policy, the industrial policy research policy effects of these

developments and current and expected interactions of the defence area with other policy areas. Finally, the report was to contain *considerations* about the European policy dimension, including the significance of the defence opt-out for the overall position of Denmark in the EU and for the broader view of Denmark within Europe.

The objective of strengthened EU defence cooperation as formulated in the 2016 Global Strategy is to 'take greater responsibility for [Europe's] security. We must be ready and able to deter, respond to, and protect ourselves against external threats.'²⁷⁵ There is no consensus over what this entails, neither internally among EU member states and institutions, nor among the EU's international partners, including, in particular, the United States. At the same time, the specific defence policy initiatives stemming from the Global Strategy are still in the start-up phase and have not yet found a fixed or permanent form. In other words, the subject field of this report, the development of European security and defence policy cooperation, is an area of continuous development.

Developments are both influenced by and reflect international conditions, trends and events outside the EU. This includes, not least, developments in the transatlantic relationship, relationships with Russia and the United Kingdom's withdrawal from the EU. At the same time, developments largely depend on political dynamics both internally and between the individual

EU member states, including in particular the Franco-German relationship. This means that, even though the trend towards strengthened EU security and defence policy cooperation in recent years has been very clear, the range, scope and effects of these developments are difficult to assess clearly.

Nonetheless, the analysis in this report shows that the defence opt-out is becoming increasingly significant for Denmark's position in the EU and Europe. The consequences of being outside European defence cooperation have increased since 2016 and will continue to increase if current developments continue. However, the analysis in this report also shows that the implications of the opt-out remain limited, given Denmark's narrowly defined security interests. Developments within EU security and defence policy cooperation do not in themselves change the role of NATO as the ultimate guarantor of European security, and the new forms of cooperation that have arisen outside the institutions to a certain extent allow Denmark to develop and maintain a wide range of cooperative relationships in the area of defence policy. Thus, particularly when it comes to safeguarding Denmark's wider security interests, the defence opt-out has had and will have increased implications if currently ongoing developments continue.

Finally, this report demonstrates that, because much of the strengthened EU defence cooperation has taken the form of initiatives not specifically related to the CFSP and the CSDP and thus fall within the area of the European Commission, Denmark can be included in some aspects of the new EU defence policy, despite its defence opt-out. The increasing number of legal grey areas between areas covered and not covered by the opt-out makes its management more difficult and resource-intensive. The most important example of this is that Denmark is a full member of the newly proposed EDF, the purpose of which is to strengthen the European defence industry. Yet, because of the opt-out Denmark is not involved in PESCO cooperation, which among other things has the aim of identifying specific joint projects for the development of defence projects. The

ambiguity created by this situation affects Denmark's opportunities to influence what the resources of the EDF are to be used for and thus indirectly makes it difficult for Denmark's industrial partners to participate in pan-European projects that Denmark helps to finance through the EDF.

The analysis in this report was conducted on the basis of the three research questions that emerged out of the Danish Institute for International Studies' interpretation of the terms of reference:

- What are the trends in security and defence policy in the EU and Europe after 2008, in particular since publication of the EU's Global Strategy in 2016?
- What is the significance of these trends for Denmark in light of the defence opt-out?
- What is the significance of the opt-out for Danish interests in the medium term, i.e., up to 2024?

To justify and elaborate further on the main conclusions of this report, the three questions are answered separately in this final chapter, which relates the results and sub-conclusions of the previous chapters to the questions and sub-elements to which the terms of reference sought answers. The chapter thus brings together the many threads of the report to provide an overall framework that can form the basis for a debate over what the defence opt-out means for Denmark almost thirty years after it was agreed in the Edinburgh Agreement of 1992. In this context, it should be noted that the analysis, conclusions and accumulated results of the report do not take a position on or address whether the defence opt-out should be abolished in a referendum. This is a political matter that is for the Danish Parliament (Folketing) to decide. The purpose of this report has been to contribute to creating an informed basis for a debate on the opt-out's consequences.

WHAT ARE THE TRENDS IN SECURITY AND DEFENCE POLICY IN THE EU AND EUROPE AFTER 2008, AND PARTICULARLY SINCE PUBLICATION OF THE EU'S GLOBAL STRATEGY IN 2016?

