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**Changed Security Environment and Armaments Cooperation  
in the European Union**

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## ČESTNÉ PROHLÁŠENÍ

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# Changed Security Environment and Armaments

## Cooperation in the European Union

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## 1. INTRODUCTION

With the end of the Cold War there was a widely shared view amongst scholars in Europe as well as in the USA to the effect that the victory of western style democracies was overwhelming and lasting. However, developments in the Balkan region in the last decade of the twentieth century tragically showed the significance of such an illusion. The question of capabilities came on the scene with the NATO bombing of Serbia in the Kosovo conflict. Over ninety-five percent of the bombs fired were from planes of the United States.<sup>1</sup> Once again Europeans were unable to deal with conflicts on their territory. This time it was even worse. The European Union was depicted as not only a political but also a military dwarf.

The launching of the European Security and Defence Policy project in 1998 was a step towards independent European forces being able to cope with low-intensity conflicts without the help of the US. But European soldiers need weapons which are designed to combat the military challenges of the 21<sup>st</sup> century. This is hard to achieve in a situation where almost all European defence budgets are steadily decreasing. It is clear that European taxpayers are simply not prepared to pay the costs of their security.

At this point, defence ministers had to count with less support which required more effective use of scarce resources. Pooling of financial means, deeper harmonization of military requirements and technologies and a more competitive defence industry sector in Europe – these were benefits which convinced European leaders to do something about transnational armaments cooperation in Europe. Up to the establishment of the European

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<sup>1</sup> Sloan, Elinor; DCI: Responding to the US-led Revolution in Military Affairs in: NATO Review, Vol. 48 - No. 1, Spring - Summer 2000, pp. 4-7

Defence Agency under the flag of the European Union in summer 2004, member states had been reluctant to give up even a small part of their sovereignty to the international organization in sensitive policy areas such as defence armaments.

My core effort was to find an answer to the question: “*What logic and arguments stood behind the decision to go further in the integration process of the EU towards a common armaments policy via establishing the European Defence Agency?*”. In order to answer this question, a broad analysis of the defence industry sector, pros and cons of the earlier cooperation projects and various defence market activities of the EU institutions are required. Arms export, defence research and technologies, disarmament, individual defence collaborative programmes and public scrutiny were issues that laid on the outskirts of the core subject. Therefore, they were mentioned in references to other themes.

I argue that the member states of the EU had been forced to leave the concepts of full defence autarky in the time of the interdependent global politics. Secondly, the pressure of the rapidly globalizing defence market, traditionally owned by the national governments, and the revolution in military affairs in the post-bipolar period had shattered with the competitiveness and effectiveness of the biggest European arms producing countries. It was not by the accident that heads of states and governments decided to unblock European armaments and give it an institutional foundation at the time while the ratification of the Constitutional Treaty and overall gravitation of the political integration in Europe was at stake.

As regards a timeline, this paper covers the armament cooperation at various institutional settings in the course of the 90s up to the establishment of the EDA and its

first year of functioning. Based on the findings, there is an attempt to make a projection of the analyzed processes to see the major implications for the near future in the armaments sector.

Institutional framework of security organizations where European states are involved, such as NATO, OSCE, OSN or WEU were seen as a separate matter which was described and analyzed only with a relevance to the core of the study – armaments in the framework of EU activities.

## 1.1 THEORETICAL FRAMEWORK – EXPLAINING THE SUBJECT

The very nature of the armaments sector is complex. Even though, armament policy falls within the responsibilities of member states, its development and implementation is driven by many players. Therefore the question of actors in the game is crucial for any theoretical analysis of this subject. The selection of the proper method can help to overcome structural problems.

The author of the study has chosen a liberal intergovernmental perspective which represents the broad family of liberal approaches to the theory of international relations. It recognizes the importance of member states realizing their national interests.<sup>2</sup> According to the liberal intergovernmentalists, a state-centred view is justified by the logic of the interior national politics which orientate governments' decisions. A European layer enables them to come up with solutions which would be impossible at the national level. In fact, it multiplies the importance of national politics rather than weakens it.

Secondly, a multi-level polity and governance scheme of the EU enables to explain the involvement of other actors than states (e.g. EU institutions). Different levels of analysis combined with a liberal intergovernmentalism do not lead to a vaguer description.<sup>3</sup> Neither states nor EU institutions, but both of them plus other players, such as private companies or international organizations influence the armament sector. However, the question of relevance of certain relationships was secured thanks to the focus of states.

