

The European Defence Agency Capability Development Plan and the European Armaments Cooperation Strategy: Two Steps in the Right Direction

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1. Background to Collaborative Defence Procurement

Because of the reductions of defence budgets, the increased complexity of military systems, their spiralling costs, and the requirement for increased interoperability within alliances, States more and more resort to collaborative procurement for their defence equipment. In a collaborative defence procurement programme, participating States agree to procure and manage together the development and/or production of a complex military system and/or its support. Procuring collaboratively is expected to have cost benefits during the development and the production phase of the system, operational benefits because of interoperability and standardisation of equipment across the participating States, industrial benefits such as technology transfers, and political benefits by helping the participating States foster mutual understanding.¹ However, the most important factor encouraging collaborative procurement is the inability of most European States to procure complex military equipment otherwise than

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¹ See e.g.: Flournoy M., Smith J. et.al., *European Defense Integration: Bridging the Gap between Strategy and Capabilities* (Center for Strategic and International Studies, Washington DC: October 2005-, p.27; UK House of Commons Public Accounts Committee, *Ministry of Defence: Maximising the Benefits of Defence Equipment Co-Operation* (House of Commons document number 2001/02 HC 586, London: 30 January 2002), §6; Mawdsley J., *The Gap Between Rhetoric and Reality: Weapons Acquisition and ESDP* (Bonn International Centre for Conversion: 2002), p.5; Hayward K., *Towards a European Weapons Procurement Process – The shaping of common European requirements for new arms programmes* (Chaillot Paper No 27, Institute for Security Study, June 1997); Rich M., Stanley W., Birkler J. and Vaiana M., *Cost and Schedule Implications of Multinational Coproduction* (RAND Paper P-6998, Santa Monica: July 1984), p.1; Darnis J-P., Gasparini G., Grams C., Keohane D., Liberti F., Maulny J-P., Stumbaum M-B., *Lessons Learned from European Defence Equipment Programmes* (Occasional Paper N° 69, EU Institute for Security Studies: October 2007), pp.11-14

either by buying it from the United States or by sharing its costs with other States. Purely national developments become less and less viable.²

European armaments cooperation started as early as the 1950s, and went through different incarnations, but with only a mixed record of success.³ Many attempts have been made to rationalise European collaborative procurement and make it more efficient,⁴ but the overall achievements of most of these initiatives to date have remained limited.⁵ In a previous PPLR article, we performed a detailed analysis of the key importance of collaborative defence procurement, as well as its potential and actual benefits and drawbacks. Even though European collaborative defence procurement suffers from a number of shortfalls, they are not necessarily those that conventional wisdom attributes to it, and it does in fact deliver benefits. In summary, as the previous article explained, the current shortfalls of collaborative defence procurement are⁶:

- Difficulties in harmonising operational requirements and timelines among the participating States, which tend to delay the start of the programme and to increase the costs of the resulting weapon system;

² Maulny J-P. et.al., *Cooperative Lessons Learned: How to Launch a Successful Co-Operative Programme* (Final Report for Study 06-EDA-008, IRIS/CER/DGAP/IAI, 30 November 2006), pp.6-7; Creasey P. and May S., 'The Political and Economic Background', in Creasey P. and May S. (Eds.), *The European Armaments Market and Procurement Cooperation* (New York: St.Martin's Press, 1988), p.17

³ Van Eekelen W., *The Parliamentary Dimension of Defence Procurement – Requirements, Production, Cooperation and Acquisition* (Geneva Centre for the Democratic Control of Armed Forces, Occasional Paper № 5, Geneva, March 2005), pp.24 et.seq.; Taylor C., *UK Defence Procurement Policy* (House of Commons Research Paper 03/78, London, 20 October 2003), p.26; Mawdsley J., Quille G. et.al., *Equipping the Rapid Reaction Force – Options for and Constraints on a European Defence Equipment Strategy* (Paper 33, Bonn International Centre for Conversion, 2003), pp.29-30