In 1993, when it was decided that Denmark could remain outside the EU's defence policy cooperation, the hypothetical notion of a future European army played a significant role. For various reasons there was widespread opposition to adding a defence dimension to EU cooperation, among other things because this was considered too brisk a pace of European integration. As stated in the 2008 DIIS report with respect to the defence opt-out, EU defence policy cooperation developed at crucial points in other directions than those which gave rise to Danish concerns. The EU did not have its own European army, and CSDP cooperation remains subject to unanimous decisions in the Council. The analysis in this report has demonstrated that this has not changed with developments since 2008. The new elements of EU defence cooperation which have been initiated by the European Commission since 2016 do not aim at providing the EU with its own autonomous European army, but only concern policy areas that are not covered by the defence opt-out, including, in particular, research and industrial cooperation.

With the Petersberg tasks as its point of departure, the EU has gradually assumed a greater role as a security policy actor and partner, especially for the UN and NATO, when it comes to dealing with crises and conflicts close to Europe. In the first years after the CSDP was operationalised in 2003, the EU took over the leadership of a series of operations in the Balkans that had previously been led by the UN or NATO, meaning that Denmark had to withdraw its military forces because of the opt-out. At the same time, the EU itself launched new CSDP operations to support ongoing UN operations in Africa. In light of the financial crisis and the increasing fatigue towards military interventions after the experiences of Afghanistan, Iraq and Libya, the willingness of EU member states to deploy military forces decreased. Most CSDP missions and operations carried out in the 2010s have been short, with limited mandates, and have involved only a small number of EU member states.

EU defence policy cooperation has not developed in the direction envisaged by the voting public in Denmark in the 1992 referendum. At the same time, there have been major changes in this area, both since the defence opt-out was originally formulated and since DIIS published its last report on all four Danish opt-outs in 2008.

The Treaty of Lisbon, which entered into force in 2009, altered the framework for EU opportunities to act collectively in external matters. Among other things, the external objectives of the Union as a whole were combined, the EU set up its own foreign service (the EEAS), and the High Representative of the Union for Foreign Affairs and Security Policy was made the permanent chair of the Foreign Affairs Council and a Vice President of the European Commission. The treaty maintained the decision-making procedures of the CFSP, while at the same time PESCO allowed for a smaller group of member states to develop closer cooperation in the defence area. It was not until 2017 that the option of activating PESCO was invoked. As stated in this report, the establishment of PESCO was more inclusive than originally anticipated. This illustrates in part the difficulty of predicting precisely how EU defence policies will develop and of predicting the significance of ongoing changes.

The analysis in this report demonstrates that these changes are characterised by three overall trends that have been underway for some time, but which have unfolded in earnest since 2016.

First, a new discussion has arisen concerning how to achieve greater European strategic autonomy and the level of ambition for doing so. Secondly, the focus has been expanded from crisis management and performance of the Petersberg tasks outside Europe to include issues concerning Europe's internal and territorial security. Thirdly, and in light of the above, a broader range of EU actors are now involved in security and defence policy issues. All three trends have been captured in the EU Global Strategy of 2016, and, especially in relation to the last trend, they have gained momentum in the form of new initiatives. However, it should be noted that it is not the Global Strategy itself that has prompted the current strengthening of cooperation. The changes in the nature of EU defence

cooperation are linked to a number of fundamental shifts in the European security situation. These changes have been underway in the past decade and have been enhanced by developments since 2016, including Brexit and the insecurity regarding the continued involvement of the United States in NATO and in Europe marked by Trump's presidency. This applies especially to the renewed discussion about greater European strategic autonomy.

This discussion reflects a widespread desire that should Europe assume greater responsibility for its own security and that this to some extent also requires a strengthening of the EU's ability to act more independently, but as a supplement to NATO cooperation, not instead of such cooperation. This is the understanding of the notion of greater European strategic autonomy as expressed in the EU's Global Strategy of 2016, an understanding that seems to have been subsequently strengthened as President Trump has increasingly cast doubt on the security guarantee the United States provides to Europe unless NATO's European members can take over such tasks. In this light, strengthening EU defence cooperation is considered a contribution to transatlantic burden-sharing. This interpretation is underpinned by the analysis in this report, which demonstrates that, even though political tensions in transatlantic cooperation are growing, concrete cooperation between the EU and NATO has in fact increased.