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<sup>2</sup> Drulák, Petr; *Teorie mezinárodních vztahů*, Portál, Praha 2003, pp. 193

<sup>3</sup> See e.g. Buzan, Barry; Waeber, Ole; de Wilde, Jaap; *Security. A New Framework for Analysis*, Boulder: Lynne Rienner Publishers, London 1998

Armaments cooperation includes many issues which are relevant to the subject but do not constitute a single major influence. Strategic plans of individual member states, market forces, company views, regional development – these are all influential factors which help to define the sector’s complexity. Legally, armament cooperation belongs to two pillars of the EU construction. Market issues hidden in the first community pillar and ESDP as a part of the Common Foreign and Security Policy in the second pillar complicate the problem in the horizontal perspective. The cross-pillar subject includes different legal provisions and different driving forces.

How then to analyze European armament integration? We have to use the concept of organizational fields within which there are various regimes and actors. To each individual field we can attribute a specific issue and an actor. With an analysis of two organizational fields we can make a second step - a synthesis of the findings.

**Table 1: Fields and Issue of Armaments<sup>4</sup>**

	<i>Defence Field – Anarchy and Intergovernmental Cooperation</i>	<i>Market Field – Interdependence and Supranational Cooperation</i>
Dynamics	End of the Cold War, Military interoperability	Internationalization of high-tech industry, the internal market
Prime issues	Petersberg tasks, Common Joint Task Forces, Partnership for Peace: ESDI, ESDP	European armaments market - European companies
Prime actors	NATO, WEU, EU (second pillar)	EU (first pillar, industry)

<sup>4</sup> Mörth, Ulrika and Britz, Malena; European Integration as Organizing: The Case of Armaments, Journal of Common Market Studies, Volume 42., Number 5., pp. 963



## 1.2 CRITICAL BOOK REVIEW/CENTRES OF EXCELLENCE

The literature on armaments in Europe is broad and multi-faceted. In order to avoid partial or irrelevant views, one has to consider a large number of titles. Therefore, a critical book review is an essential part of the research. The paper was based on five major sources which were: primary sources, secondary literature, interviews with some actors, direct observation and access to documents of selected think-tanks and centres of excellence. This is also a reason why the paper should be seen as a unique contribution to the EU politics research.

Primary sources were principally used to provide legal explanations for certain developments in armaments cooperation. They are comprised of the founding treaties of the European Communities and Council decisions as well as various Commission green papers or white books. The annual volume of *EU Security and Defence Core Documents* served the author as a valuable contribution and practical guide.<sup>5</sup> It is a collection of most important EU official and semi-official texts which deal with CFSP/ESDP affairs. The Commission's SP series, designed to inform the college of Commissioners about the discussions in the committees of the European Parliament was another valuable source.<sup>6</sup> Publication of the *Green Paper on Defence Procurement* and subsequent public consultation period resulted in an anthology of replies from member states, major defence companies from Europe and the USA accessible via internet. It served the author as a comparison of the views of states and companies.

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<sup>5</sup> EU Security and Defence. Core Documents 2005, Volume VI., Chaillot Papers 87, EU Institute for Security Studies, Paris

<sup>6</sup> Commissioners meet on regular basis in order to discuss and decide political and economical matters in the closed meeting called – the college.

Secondly, while there were very few comprehensive books on armaments in Europe available, the major secondary sources involved numerous studies specialized on specific aspects of the defence sector. They were usually issued as policy papers by think-tanks or research centres. Unlimited access to the Central Library of the EU in Brussels enabled the author to get dozens of articles dealing with various dimensions of many armaments problems in the EU. The same applied to the *European Voice* on-line archive – an independent and recognised EU weekly newspaper.

Enriching insight into the problematic was possible due to three interviews done with main actors. To secure an impartial approach, three interviews with the member state representative and two Commission higher-ranked officials had been conducted.

Direct observation was the last but significant and complex input into the author's understanding of the EU institutional setting, its proceedings and power distribution. It was a wonderful opportunity to hear many state and EU representatives and their opinions on the broad political guidelines in the ESDP.<sup>7</sup>

The balance between Europe and the USA is a traditional debate which has immediate consequences in the armaments sector. To find a proper perspective; the studies, publications and articles written by the American authors coming from major think-tanks such as RAND or Brookings Institute on the one side of the Atlantic and the Brussels Centre for Political studies and the European Union Institute for Security Studies based in Paris were included.

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<sup>7</sup> The author spent five months during the autumn traineeship period at the European Commission in Brussels in 2005-2006. He was tasked to write minutes of the Foreign Affairs Committee meetings and hearings in the European Parliament. The Committee had two sub-committees: for human rights and for security and defence chaired by Mr. Johannes Wogau.