⁴ Covington T., Brendley K. and Chenoweth M., *A Review of European Arms Collaboration and Prospects for its Expansion under the Independent European Programme Group* (RAND Note N-2638-ACQ, Santa Monica, July 1987); Creasey P., 'The Options and Prospects for Defence Procurement Collaboration', in Creasey and May, note 2 above, pp.166 et.seq; Bourne J., *Ministry of Defence: Collaborative Projects* (UK National Audit Office, House of Commons document 1990/91 HC 247, 22 February 1991), §§2.21-2.27; Cardinali N., 'Collaboration in European Defence Acquisition: Improved Outcomes', 8(1) RUSI Defence Systems, Summer 2005, p.26; Maffert N., 'Bridging the Capability Gap', 7(1) RUSI Defence Systems, Summer 2004, p.34

⁵ Cox A., 'The Future of European Defence Policy: The Case for a Centralised Procurement Agency', 3(2) PPLR 65, 1994, at 68 et.seq.; Mawdsley, note 1 above, pp.6 et.seq.; Aalto E., 'Interpretations of Article 296', in Keohane D., Ed., *Toward a European Defence Market* (Chaillot Paper n° 113, EU Institute for Security Studies, November 2008), pp.13-49, at 14

⁶ Heuninckx B., 'A Primer to Collaborative Defence Procurement in Europe: Troubles, Achievements and Prospects', 17(3) PPLR 123, 2008, pp.142 et.seq.; See further Darnis et.al., note 1 above, pp.15-27

- The lack of a through-life approach to programme management, with programmes divided in phases (development, production, in-service support), which are sometimes even subdivided into tranches;
- A complex or inefficient decision-making structure, both on the side of the participating States and on the side of the European defence industry, which is an additional cause of delays, especially before the launch of a programme;
- The use of the *juste retour* principle, whereby the work share of the industry from a participating State is manipulated to equal the financial participation of that State in the programme, leading to inefficient work allocation and duplication of resources, and in turn to increased development and production costs;
- An unclear and complex legal and management framework, with many different set of rules and actors involved in an uncoordinated manner.

On the other hand, once a collaborative defence procurement programme has been launched, the schedule slippages and cost overruns it incurs are generally comparable to those of similar national programmes.⁷ Collaborative defence procurement does deliver benefits by reducing both development and production costs and facilitating the integration of the defence industry concerned, even though these benefits are reduced by the issues mentioned above.

Considering the increased relevance of collaborative defence procurement among the European Union (EU) Member States, numerous proposals have been made recently to improve its efficiency,⁸ and these calls for improvement seem to have been heard at last. Besides the studies and articles on which this short background is based, concrete actions have been taken. We will discuss two of these initiatives in this article: the European Defence Agency Capability Development Plan, and the European Armaments Cooperation Strategy. Before that, we will introduce the reader to the forum in which these initiatives have been taken forward.

⁷ Lorell M. and Lowell J., *Pros and Cons of International Weapons Procurement Collaboration* (RAND, Santa Monica, 1995), pp.15-16; Dautremont S., 'Econométrie des Contrats de Défense' (2006) 40 ECODEF 5; Hartley K., 'Competition in defence contracting in the United Kingdom' (1992) 1(6) PPLR 440; Bourne, note 4 above, §§3.32-3.34

⁸ Heuninckx, note 6 above, pp.142 et.seq.; Maulny et.al., note 2 above, pp.16 and 26-33; Darnis et.al., note 1 above, pp.29-35; Hartley K., *The Industrial and Economic Benefits of Eurofighter Typhoon* (University of York, 16 June 2006), p.24; Birkler J., Lorell M., Rich M., *Formulating Strategies for International Collaboration in Developing and Producing Defense Systems* (RAND Issue Paper, 1997); Flournoy, Smith et.al., note 1 above, pp.26-27 and 33-34

2. The European Defence Agency (EDA)

In 2004, the Council of the EU created a European Defence Agency (EDA) to support the EU Member States in their effort to improve the EU defence capabilities in the field of crisis management and to sustain the development of the European Security and Defence Policy (ESDP). To that end, the EDA responsibilities cover capabilities development, armaments cooperation, the strengthening of the European defence technological and industrial base, and research and technology.⁹

Since its creation, the EDA has undertaken a number of initiatives, especially the adoption of an intergovernmental voluntary and non-binding regime for defence procurement comprising a code of conduct on defence procurement, a code of best practice in the supply chain, a code of conduct on offsets, a framework agreement on security of supply and another on security of information).¹⁰ However, this initiative does not apply to collaborative procurement.

