

We still have some "skin in the game" but EU rules are changing

## AN EU CONSULTATION



On 18 May 2022, the European Commission published a Communication analysing, at the request of the Council, deficits in defence investment and possible remedies to overcome them. (<https://tinyurl.com/24w4zudk>)

In April 2023 the Eurodefense Network sent its views to the Commission. It concluded that there is a pressing need for Europeans to better work together, especially at a time when military spending is set to increase sharply in response to the war in Ukraine.

Despite Brexit, the UK still has "skin in the game" if it allows reality and expediency to be part of its political relationships.

The European Commission stressed the risk that, similarly to periods of financial scarcity and paradoxically at the same time, the newly-committed abundance of riches may well lead to investment choices which are unsatisfactory for the strengthening of the continent-wide industrial and technological defence base.

Feeling a sense of urgency, Member States (MS) may well be tempted to buy "off the shelf" from the United States. With a nationalism reflex, they may also seek to develop solutions on their domestic territory which however are already available in another European country. In both cases, the additional budget could therefore lead to a weakening of the whole European defence industry base rather than strengthening European self-reliance and strategic autonomy.

There are numerous examples of technological and industrial European prowess but with failures in the procurement process where American weapons were finally preferred to the European ones. An example quoted by Defence Analysis magazine, in respect of MLRS/HIMARS, "strangely for a continent that did come together to develop and manufacture the Meteor BVRAAM, the political will to make the same type of decision over a system such as an MLRS is sadly lacking today".

This is a consequence of European States believing they must rely on the United States for their security. As argued by the Swedish Defence Minister, priority should be given to the security provided by NATO – of which of course the US is a vital but not the only member - with both nuclear and conventional defence resources.

As well as hastening enlargement, the Russian aggression against Ukraine has prompted NATO allies to reinforce their military capabilities towards the aim of a pool of 300 000 European deployable readiness troops. "Such a European pillar within NATO would greatly benefit from an effective EU contribution, notably through its European Defence Fund" In this respect, "the question could eventually be asked whether it still makes sense that SACEUR always is an American officer". (Although Dep SACEUR is a European) ("The New Force Model: NATO's European Army?" By Sven Biscop – Egmont Policy Brief 285).

Many believe that Europeans must have the military capability to plan, command and operate by themselves in case of absence of Americans, in the spirit of the Saint Malo declaration. The European Commission wishes to position itself as the coordinator and catalyst in the implementation of the effort to recapitalise armed forces within the European Union MS. Without such coordination, "short-term acquisitions will have a longer-term impact leading to weakened market strength and missed opportunities for decades to come". It therefore proposed additional instruments:

\* A Defence Joint Procurement Task Force for short-term purchases

\* The creation of European Defence Capability Consortia for the joint purchase of solutions developed in cooperation

\* A project for a joint European defence programming and procurement function

All accompanied by financial incentives for investment and innovation (including VAT exemption) and the powers of the European Defence Fund augmented by budget increases

The European Commission is thus seeking to go beyond the current limits of intergovernmental coordination of capability efforts. Budget cuts following the global financial crisis of 2007-2009 have strongly affected military investment for more than a decade, with MS preferring to focus on national rather than common effort. The share of cooperative purchases has fallen from 20% in 2004 to just 11% today.

There could be a strong temptation to develop a community approach to defence investment. The Communication of 18 May 2022 does not go that far. However, it bears the seeds of the European Commission's desire to take matters into its own hands – and perhaps to replace MS individual actions.

The Commission's approach gathers together all the dimensions of a defence industrial policy: Group purchases in both the short term and the longer term; aid for innovation; the mapping of industrial base to manage its resources and skills.

## **ALTERNATIVELY**

A stronger and more effective European defence depends above all on making good use of existing tools. In fact, there are very good ones that are far from being exploited to their full potential. New instruments would require time to acquire the appropriate maturity and could, moreover, come into conflict with the competences of States in the defence domain. The European Commission is already doing this partly in its Communication by highlighting the role

that the European Defence Agency (EDA) must play, but it could push further through three relevant approaches.

## THE EXISTING TOOLBOX

Firstly, the contents of the "toolbox" available go beyond the scope of the European Commission. It has played a significant role since 2016 in favour of the competitiveness of the defence industrial and technological base through the European Defence Fund and dual-use policies implemented by the Directorate-General for Defence Industry and Space.

In supporting innovation, the EDA has a major role and undeniable skills built up since 2003. It also has the advantage of combining its own resources and hosting seconded national experts, because it remains an intergovernmental agency while being integrated into the Common Security and Defence Policy (CSDP). As a result, it is naturally the place for consolidating national and collective approaches at European level to prepare future capabilities. Strengthening the EDA is a logical and effective choice to enhance this.

Acquiring skills required to implement programmes is a long and complicated process for complex systems such as weapons. The European Commission experienced this in a related field, space, two decades ago. Faced with the difficulty of mastering adequate skills, it finally agreed to rely on the European Space Agency (ESA). ESA's intergovernmental character has not prevented it from effectively supporting European space policy.

Similarly, it is important for the European Commission to mobilise OCCAR (Organization for Joint Armament Cooperation) to run programmes. OCCAR is an intergovernmental agency, which is not inside the Community perimeter and which brings together some but not all European countries.

OCCAR, with its innovative principles, and of which the UK is still a member, is an excellent place for the management of cooperation programmes, as the French Court of Auditors has previously ruled. The current programmes managed by OCCAR amount to about 100 billion euros. These include the Boxer vehicle. Following knowledge transfer and supply chain build up, the manufacture of Boxer vehicles is transitioning from the existing lines in Germany, to the UK - the first vehicles built in the UK are due for delivery in 2024.