## 2. DEFENCE INDUSTRY SECTOR CHARACTERISTICS

The defence industry sector has its own specific features which are almost unique. Armament policy frequently interlinks with military superiority at the core of state objectives. The relationship between the state and its defence industry is often labelled as a military-industry complex. To clarify the term we will use the theoretical concept of two organizational fields with two different sets of rules and actors where one affects the other and *vice versa*. It is necessary to analyze armaments sector characteristics as such in order to fully understand trends and obstacles in the way of a common armament policy in the EU. There are four major factors to be examined. Two external characteristics are economic globalization and the new security environment together with the revolution in military affairs. Two internal specifics are market fragmentation and the evolution of the ESDP. Whereas economic globalization and market fragmentation are primarily economic issues, security environment and ESDP are of a political nature.<sup>8</sup>

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<sup>8</sup> Guy, Terrence and Callum, Robert; The Transformation and Future Prospects of Europe's Defence Industry, *International Affairs* 78/4, 2002, 757-776

## 2.1 GLOBALIZATION AND CONSOLIDATION

Economic globalization strengthening competition on the global scale was one of the prevailing processes in the world markets throughout the 90s. It had certain impacts in the defence industry field. The US government was first to realize it shortly after the fall of the Berlin wall. Therefore, the Department of Defence supported consolidation and mergers amongst major US defence companies. The state and its tenders could not be so attractive for defence companies any more. Given the defence spending reductions, the US government tried to find new possibilities for American firms in the world via promotion and support of arms sales.<sup>9</sup> It started a push for access to the new foreign markets including in recently liberated Eastern Europe. The effort led to a series of mergers of big US companies which resulted in the establishment of four “mega-primers” aerospace firms: Boeing, Lockheed Martin, Northrop Grumman and Raytheon and several sub-contactors which focused on high-level subsystem supply.<sup>10</sup> American suppliers were ranked in four out of the first five places in defence revenues. In general, US corporations make up half of the list of top 100 companies. For more details see Table 2. The combat in arms export started.

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<sup>9</sup> Military spending declined from 400 bil. USD in 1989 to 281 bil. USD in 2001.

<sup>10</sup> The term “mega-primers” originally referred to four biggest defence companies. See Hayward, Keith; *The Globalization of Defence Industries*, Survival, vol. 40, no. 2, Summer 2000, pp. 115-132, The International Institute for Strategic Studies

**Table 2: Top ten defence companies in the World (2000)<sup>11</sup>**

World Company rank	Country	1999 rank	2000 defence revenue/USD	2000 total revenue/USD	% of revenue from defence
1. Lockheed Martin Corp.	US	1	18 000	25 329	71
2. Boeing Co.	US	2	17 000	51 321	33
3. Raytheon Co.	US	4	14 033	16 895	83
4. BAE Systems	UK	3	13 248	18 399	72
5. General Dynamics Corp.	US	5	6 542	10 356	63
6. Northrop Grumman Corp.	US	7	5 600	7 618	74
7. EADS	France	6	4 560	22 799	20
8. Thales	France	8	4 262	7 411	58
9. United Technologies Corp.	US	10	4 130	26 583	16
10. TRW Inc.	US	9	4 000	17 200	23

Consolidation of the vast US defence market forced its European counterparts to do something about their industry. Trans-national companies emerged only in late 90s. European consolidation started around the European Aerospace and Defence Company (EADC), common project of six major arms producing countries – France, Germany, Italy, Spain, Sweden and the United Kingdom.

It was the United Kingdom which announced in January 1999 that the UK's aviation leader British Aerospace would instead of trans-national consolidation be merging with another British company GEC-Marconi, which specialized in defence electronics, regardless the fact that British Aerospace was at that time engaged in negotiations with DASA, the aerospace division of German Daimler-Chrysler. A lost opportunity for a truly pan-European defence company was realized shortly after when

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<sup>11</sup> Guy, Terrence and Callum, Robert; pp. 762

EADC agreed on a cross-border merger with DASA, Aérospatiale-Matra and Spain's Construcciones Aeronauticas (CASA) in 1999 to form the European Aeronautic Defence and Space Company (EADS) without UK participation. Nonetheless, two thirds of EADS's revenues in 2002 came from the civilian aircraft production unit of Airbus where BAe Systems had a 20% share. There were other examples of successful trans-European mergers such as establishment of defence electronics giant Thales in June 2000, second biggest world helicopter producer Augusta Westland in 2001 (after Boeing) or second largest missiles maker MBDA (after Raytheon) formed in 2001.