The deteriorating relationship with Russia has stressed that the EU and NATO have a mutual need for each other. NATO has the necessary military forces and capabilities to intimidate Russia, while the EU has instruments that can enable NATO to improve its implementation of conventional and hybrid operations effectively. The United States has long supported development of the CSDP and has encouraged European states to assume greater responsibility for security challenges, including carrying out minor operations without military assistance from the United States. However, this functional and relatively uncontroversial division of responsibilities cannot hide the fact that the ambition to achieve greater European strategic autonomy also relates to the development of European-manufactured defence materials and the

ability to deploy military forces independently of the United States and NATO. Both internally in Europe and across the Atlantic, there has traditionally been disagreement over the appropriateness of Europe developing its own, potentially duplicate structures. The discussion is therefore not new, but it has changed character in recent years as tensions across the Atlantic have grown and the internal European differences between 'Europeanists' and 'Atlanticists' have become less pronounced. The ambition to achieve greater strategic autonomy is central to developments, but what precisely the ambition entails or should entail remains ambiguous. The same applies whether this ambition is primarily to be realised within the established institutional frameworks of the EU or whether, at least to some extent, it can be achieved through other, looser structures, such as E12 and the JEF, which have the advantage of the UK's post-Brexit participation.

The other general trend that has shaped developments in EU defence cooperation in the past decade is that the focus has expanded from crisis management and the performance of the Petersberg tasks outside Europe to include issues concerning Europe's internal and territorial security. This ambition is clearly expressed in the 2016 Global Strategy, which states that 'the EU Global Strategy starts at home' and aims to protect Europe's territory and citizens.²⁷⁶ Among other things, this has specifically received expression in relation to increased cooperation with NATO and to a number of PESCO projects aimed at countering cyber threats and other hybrid threats and at promoting military mobility. The new focus on protecting Europe's own security also increasingly affects CSDP cooperation. Thus, a number of ongoing EU missions and operations are explicitly justified by a desire to secure the European continent and its citizens. For example, this applies to the CSDP military operation in the Mediterranean (Operation Sophia) and the EU training mission in Mali, both operations being part of EU efforts to counter human trafficking.

The expansion of EU defence policy objectives has meant that EU defence cooperation has started to interact with and actively involve elements from the EU's internal market, involving the European Commission in particular. The key initiative in this context is the proposed European Defence Fund, designed to strengthen the European defence industry. A number of other initiatives regarding cyber security, border controls and military mobility are also proposed to be financed through the EU budget, and not in any other forms of off-budget financing that has typically characterised spending in this area of policy. As the EU budget cannot be used for military purposes, these initiatives are not formally categorised as security and defence policy initiatives, but as industrial policy, transport and logistics, with TFEU legal justifications.

The latter trend is a problem for Denmark on account of its defence opt-out alone. As EU defence cooperation is developing to include mechanisms which legally also belong to policy areas other than security and defence, it is becoming increasingly difficult to clarify the scope of the opt-out. This directly leads to an answer to the last two research questions of this report, namely the question of the significance the above trends *have had thus far* for Denmark, and what significance they *will have in the future* for Danish interests in the medium term, i.e., up to 2024.

WHAT IS ARE THE IMPLICATIONS OF THESE TRENDS FOR DENMARK IN LIGHT OF THE DEFENCE OPT-OUT?

In order to provide a nuanced picture of the consequences of the defence opt-out, the analysis in this report has focused on how Danish security, influence, autonomy and resources since 2008 have been affected by it.

The terms of reference for the report called for an assessment of *the significance of the defence opt-out for the overall Danish position in the EU and for the broader view of Denmark in the Europe*. The analysis in the report shows that Denmark's influence and reputation have been weakened by the defence opt-out. Some regard

the Danish position in the EU as incoherent, and the opt-out is perceived as if Denmark has rejected such EU cooperation because it prefers other forms and forums for international involvement. EU member states that want closer European defence cooperation, as well as those that fear the possibility of the EU simply duplicating NATO structures, would welcome Denmark giving up its defence opt-out and see it participate fully in the negotiations. At the same time, they accept that this is a matter for Denmark's own decision and merely note that, so far, Denmark has not been a relevant cooperation partner when it comes to influencing EU security and defence policy.

This is not a new assessment – the same applied in 2008. A new tendency is that this also applies to areas that are generally *not* covered by the defence opt-out, such as the European Defence Fund, addressing cyber threats and hybrid threats and cooperation on military mobility, all of which draw on other EU policy areas, in particular industrial and research cooperation. It is important to note that these new areas of cooperation not only exist under the auspices of the European Commission, but also extend to specific PESCO projects, where the defence opt-out prevents Danish participation. However, as is evident from this report, there is a widespread perception that Denmark has excluded itself from EU defence cooperation, including cooperation outside the scope of the CSDP. Thus, new initiatives within the EU legal order have been added to management of the defence opt-out, which in turn has meant that additional communicative efforts have been engaged, drawing on resources that could be used for other matters.