In addition, the EDA published a European Defence Research and Technology (R&T) Strategy and a Strategy for the European Defence Technological and Industrial Base (EDTIB).¹¹ Even though these two documents are indirectly quite relevant to collaborative procurement, they will not be analysed in details here. We will instead devote the remainder of this article to the analysis of the two EDA initiatives that aim to impact directly on collaborative defence procurement in Europe.

⁹ Council Joint Action 2004/551/CFSP of 12 July 2004 on the establishment of the European Defence Agency, OJ 2004 L 245/17, Articles 2 and 5

¹⁰ The Code of Conduct on Defence Procurement of the EU Member States Participating in the European Defence Agency, November 21, 2005, <http://www.eda.europa.eu/genericitem.aspx?area=Organisation&id=154> [accessed April 23 2009]; The Code of Best Practice in the Supply Chain Approved by ASD on April 27 and agreed by the EU Member States Participating in the European Defence Agency, May 15, 2006, <http://www.eda.europa.eu/genericitem.aspx?area=Organisation&id=159> [accessed April 23 2009]; Framework Arrangement for Security of Supply between Subscribing Member States (sMS) in Circumstance of Operational Urgency, September 20, 2006, <http://www.eda.europa.eu/genericitem.aspx?area=Reference&id=163> [accessed April 23 2009]; Security of Information Between Subscribing Member States (sMS), September 20, 2006, <http://www.eda.europa.eu/genericitem.aspx?area=Reference&id=164> [accessed April 23 2009]; The Code of Conduct on Offsets, 24 October 2008, <http://www.eda.europa.eu/documents.aspx> [accessed April 23 2009]; see further Heuninckx B., 'Towards a Coherent European Defence Procurement Regime? European Defence Agency and European Commission Initiatives' (2008) 17 P.P.L.R. 1; Georgopoulos A., 'The European Defence Agency's Code of Conduct for Armament Acquisitions: A Case of Paramnesia?' (2006) 15 P.P.L.R. 55; Georgopoulos A., 'European Defence Agency: The New Code of Best Practice in the Supply Chain' (2006) 15 P.P.L.R. NA145

¹¹ A European Defence Research & Technology Strategy, 10 November 2008 and A Strategy for the European Defence Technological and Industrial Base, 14 May 2007, both at <http://www.eda.europa.eu/documents.aspx>, accessed on 22 February 2009; see also EDA Press Release, 'EDA Steering Board Agrees Path to Implementing Defence Industrial Strategy', 25 September 2007

3. The EDA Capability Development Plan (CDP)

Taking on the improvement of defence procurement upstream, the EDA started by improving the definition process for the requirements of the armed forces of the EU Member States.

In October 2006, the EDA produced a Long-Term Vision (LTV) report for European defence capabilities and capacity needs.¹² This document provided an overview of the context of global security and the related challenges for the European defence forces and for ESDP. On that basis, the document reviewed the implications for the future capabilities required by European defence forces and highlighted some key issues on which European defence planners would need to concentrate. The three areas most relevant for collaborative procurement were:

- Interoperability, to be achieved preferably through greater commonality of equipment and systems, and shared or pooled capability;
- Rapid acquisition, in particular quicker exploitation of new technology; and
- Industrial policy, especially averting a steady contraction and decline of the European defence industry by increasing investment, consolidating the European technological and industrial base, and targeting the strategic industrial capacities that have to be preserved or developed.