The EADS company consists of three groups of shareholders: 30% owned by public shareholders and traded on the Amsterdam stock exchange, a second third held by German Daimler-Chrysler and the remaining part held by the French private sector and government.<sup>12</sup> However, Europe maintained a complicated ownership structure in its defence sector whereas US companies are, on the contrary, mainly in private hands. Some experts talk about the "European spaghetti bowl".<sup>13</sup>

European defence sector consolidation at the business level had two approaches. Given BAe Systems' solution, the first was managed through the consolidation of national markets within national borders. The second approach preferred trans-European mergers of "national champions". Both types enjoyed key role and the full support of national governments.<sup>14</sup>

BAe Systems was the only company which was, according to the views of experts, considered as a case for a first large transatlantic merger between European and

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<sup>12</sup> von Wogau, Karl (ed.); *The Path to European Defence*, Maklu, Antwerpen 2004, pp. 232-233

<sup>13</sup> Keohane, Daniel; *The EU and Armaments Cooperation*, Center for European Reform, London 2002, pp.8

<sup>14</sup> Maulny, Jean-Pierre; *Industrial and Strategic Co-operation Models for Armaments Companies in Europe*, IRIS, 2003

American firms.<sup>15</sup> It would be a rare occasion as foreign investment in the USA is highly restricted.<sup>16</sup> After the proliferation of new threats in the 90s and thorough security measures introduced after the 11 September 2001 attacks, the US government and the Congress tried to monitor and prevent any possibility of hi-tech or sensitive technologies being sold into the hands of terrorists. Thanks to the “special relationship” which was established between the UK and the USA decades ago, British corporations have much easier access to US defence market and technologies whereas German or French corporations are not trusted. For a possible transatlantic merger, only BAE Systems is a suitable candidate both economically as well as strategically. Even though the US market was hard to penetrate, UK companies were able to secure up to 50% share of US imports. In total, the UK defence industry exports more goods and services to the US than to Europe. BAE Systems is the fourth largest defence contractor in the USA.<sup>17</sup>

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<sup>15</sup> Guy, Terrence and Callum, Robert; pp. 761

<sup>16</sup> Nones, Michele and Darnis, Jean.Pierre; Control of Foreign Investments in Aerospace and Defence, *The International Spectator* 3/2005, 83-90

<sup>17</sup> Input to the Consultation on the Green Paper on Defence Procurement by the Defence Manufacturers Association (DMA) of the United kingdom, January 2005 accessed via [http://europa.eu.int/comm/internal\\_market/publicprocurement/dpp\\_en.htm#consultation](http://europa.eu.int/comm/internal_market/publicprocurement/dpp_en.htm#consultation), viewed 20 April 2006

## 2.2 NEW SECURITY ENVIRONMENT

Reinvention of defence cooperation at the European level was initiated by the end of East-West conflict.<sup>18</sup> The geopolitical situation after the fall of the Berlin Wall diminished for a while the need to foster arms races of two adversarial blocks. Politicians as well as academics rapidly believed that western-style democracies won the battle for lasting peace. By then the only but generous “hard security” provider had been NATO and mainly the USA.<sup>19</sup> American taxpayers started to question national politicians why they had to pay for the security of Europeans if the enemy number one – the Soviet Union - was dissolved. The traditional and strong reasoning of the pro-isolation camp again clashed with a pro-intervention group in American politics.<sup>20</sup> Jolyon Howorth pointed out:

*„These two elements (European military inadequacy and US budgetary concerns) raised in acute form the question of how much longer the American public would be prepared to underwrite an alliance in which the European side was increasingly widely believed to be free-riding”.*<sup>21</sup>

Europeans thought that it was the right time to take the cash from the “peace dividend”. They lost a belief in the importance of the army and the need to pay the costs

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<sup>18</sup> Rusi, Alpo M.; Europe's Changing Security Role in Gärtner, Heinz; Hyde-Price, Adrian; Reiter, Erich (eds.); Europe's New Security Challenges, Lynne Reiner publishers, London 2001, pp. 119-120

<sup>19</sup> Missiroli, Antonio; CFSP, Defence and Flexibility, Chaillot Papers 28, Institute for Security Studies WEU, Paris 2000, pp. 12

<sup>20</sup> For further details see: Sloan, Stanley R., The United States and European Defence, Chaillot Papers 39, Institute for Security Studies WEU, Paris 2000

<sup>21</sup> Howorth, Molton; European Integration and Defence: The Ultimate Change?, Chaillot Papers 43, Institute for Security Studies WEU, Paris 2000, pp. 21



of feeling secure. It was not only European taxpayers which started to be reluctant to allocate their taxes for defence purposes. It became a global trend to decrease financial resources dedicated to the defence budget. However the trend was shifted in the first decade of the 21<sup>st</sup> century. See Table 3a and 3b.