Indeed, the report has demonstrated that recent developments towards more legal grey areas have resulted in the Danish central administration spending considerably more administrative resources on clarifying whether Denmark can participate or not in particular initiatives and policies. Time is increasingly being spent on assessing the legal aspects of specific proposals and initiatives, rather than seeking substantive influence. This was the case in relation to the EDF, as well as to initiatives such as EI2 and the FNC that are outside the EU legal order. Indeed, even

with regard to frameworks outside the EU, Denmark has had to consider its defence opt-out when committing itself to them and to be prepared for the possibility that EI2 might one day be activated in connection with an EU operation, or that EI2 or the FNC might one day become more closely linked to PESCO. Therefore, recent developments have meant that the scope of the opt-out has de facto, but indirectly, been extended beyond its formal legal status. At the same time, Danish participation in these very initiatives demonstrates that the defence opt-out has not, as such, kept Denmark out of all recent developments in European defence cooperation, only those that belong to specific parts of the EU legal order. The most important of these initiatives is PESCO cooperation. Denmark does not participate in PESCO, which constitutes the framework for increased defence policy coordination, or in specific PESCO projects on the development of new defence capabilities. Its cooperation is still in its infancy, but the consequences of being outside it will not become fully evident for some years.

WHAT SIGNIFICANCE WILL THE OPT-OUT HAVE FOR DANISH INTERESTS IN THE MEDIUM TERM, I.E., UP TO 2024?

The significance of the defence opt-out for Danish interests in the medium term primarily depends on developments in the Atlantic relationship and on the dynamics of European defence integration. The current global environment makes it more difficult than usual to predict how these international framework conditions will develop. In order to provide a qualified assessment of the significance of the defence opt-out over the next five years, this report has conducted a scenario analysis describing four possible combinations of Atlantic stabilisation/fragmentation and dynamic/stagnation in defence integration respectively.

The report's assessment is that the significance of the defence opt-out for Danish interests primarily depends on whether EU defence integration continues in a dynamic direction or whether it stagnates at its current

level. In the two dynamic scenarios in which EU cooperation is strengthened, the consequences of the opt-out will be considerably greater than in the two scenarios in which current trends stagnate or are rolled back. However, the severity of the consequences depends on whether the Atlantic relationship stabilises. The implication of the defence opt-out will be greatest and most severe if Atlantic fragmentation leads to dynamic European integration. The opt-out will have least significance if the Atlantic relationship is fragmented while European defence integration simultaneously stagnates. In this scenario, the opt-out will be the least of Denmark's security policy problems. It is to be hoped that the four scenarios will provide the framework for a broad debate on the overall consequences of the defence opt-out for the Danish position in security policy over the next few years.

In addition, in accordance with the terms of reference, the report also sought to identify, more narrowly, the *industrial and research policy effects* of the defence opt-out in the medium term. Even though there is an obvious degree of uncertainty associated with predicting how the defence area will interact with *other EU policy areas* in the future, the report's assessment is that developments will continue in the direction set by European Commission, in particular in respect of the initiatives it has launched since 2016. The report's analysis has shown that many recent developments in EU defence cooperation are aimed at strengthening the European defence industry and thus military capabilities. Such cooperation is intended to ensure that Europe is not left out of the global defence industry, but builds the necessary technological skills to develop and produce the next generation of critical defence capabilities. Cooperation here is also designed to enable a larger part of the defence budgets of EU member states to be spent within Europe. These objectives are being pursued particularly through the proposed EDF, which has been running as a pilot project since 2017 and is expected to be formally established under the current European Commission with a proposed budget of around EUR 13 billion over seven years.

As the EDF falls under the EU's industrial and research policy areas, cooperation with it is not covered by the defence opt-out. The EDF is therefore applicable to Denmark, just like every other EU member state. This means that Denmark contributes to its financing. Denmark hopes that, as a minimum, Danish industrial partners will be able to attract funding for cooperation projects. However, this will be hampered by the degree of the relationship between the EDF and EU defence initiatives, because Denmark and Danish industrial partners do not have the same opportunities for influence as EU member states without a defence opt-out. As the report's analyses have shown, PESCO and the EDA, in which Denmark does not participate due to the opt-out, play an important role in selecting projects for the EDF. In practice, this means that Denmark risks being excluded from some of the flows of information and knowledge that are linked to the political aspects, administrative aspects, industrial dynamics and developmental processes in connection with current projects. Thus, for legal, political and practical reasons, Denmark is prevented from seeking influence and taking initiatives with regard to these processes and thus influencing cooperation in line with its interests.