In order to build on that report, the EDA was tasked to develop, together with its Member States and the other EU institutions, a Capability Development Plan (CDP) aiming at providing a systematic and structured approach to building the capabilities required by the armed forces of the EU Member States for operations under the ESDP and at assisting EU Member States in developing their national plans and programmes. The aims of the CDP were described as¹³:

- Making the Long-Term Vision capability guidance more specific;
- Identifying priorities for capability development;

¹² European Defence Agency, 'An Initial Long-Term Vision for European Defence Capability and Capacity Needs', 3 October 2006, at <http://www.eda.europa.eu/genericitem.aspx?id=146>, accessed on 20 October 2008; EDA Press Release, 'EU Defence Ministers Welcome Long-Term Vision for European Capability Needs', 3 October 2006

¹³ EDA Press Release, 'EU Governments Launch New Plan to Build Defence Capabilities for Future ESDP Operations', 14 December 2006

- Bringing out opportunities to pool resources and to cooperate.

The first Capability Development Plan was endorsed by the EU Member States in July 2008. It defines a framework for European governments to work together to improve the military capabilities required for ESDP operations, and identifies and prioritises the actions to be undertaken. It provides an analysis of capability needs, trends and potential shortfalls up to 2025 and a database of national plans and priorities which should help the participating Member States to identify and exploit areas of common interest. The Plan is not presented as a supranational military equipment or capability plan aiming at replacing national defence plans and programmes; rather it aims at supporting national decision-making. On that basis, the EDA Steering Board agreed a number of actions to be taken forward in twelve specific domains of defence capabilities. The plan is a living document that will require regular updates.¹⁴

4. The European Armaments Cooperation Strategy

Creating a framework for the common identification and prioritisation of requirements is, however, only a first step in armaments cooperation. One of the aims of the Capability Development Plan is to bring to light possibilities for further collaboration in procuring the required capabilities. Based on the shortfalls of collaborative defence procurement identified above, it is obvious that more is needed.

Therefore, in order to promote and enhance more effective European armaments cooperation in support of the ESDP, the EDA approved in October 2008 a European Armaments Cooperation Strategy.¹⁵ One of the sources for identifying capabilities for which cooperation could be performed is clearly the Capability Development Plan, but the strategy recognises that not all the requirements flowing from the Plan will be fulfilled through cooperative programmes. The strategy has three strategic aims.¹⁶

¹⁴ European Defence Agency, 'Background Note – Capability Development Plan', 8 July 2008; EDA Press Release, 'EU Governments Endorse Capability Plan for Future Military Needs, Pledge Joint Efforts', 8 July 2008 (the full Capability Development Plan itself does not seem to be publicly available)

¹⁵ European Armaments Co-operation Strategy, 15 October 2008, <http://www.eda.europa.eu/documents.aspx>, accessed on 21 February 2009; EDA Press Release, 'EU Governments Agree on an Armaments Cooperation Strategy', 16 October 2008

¹⁶ European Armaments Co-operation Strategy, note 16 above, pp.7-10

The first is to generate, promote and facilitate the initiation of cooperative programmes to meet defence capability needs. To achieve this aim, the participating Member States and the EDA should rely on the Capability Development Plan to identify possibilities for cooperation early in the life-cycle of the requirement. Once military needs are harmonised between the participating Member States, future cooperative programmes should be prepared in a structured manner in a so-called ‘Preparation Phase’ and then managed by appropriate executive agencies. During the life of each collaborative programme, its continuing relevance and coherence with other initiatives should be verified at each major decision point. Cooperation should not only be considered for the initial procurement of a capability, but also through life for in-service support and future upgrades of the equipment.

The second aim of the strategy is to ensure that the European Defence Technological and Industrial Base (EDTIB) and the investments therein are capability-orientated towards the goals of the Capability Development Plan and support future collaborative programmes. For that purpose, the European Defence Technological and Industrial Base must be strengthened, and greater transparency and mutual understanding between governments and industries must be secured on the basis of information flowing from the implementation of the Capability Development Plan, the European Defence R&T Strategy, and the European Defence Technological and Industrial Base Strategy mentioned above. The strengthening of the EDTIB will also require the identification and development of strategic sectors of the European defence market, from which defence equipment would be procured in the long run, even though this should be done in light of developments in the global market.