**Table 3a: NATO Defence expenditures as % of gross domestic product 1975-1999<sup>22</sup>**

Country / Pays	Average / Moyenne 1975 - 1979	Average / Moyenne 1980 - 1984	Average / Moyenne 1985 - 1989	Average / Moyenne 1990 - 1994	1995	1996	1997	1998	1999e
(0)	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
<b>Based on current prices / Sur la base des prix courants</b>									
Belgium	3,2	3,3	2,8	2,0	1,6	1,6	1,5	1,5	1,5
Czech Republic	//	//	//	//	//	//	//	//	2,2
Denmark	2,3	2,4	2,0	1,9	1,7	1,7	1,7	1,6	1,6
France	3,8	3,9	3,8	3,4	3,1	3,0	2,9	2,8	2,8
Germany	3,4	3,4	3,0	2,2	1,7	1,7	1,6	1,6	1,5
Greece	5,6	5,4	5,1	4,4	4,4	4,5	4,6	4,8	4,9
Hungary	//	//	//	//	//	//	//	//	1,6
Italy	2,1	2,1	2,3	2,1	1,8	1,9	2,0	2,0	2,0
Luxembourg	0,9	1,1	1,0	0,9	0,8	0,8	0,9	0,9	0,9
Netherlands	3,1	3,1	2,9	2,4	2,0	2,0	1,9	1,8	1,8
Norway	2,8	2,7	2,9	2,8	2,4	2,2	2,1	2,3	2,2
Poland	//	//	//	//	//	//	//	//	2,2
Portugal	3,4	3,0	2,7	2,6	2,6	2,4	2,3	2,2	2,2
Spain	..	2,3	2,2	1,7	1,5	1,5	1,4	1,4	1,4
Turkey	4,4	4,0	3,3	3,8	3,9	4,1	4,1	4,4	5,7
United Kingdom	4,9	5,2	4,5	3,8	3,0	3,0	2,7	2,7	2,6
<b>NATO - Europe</b>	..	3,6	3,2	2,7	2,3	2,2	2,2	2,2	2,2
Canada	1,9	2,0	2,1	1,9	1,5	1,4	1,2	1,2	1,2
United States	5,0	5,6	6,0	4,7	3,8	3,5	3,4	3,2	3,2
<b>North America</b>	4,7	5,3	5,0	4,5	3,7	3,4	3,3	3,1	3,0
<b>NATO - Total</b>	..	4,5	4,5	3,6	3,0	2,8	2,8	2,7	2,6

<sup>22</sup> NATO Defence expenditures 1975-1999, accessed via <http://www.nato.int/docu/pr/1999/table3.pdf>, 20 April 2006

**Table 3b: Defence expenditure in the EU and the USA<sup>23</sup>**

EU Country	Defence Budget (bn USD)				Defence Expenditure (GDP%)		
	2001	2002	2003	2004	2001	2002	2003
United Kingdom	33,6	33,6	42	49	2,1	2,4	2,4
France	25,8	30,7	35,3	40	2,5	2,5	2,6
Germany	21,5	25,1	27,7	29,7	1,5	1,5	1,5
Italy	15,9	14,5	15,7	17,5	2	1,9	1,9
Spain	7,1	6,7	7,1	8	1,2	1,2	1,2
Netherlands	5,7	6,9	7,2	7,6	1,6	1,6	1,6
Sweden	4,1	4,6	5,5	5,9	2,1	1,9	1,8
Greece	3,4	3,6	3,6	3,7	4,6	4,3	4,1
Poland	3,4	3,5	3,9	4,4	2	1,9	2
Belgium	2,3	2,8	3	3,3	1,3	1,3	1,3
Denmark	2,1	2,2	2,6	2,9	1,6	1,6	1,6
Austria	1,5	1,8	2,5	2,7	0,8	0,8	1
Finland	1,4	2,1	2,3	2,6	1,2	1,4	1,4
Czech Republic	1,2	1,5	1,9	1,9	2,1	2	2,2
Portugal	1,6	1,7	1,9	2,1	2,1	2,3	2,1
Hungary	0,82	1,1	1,4	1,7	1,8	1,8	1,9
Ireland	0,79	0,78	0,8	0,86	0,5	0,6	0,5
Slovakia	0,35	0,46	0,62	0,72	1,7	1,9	1,9
Slovenia	0,28	0,27	0,38	0,46	1,4	1,2	1,4
Cyprus	0,35	0,26	0,29	0,15	2,6	2,4	2,3
Lithuania	0,17	0,27	0,27	0,31	1,8	1,8	1,8
Luxembourg	0,15	0,2	0,23	0,26	0,8	0,9	0,9
Latvia	0,08	0,11	0,19	0,23	1	1,3	1,9
Estonia	0,07	0,1	0,16	0,2	1,2	1,5	2
Malta	0,03	0,07	0,09	0,1	1,8	1,9	2,1
EU 25	133,67	147,94	166,64	186,28	1,9	1,9	1,9
USA	329	362,1	456,2	450,5	3	3,3	3,7