Another practical challenge for the Danish position on defence is the uncertainty prevailing amongst European defence companies as to whether or not Danish companies are covered by the defence opt-out or not. Industry partners in Denmark are not automatically considered potential partners by companies in other European states and are often considered outside such cooperation. The Ministry of Foreign Affairs of Denmark has clarified that Danish industrial partners are not covered by the opt-out and can therefore participate in projects under the EDF. Even though this clarification has been presented to potential European cooperation partners by industry partners in Denmark, however, there are still communication tasks that need to be undertaken to ensure that industry partners in Denmark are not excluded from the defence projects that Denmark contributes to through the EDF.

It is important to stress at this juncture that the defence opt-out does not prevent industry partners or research institutions in Denmark from taking part in

such projects. The EDF can therefore come to play an important role in collaborations between industry partners, universities and technological institutions across EU member states in future European defence research and development programmes. However, due to Denmark's circumspect approach to the EDF and the lack of Danish influence on the PESCO projects that have been developed and implemented, industry partners in Denmark are at risk of falling behind from the start. Legally, there is nothing to prevent them from contributing to EDF projects, as private-sector actors are not covered by the defence opt-out. A lack of knowledge about this within the defence industry is nonetheless weakening its ability to participate in new forms of cooperation. Moreover, endeavours to establish consistency across the EU legal order are only a problem for Denmark. For the other EU member states, these endeavours are an integrated part of EU defence cooperation and are an essential factor in translating the objective of achieving more strategic autonomy into specific action, for example, by strengthening the European defence industry.

SUMMARY

Like the 2008 DIIS report, this report also demonstrates that the significance of the defence opt-out is changing over time. The conditions and expectations that applied when the defence opt-out was formulated in 1992 were no longer present when the 2008 DIIS report concluded that, because 'no member states can be required to send soldiers to EU operations, and all participating countries have the right to veto developments in security and defence policy, the assessment is that the Danish opt-out restricts Danish freedom of manoeuvre more than it safeguards Danish autonomy.'²⁷⁷ More than ten years later, the assessment is more or less the same, although it is based on an entirely different international backdrop than that which characterised discussions back then. Unlike non-EU member states such as Iceland, Norway and Turkey, Denmark can still not contribute to CSDP military operations, even if these are in accordance with Danish political priorities. Added to this are a number of additional consequences.

The analysis in this report has demonstrated that:

- Over the past ten years, the consequences of the defence opt-out have become increasingly significant as defence policy cooperation within the EU has been strengthened.
- Denmark cannot take part in some of this new cooperation, including capability development in the areas of cyber security, hybrid threats and military mobility.
- The 'price' of the defence opt-out in terms of lost influence on matters of significance to both broad Danish security interests and narrow defence industry interests will grow in the years to come if current trends continue.
- There are more grey areas in which there are doubts regarding the validity of the defence opt-out, which has led to an indirect increase in its scope.

Conversely the report also demonstrates that:

- The defence opt-out has not influenced Danish territorial security, which remains anchored in and under the auspices of the NATO cooperation.
- Denmark can take part in some of the EU's new defence policy initiatives because they concern matters in the TFEU (and not the CFSP), including industry, research and transport.
- The defence opt-out does not prevent Denmark, through its involvement in NATO and its participation in E12, the JEF and the FNC, and to a lesser extent also in NORDEFECO, from entering defence policy cooperation with other EU member states outside the EU legal order, as well as other interested actors.

In other words, Denmark is not as much outside the current developments in the European security architecture as it would seem from focusing solely on developments within the areas of the EU cooperation covered by the defence opt-out.