The third aim of the strategy is to improve the effectiveness and efficiency of European armaments cooperation. For that purpose, possible cooperation should be identified as early as possible, and the harmonisation of the requirements of the Member States be made more effective, thereby avoiding over-specification. The manner in which the programme ‘Preparation Phase’ is to be conducted should be defined, and the management of the programme after this ‘Preparation Phase’ should be improved by clarifying and enhancing the working interfaces between the participating Member States, the EDA and the executive programme management agencies, adopting a through-life approach, improving standardisation, and using best practices in programme management. The European Defence Test and Evaluation Base (DTEB) must also be optimised.

A high number of actions were identified against each of the three strategic aims in order to start the implementation of the European Armaments Cooperation Strategy,¹⁷ many of which are for the EDA to implement. Among the most important of these actions, the following ones should be highlighted:

- Producing a guide to the conduct of a programme Preparation Phase;
- Facilitating and supporting the harmonisation of Common Staff Targets (CST) and Common Staff Requirements (CSR);
- Fostering the use of the Capability development Plan to identify opportunities for cooperation in all acquisition decisions;
- Supporting cooperation not only in the initial procurement of weapon systems, but also in future upgrades;
- Exchanging information between governments and industries on long-term European capability planning and industrial long-term investment planning;
- Ensuring transparency and compatibility of procurement policies and practices, including budgetary planning and cycles;
- Improving security of supply and security of information within the EU;
- Seeking a rational and more flexible approach to industrial participation that improves the efficiency and effectiveness of co-operative projects and allows industry to find the most efficient solution to support consolidated requirements (this would seem to mean ‘moving away from the *juste retour* principle’);
- Developing an outline of how the EDA should interface with relevant executive agencies and service providers for the management of cooperative programmes¹⁸;
- Providing information and briefings to explain the benefits of cooperation, particularly to national staffs involved in the initiation of programmes;
- Producing, maintaining and promoting a ‘Guide to Armaments Cooperation Best Practice’.

¹⁷ European Armaments Co-operation Strategy, note 16 above, pp.11-14

¹⁸ In line with this action, the EDA was tasked to start negotiations on an Administrative Arrangement for its cooperation with the Joint Organisation for Armaments Cooperation (OCCAR): EDA Press Release, ‘EDA and OCCAR to negotiate cooperation arrangement’, Brussels, April 2, 2009

The EDA Steering Board further underlined that small and medium-sized enterprises (SMEs) are vital for an innovative and competitive European Defence Technological and Industrial Base, and agreed on developing a number of measures aimed at supporting increased involvement of SME in the defence market. Contracting policies that will enhance SME opportunities to win contracts will be further analysed, and a working group will develop Common Guidelines for simplification and harmonisation of tendering and contracting processes related to lower value contracts. In addition, the EDA will develop an ‘armaments cooperation IT platform’ to enable industry to propose solutions to the capabilities required in priority by the participating Member States.¹⁹

5. Analysis and Conclusions

It has been argued that, within the EU, only the EDA could facilitate the development of the common vision necessary to increase the efficiency of collaborative procurement.²⁰ Some have even argued that the complete management of the collaborative procurement process (including logistic support) should be delegated to the EDA,²¹ and that the EDA intergovernmental defence procurement regime should be extended to apply to collaborative procurement.²² It is certain in any case that the EDA has a key role to play in improving the efficiency of collaborative defence procurement in the EU.

The Capability Development Plan is clearly an essential first step in that direction. It provides for a structured framework for the common identification and prioritisation of the requirements of the EU Member States’ armed forces, which is absolutely necessary before any equipment can be procured collaboratively. The Plan is understandably presented as only a supporting element for national decision-making, as the participating Member States would most likely not have accepted to be bound by a supranational planning process, even though one could argue that they should increasingly consider that alternative in the future.