The potentially tragic consequences of such thinking were proved during the violent disintegration of former Yugoslavia. The European Communities, a dominant economic power, were unable to stop aggression and wide-spread human rights violations. Economic sanction and the soft power use of diplomacy were irrelevant face to face horrors of ethnic cleansing carried out by paramilitary troops. Adrian Hyde-Price brilliantly described the situation:

<sup>23</sup> Defence spending, EU ISS, Paris 2005, accessed via <http://www.iss-eu.org/esdp/11-bsdef.pdf>, 20 April 2006

*“At the international level, the “clear and present danger” of Soviet aggression was superseded in the 1990s by more diffuse risks and challenges entailing a variety of possible use of military force. Security concerns about major inter-state wars between great powers declined significantly, to be replaced by internationalized conflicts, often between sub-state actors, fuelled by domestic conflicts over identity and scarce resources.”*<sup>24</sup>

New threats and challenges compelled European armies to respond via new types of missions. There were no tanks or big armies operating in the battle field. Terrorists, international criminal nets and armed non-state groups using guerrilla tactics, modern ways of communication and unconventional weapons against soft targets posed serious troubles to state-centric and military focused approaches to security which prevailed during Cold War times. Only broader concept of security explained why the number of peace-keeping or humanitarian missions increased and why scholars and officials have to take into account that also non-state actors can be possible enemies and parties to conflicts.

The geostrategic situation of the globalised world has its repercussions into armaments. In the case of Kosovo we could observe small paramilitary groups equipped with low-tech weapons worth only several thousand euros carrying out terrific violence. On the other hand these targets were counter attacked by “smart-bombs” fired from American special stealth jets from a distance of ten kilometres costing 1 million dollars each and causing highly sensitive collateral damages. Secondly, US authorities estimated

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<sup>24</sup> Hyde-Price, Adrian; European Security, Strategic Culture, and the USE of Force, European Security, Volume 13, Number 4/2004, pp. 331

that the terrorist organization al-Qaeda spent up to half a million dollars in order to carry out devastating attacks on 11<sup>th</sup> September 2001. The damage to private-properties and infrastructure in the city of New York mounted to 11 billion dollars. Rescue and cleaning-up operations added on 14 billion dollars in costs. There are real lessons to be learnt from modern types of conflicts for the effective use of force. Two examples of major possible sources of instability in the Europe have to be considered carefully with the aim to find proper and effective ways for response.

### 2.3 EUROPEAN SECURITY AND DEFENCE POLICY

External factors boosting the cooperation in the field of armaments would not be far-reaching without strong political backing. It would be senseless to speak about a single armaments policy in the EU without having a “European army”. European soldiers, regardless of being deployed under the EU or national flag, have to fight with equipment designed to combat threats of the 21<sup>st</sup> century. Concepts for cooperation in defence are not recent. However concrete steps on the way towards European independence in the international arena would gain it higher credibility.

After the effort to incorporate it into the system of the community law foreign and security agenda in Maastricht 1992 only few observers thought it would have a long-lasting impact. The Balkan wars confirmed such a view. On the other hand the EU gained at least a basic level of legality when speaking about external defence matters. Common foreign and security policy, the second pillar of the EU structure, added to the core market-related integration a significant political dimension.

The toothless reaction of the EU at the time of wars in former Yugoslavia changed dramatically the way in which European security had been considered so far. European public opinion demanded from its leaders not national but pan-European reaction. More than seven out of ten Europeans (EU 15) voiced out their belief that they would support Common Defence and Security Policy at the European level.<sup>25</sup> The first political impacts came up during the Amsterdam negotiation.

For the first time, a treaty included the possibility of conducting so called “Petersberg missions”. The missions such as humanitarian, rescue and peace-keeping

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<sup>25</sup> Eurobarometer 54<sup>th</sup> Report, Support for key issues, Brussels, 2000

operations were already adopted by the Western European Union in June 1992.<sup>26</sup> The Amsterdam Treaty foresaw a future consolidation of the complicated security organizations architecture via incorporating the WEU into the EU framework. Since then, WEU Council could unanimously decide whether to send or not its member state armies into the above mentioned types of missions.<sup>27</sup>

It was the UK under Tony Blair which boosted defence cooperation in Europe during a visit to France in December 1998 where a St. Malo Declaration was signed. London's aim was to engage Britain in European affairs after a decade of hesitation. On the other hand Jacques Chirac and the French were convinced that a stronger European defence identity could weaken the NATO and therefore the US influence in Europe. The compromise was aware of the fact that "hard-security"/collective defence was in Europe provided by NATO and at the same time it reads:

*"The Union must have the capacity for autonomous action, backed by credible military forces, the means to decide to use them, and readiness to do so, in order to respond to international crises... Europe needs strengthened armed forces that can react rapidly to the new risks, and which are supported by a strong and competitive European defence industry and technology."*<sup>28</sup>

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<sup>26</sup> WEU Council of Ministers Petersberg Declaration, Bonn, 19. June 1992, in: <http://www.cip.fuhem.es/ueh/documentos/ueo/92-petersberg.htm>, 16.3.2003

<sup>27</sup> The decision to put the WEU under the EU framework was carried out at the WEU Ministerial Council meeting in Marseille on 13 November 2000. The EU took over its Petersberg functions and the WEU in fact ceased to exist.