The dynamics that currently characterise European security and defence policy, both inside and outside the institutional frameworks of the EU, have been shaped by the interaction between a series of global events that would have been difficult to predict. Nonetheless – or maybe because of this – the most recent developments have changed the usual perceptions that have marked not only Danish but also European foreign and security policy approaches in past decades. The determination of the United Kingdom to withdraw from the EU, as well as doubts cast by the United States about the American security guarantee, the deteriorating relationship with Russia, the continued threats associated with instability, conflict and poverty in Africa and the Middle East, and the new challenges relating to cyber threats, hybrid threats and migration have all led to a rethinking and revitalisation of European security and defence policy cooperation in different ways. Due to the defence opt-out Denmark is not fully involved in this rethinking, which has limited its own ability to adapt to changing global conditions. Nor has Denmark contributed to shaping the current and future role of the EU in the European security architecture. The current action space for Danish foreign, security and defence policy is thus narrower than it would have been without the opt-out.

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ANNEX



15 november 2018

Kære Kristian Fischer,

Regeringen har besluttet, at der skal udarbejdes en ekstern udredning om udviklingen i EU på det sikkerheds- og forsvarspolitiske område og dens betydning for Danmark. Det er en opgave, som jeg hermed gerne vil anmode DIIS om at påtage sig.

Såfremt DIIS er parat til at påtage sig denne opgave, vil der være behov for, at DIIS snarest og inden udgangen af november 2018 udarbejder et udkast til synopsis og budget til en sådan udredning, som kan drøftes inden arbejdet sættes i gang. Den færdige udredning vil skulle foreligge i november 2019. Der er en klar forventning om, at også international ekspertise i høj grad vil blive inddraget i forbindelse med udarbejdelsen af udredningen, og at den nødvendige viden vil blive indhentet ikke mindst fra Bruxelles, Paris og Berlin, men også eksempelvis fra Rom og Madrid. Det vil være op til DIIS, at tilrettelægge det videre arbejde i overensstemmelse med den endelige synopsis.

Der vil være en vis forventning om, at bl.a. følgende elementer vil komme til at indgå i udredningen:

- a) En redegørelse for *forsvarsforbeholdets rammer og udviklingen i EU's sikkerheds- og forsvarspolitiske samarbejde*, herunder i lyset af den globale udvikling. Gennemgangen bør indeholde en kort redegørelse for, hvad den forsvarspolitiske dimension af EU indeholdt i 1992, da forsvarsforbeholdet blev introduceret, men i øvrigt fokusere på udviklingen efter den seneste DIIS-rapport og med særlig vægt på perioden efter vedtagelsen af EU's globale strategi i 2016, hvor en række markante tiltag er blevet iværksat på området.
- b) En analyse af den *sikkerheds- og forsvarspolitiske betydning* af forsvarsforbeholdet, der også naturligt kan inddrage udviklingen i NATO og hvorledes NATO partnere uden for EU (navnlig US, men på sigt også UK) stiller sig til Danmarks forbehold samt samarbejdet mellem EU og NATO, herunder om udviklingen i EU også kan have en effekt på NATO-landenes kapabiliteter.
- c) En analyse af de *erhvervs- og forskningspolitiske effekter*.
- d) En analyse af i hvilket omfang forsvarsområdet for nuværende og i den kommende tid må ventes at spille sammen med *andre politikområder*.
- e) Overvejelser om den *europapolitiske betydning*, herunder forsvarsforbeholdets betydning for Danmarks samlede placering i EU og for den bredere opfattelse af Danmark i EU.



Udredningen bør ende ud i en samlet konklusion og perspektivering.

I forhold til selve processen vil det være naturligt bl.a. at inkludere:

- Rejseaktivitet navnlig til Bruxelles, men evt. også til en eller flere centrale EU hovedstæder i forhold til at indhente synspunkter fra relevante EU institutioner og medlemslande samt fra eksempelvis NATO's Internationale Stab i forhold til at belyse den mulige betydning for Danmark også i andre internationale organisationer.
- Et eller flere seminarer (evt. i form af et lukket ekspertseminar) med inddragelse af relevante danske og internationale ressourcepersoner og forskere.
- Evt. inddragelse af relevante brancheorganisation, Dansk Industri eller Dansk Erhverv.

DIIS er naturligvis velkommen til i arbejdet at trække på centraladministrationens viden på området, også hvis der i øvrigt skulle være praktiske spørgsmål.

Det vil også være værdsat, såfremt DIIS med passende mellemrum vil orientere om, hvordan arbejdet skrider frem.

Det vil glæde mig, hvis DIIS er parat til at påtage sig denne vigtige opgave og jeg vil se frem til at modtage udkast til synopsis og budget.

Med Venlig Hilsen,

Anders Samuelson

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