While the UK has left the European Defence Agency with Brexit, OCCAR has an Administrative Arrangement with the EDA, and so a channel of communication there continues to exist.

The Permanent Structured Co-operation mechanism (PESCO) was created in 2017, after the UK had voted to leave the EU. It brings together "coalitions of the willing" from the EU26 and NATO on a range of capability programmes. In November 2022 the Commission (CFSP) agreed under Article 46/6 to invite the UK to join the Military Mobility project within PESCO, alongside non-EU nations USA, Canada and Norway. As PESCO itself says: "this project serves as the political-strategic platform where progress and issues stemming from these efforts are discussed. "This precedent could be used to join some of the other 60 projects which might be of interest to the UK.

## DELEGATION

Secondly, it is not always necessary to use supranational instruments to conduct capability investments. The European Commission must also consider delegating the management of projects to one or more countries once convergence between States has taken place. It is not necessary to build new organisations when the countries can agree to manage among themselves the purchase and supply of equipment without a dedicated acquisition agency.

The European Commission must therefore also consider the possibility of delegating the project management of projects it supports to a national acquisition agency. For instance, France provided assistance to Belgium within the framework of CaMo (Capacités Motorisées) programme when the latter accepted the Scorpion offer to be equipped with armoured vehicles. The DGA acted as the acquisition agency on behalf of Belgian armed forces. Other MS are sharing resources in a similar manner. For the short term this solution therefore appears more relevant, through user clubs, than the creation of an additional institutional layer (either intergovernmental or Community).

It is also possible to go through this ad hoc cooperation not only for purchases but also for the management of programmes or in-service support. Sweden gave the designs of NLAW, the anti tank weapon so key to the defence during the Battle of Kiev, to the UK - Thales in Belfast – as well as an order so that it could benefit from the much lower cost of acquisition via a production run more than 10 times as long as they could guarantee. The Meteor missile programme

mentioned above validates this approach for the development of a new capability. Six European countries trusted one of them, the UK, to take over the management of the programme without creating a new agency.

Such an approach is feasible and effective if it meets the expectations of MS. It should therefore not be overlooked as a possible approach, bearing in mind it is a two way street – the UK may not always be "best in class."

## **THE END USERS**

Thirdly, before launching programs, it is important to ensure a real convergence of operational needs between forces. There is no point in activating new or existing instruments without consultation between the end-users who are armed forces. It is important to overcome past shortcomings that can lead to a lack of correlation between operational and industrial logics.

In line with the EU Strategic Compass proposals, it is important that capability efforts fully meet the operational needs of armed forces. Consultation with the European Union Military Staff is a key element for the success of the military ramp-up in Europe.

The three proposed approaches could constitute the foundations for a successful implementation of the European Commission's initiative. It is important to capitalise on existing instruments to act quickly and effectively while benefiting from the initiatives managed by the Commission itself.

## **BUT**

In the longer term, one can foresee a gradual evolution towards joint procurement for the benefit of the whole EU. Such a development, compatible with the financing of defence equipment from national budgets, raises the question of juste retour (fair shares). The latter introduces obligations for compensation, industrial participation and other instruments designed to support national interests.

The principle of *juste retour* remains a requirement of some national parliaments that vote on defence budgets. Further modification of this requirement is necessary to ensure armed forces get the best capabilities, in time, for the best price and with reasonable benefits for the economy of MS.

The principles of OCCAR, by providing for the globalisation of the *juste retour* among the participating states (and not programme by programme), tend to mitigate its constraining effects, while maintaining the interest for European cooperation. Going one step further away from the *juste retour* would remain difficult under current conditions and could probably only be envisaged in the context of a federal approach to an EU defence budget voted by the European Parliament. The proposal of Chancellor Scholz to develop the OCCAR on the one hand, and to hold a regular Council of Defence Ministers on the other, commands attention as a welcome step. Such a Council of Ministers, which as a first step can be done within the framework of the existing Treaties, would be responsible for EU defence issues and in particular for the preparation and implementation of such a budget.

## **A COMMUNITAIRE FUTURE?**

Another development would be possible common procurement of defence equipment owned by EU, as specified in the provisions of Article 42.1 of the TEU: "[The Common Security and Defence Policy] shall provide the Union with an operational capacity drawing on civilian and military assets". These common or *communautaire* defence assets – procured, managed and maintained within an appropriate European body - would remain under the control of MS according to the provisions of the European Treaties defining the CSDP. This article should be invoked when equipment can be obtained more effectively in this way or when it leads to better forces.

As practical example would be the use this article to equip the future European Rapid Deployment Capability (RDC) on a more cost effective and efficient basis. When several nations contribute their equipment to the RDC, this will lead to a complicated logistic structure and use of non-interoperable systems.

OCCAR, for the sake of efficiency, non-duplication of structures and simply for the sake of urgency, could be the natural instrument for joint procurement.

Use of these existing mechanisms would continue UK association with EU defence and security procurement without the need for renegotiating other matters, and would be an incentive for long term collaboration which would encourage interoperability, speed acquisition, improve cost effectiveness, and facilitate access to a wider, larger market on the basis of the country's technology and skills.

*Curated and written by Robin Ashby, with substantial additional material (for which many thanks) by Eurodefense Working Group 18-30.*

8 April 2023