<sup>28</sup> Rutten, Maartje (compiled by); From St-Malo to Nice. European defence: core documents, ISS WEU, Paris 2001, pp. 8-9

The UK “sea change” did not change the traditional “special relationship”. British political circles understood that the Americans wished to have strong European allies being able and prepared to intervene in situations in which NATO was not engaged. This activity must not be a duplication of NATO and EU resources. Complementarity and compatibility of assets instead of unbalanced burden sharing was the desired target.

The British government did not act without the prior support of the USA which agreed upon the enhanced role for the European pillar of NATO. Europeans should be strengthened via European Security and Defence Initiative using the concept of Combined Joint Task Forces which were in fact double-hatted.<sup>29</sup> These troops were at the disposal of the WEU as well as NATO. Based on the North Atlantic Council in Berlin 1996 WEU-led operations could have access to the capabilities, assets and headquarters of the Alliance (Berlin Plus Agenda).<sup>30</sup> NATO-EU agreement from December 2003 specified Berlin Plus arrangements. It covered three main elements that were directly connected to operations and which could be combined: EU access to NATO planning, NATO European command options and use of NATO assets and capabilities.<sup>31</sup>

A real impetus to the creation of the “European army” was driven by a decision taken at the December 1999 Helsinki European Council meeting. The European Headline Goal called for EU member states to be able to deploy 60,000 troops, within 60 days and sustainable for a year in support of the Petersberg Tasks by 2003. EU-led Rapid Reaction

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<sup>29</sup> The troops could be used for NATO but for EU missions as well. The US declared its position at the 50th anniversary NATO summit in 1998. The Secretary of State Madeleine Albright articulated what would become known as the „Three Ds“ of NATO weapons policy: that there must not be no decoupling of the United States from NATO, duplication of effort of resources or discrimination against NATO allies. Rutten, Maartje (compiled by); From St-Malo to Nice. European Defence: core documents, Volume I., Chaillot Papers 47, ISS WEU, Paris 2001, pp. 10

<sup>30</sup> NATO Handbook Documentation, NATO Office of Information and Press, Brussels 1999, pp. 370-385

<sup>31</sup> Missiroli, Antonio (compiled by); From Copenhagen to Brussels. European Defence: core documents, Volume IV, Chaillot Papers 67, ISS EU, Paris 2003, pp. 48-49

Forces assembled in response to a crisis would last only for the duration of the crisis and it would be up to the member states themselves to decide whether, when and how to contribute troops.<sup>32</sup> Further on, EU established number of specific ESDP structures to take care about the military and strategic planning. Today there are: EU Military committee, EU Military staff, European Defence Agency, EU Institute for Security Studies and EU Satellite Centre.

Limits to defence integration were set by the fact that the Presidency conclusions from Helsinki contained a sentence, which clearly stated, “This process does not imply creation of the European army”.<sup>33</sup>

Since January 2003 the EU had conducted fifteen different types of missions ranging from the European Union Police Mission (EUPM) in Sarajevo, over military operation ALTEMIS in the Congolese province of Ituri, EUJUST THEMIS mission to support transformation of the judicial system in Georgia or the Border Assistance Mission at Rafah crossing point in the Palestinian territories (EU BAM Rafah).<sup>34</sup>

Besides the troubles with sizing the Rapid Reaction Forces there were huge obstacles with the capabilities of these troops. Shortfalls were discussed at the first Brussels Capabilities Commitment Conference on 20th November 2000 where each member state declared its national assets to the European Headline Goal. The commitments were specified in the “Force Catalogue”. In total it was declared that in order to achieve EHG, the EU needed to pool 100,000 personnel, 400 combat aircraft and

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<sup>32</sup> Rutten, Maartje (compiled by); From St-Malo to Nice. European defence: core documents, Volume I, Chaillot Papers 47, ISS WEU, Paris 2001, pp. 82-83

<sup>33</sup> Ibid., pp. 82

<sup>34</sup> See the official sites of the Council of the EU, <http://ue.eu.int/showPage.asp?id=268&lang=en&mode=g>, 17 April 2006