¹⁹ EDA Press Release, note 16 above

²⁰ Flournoy, Smith et.al., note 1 above, Chapter 4; Maulny et.al., note 2 above, p.26

²¹ Kuechle H., *The cost of non-Europe in the area of security and defence* (European Parliament, DG External Policies, DGExPo/B/PolDep/2005/13, 19 June 2006), p.36

²² Maulny et.al., note 2 above, p.29; Darnis et.al., note 1 above, p.6

It remains to be seen how effective the Capability Development Plan will be, as other similar processes have seen only limited success in the past.²³ Should the participating Member States endorse the Plan without taking the necessary steps to turn its conclusions into concrete programmes, this would not only render the whole process futile, but also squander one of the key opportunities provided by the EDA to optimise defence procurement in the EU – not to mention providing an unfortunate show of bad faith. However, it can be argued that the current context of defence procurement, with the drastic changes in the missions of the armed forces following the end of the Cold War, reduced defence budgets and the pressures of the financial crisis, provides more incentive to cooperate in armaments acquisition than in earlier decades.

In addition, it is clear that the initial tranche of twelve actions flowing from the Capability Development Plan²⁴ is not complete. Even though it covers capabilities that are certainly in short supply and increasingly needed (such as network-enabled capabilities or counter man portable air defence systems), some other well-known deficiencies of EU military forces, such as strategic air transport, are not addressed. It is submitted that more actions will be created once this first tranche has gained momentum.

The European Armaments Cooperation Strategy is a good second step in the right direction. Its contents are strikingly coherent with the conclusions reached in the present author's earlier identification of the areas where collaborative procurement in Europe should be improved.²⁵ If adequately implemented, the strategy would help streamline the pre-contract award phase of collaborative programmes, during which much of the delays and cost increases are created, and move away from *juste retour* and towards more cost-effectiveness whilst helping to provide the European armed forces with the equipment they need.

The strategy also shows that a European preference will likely be given for procurement in some strategic sectors still to be defined. It is probable that the definition of such sectors will lead to fierce battles among participating Member States.

²³ For instance the Western European Armaments Group (WEAG) within the Western European Union (see Assembly of the WEU: Arms cooperation in Europe: WEAG and EU activities – reply to the annual report of the Council, Document Number A/1800, 4 December 2002, at http://assembly-weu.itnetwork.fr/en/documents/sessions_ordinaires/rpt/2002/1800.html, accessed on 24 November 2007) or the Conference of National Armaments Directors (CNAD) within NATO; see *Manuel de l'OTAN* (NATO, Brussels, 1998), pp.195 et.seq.; Bourne, note 4 above, §§2.21-2.24

²⁴ European Defence Agency, 'Background Note', note 15 above, p.3

²⁵ Heuninckx, note 6 above

Unfortunately, some of the actions identified in the strategy are phrased more as declarations of intent than as actual actions. It is unclear who has to perform some of them, how and by when. Even though their intent is worthwhile, they sometimes lack the concreteness required to get things moving. It seems that the participating Member States, whilst recognising the need for such actions, are sometimes reluctant to commit themselves to actually taking the necessary steps to bring them to completion. We can only hope that a detailed follow-up plan exists within the EDA to implement and monitor the actions flowing from the strategy, and that institutionalised peer pressure will be brought to bear when required.

One of the areas where the Strategy remains silent is the clarification of the legal framework and contract award procedures for collaborative procurement. The strategy is focussed on management issues and does not deal directly with legal aspects. The research currently performed in that domain by the author of this article²⁶ is therefore all the more important.

²⁶ Heuninckx B., *Defence Procurement Law in Europe – The Role of International Organisations* (Ph.D. thesis, University of Nottingham, forthcoming in 2011): for more information on this research, see further http://www.planpublicprocurement.org/main/index.php?option=com_content&view=article&id=92 and http://www.nottingham.ac.uk/law/pprg/Group_Members/Current_Research_Students.php