100 naval vessels.<sup>35</sup> The Conference also made it possible to identify a number of areas in which efforts were needed to upgrade existing assets, investment, development, and coordination to enhance the capabilities required for autonomous EU action. Last but not least, a short appreciation of defence industry restructuring in certain member states was done while it encouraged the development of European capabilities. Airbus A400M transport aircraft and Troop Transport Helicopters NH 90 projects were mentioned as successful examples of transnational European defence industry cooperation.<sup>36</sup>

One year on, at the Capability Improvement Conference (CIC) member states identified additional shortcomings and agreed on a plan of action to remedy them. The European Capability Action Plan (ECAP) was presented at the Laeken European Summit in December 2001. Nineteen panels of experts were set-up. Each was led by one “leading nation”. They were tasked to bridge the gaps in the “shortcomings” catalogue (see Table 4). Ministers recognized the important role of European industry while linking the strength and competitiveness of the European industrial and technological base and the success of the ECAP.<sup>37</sup>

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<sup>35</sup> Rutten, Maartje (compiled by); From Nice to Laeken. European defence: core documents, Volume II, Chaillot Papers 51, ISS EU, Paris 2002, pp. 95-100

<sup>36</sup> *Ibid.*, pp. 100

<sup>37</sup> *Ibidem*

**Table 4: European Capability Action Plan – 19 panels<sup>38</sup>**

<b>Panels</b>
Attack Helicopters/Support Helicopters
Nuclear, Biological, and Chemical Protection (NBC)
Unmanned Air Vehicles (UAV)/Surveillance and Target Acquisition (STA) Units
Medical Role 3/Medical Collective Protection Role 3
Special Operations Forces (SOF)
Carrier Based Air Power
Suppression of Enemy Air Defence (SEAD)
Air-to-Air Refueling (AAR)
Combat Search and Rescue (CSAR)
Cruise Missiles/Precision Guided Munitions
Theatre Ballistic Missile Defence
Deployable Communication Modules
Headquarters (OHQ, FHQ, CCHQs)
Theatre Surveillance and Reconnaissance Air Picture
Strategic ISR IMINT Collection
UAV (HALE, MALE and tactical UAVs)
Early Warning and Distant Detection Strategic Level
Strategic Air Mobility/Outsized Transport Aircraft, General Cargo Aircraft
Roll-On-Roll-Off Vessels (RO-RO)/General Cargo Shipping

Some of these shortfalls could be addressed through short-term solutions such as leasing or upgrading. For a number of shortfalls, including some related to strategic capabilities, a long-term solution requires large-scale procurement projects to be

<sup>38</sup> Schmitt, Burkard; European Capabilities Action Plan, ISS EU, 2005, pp. 1 and 2, [www.iss-eu.org/esdp/06-bsecap.pdf](http://www.iss-eu.org/esdp/06-bsecap.pdf), 16 April 2006

developed. Some of these collaborative projects are already under way, while others are not. Compare Table 4 with Table 5.

**Table 5: Ongoing Collaborative Programmes<sup>39</sup>**

<b>PROGRAMMES</b>	<b>PARTICIPATION</b>	<b>DESCRIPTION</b>
A400M	Germany, Belgium, Spain, France, Luxembourg, UK, Portugal, Turkey	Future transport aircraft
Air command and control system	NATO countries	Command and control support system for air operations integrated at the European level
BONUS	France, Sweden	Guided anti-tank shell programme
BREVEL	Germany, France	Remote-controlled light drone system
COBRA	Germany, France, UK	Counter-battery radar
EH 101	Italy, UK	Military transport helicopter
EUROFIGHTER	Germany, Spain, Italy, UK	New generation combat aircraft
Future Ground-to-Air Family	France, Italy	Air defence systems family
HELIOS	Helios I: France, Italy, Spain Helios II: France, Belgium	Optical observation system
HORIZON	France, Italy	New generation anti-aircraft frigates
HOT	Germany, France	Long-range wire-guided anti-tank missile
New Generation Multiple Rocket Launcher	Germany, US, France, Italy, UK	Precision rocket, modernization fire control system and exercise rocket
METEOR	Germany, Spain, France, Italy, UK, Sweden	Medium-range air-to-air missile
Multifunction Information Distribution System	Spain, US, France, Italy, Germany	High-speed inter-ally and inter-army tactical data transmission system
MILAN	Germany, France, UK	Medium-range portable wire-guided anti-tank missile
MRAV	Germany, Netherlands	Multi-role armoured vehicle
MU 90	France, Italy	Light torpedo for anti-submarine combat vessels
New Generation Identification Friend or Foe	Germany, France	New generation air-to-air and ground-to-air Identification friend or foe system
NH 90	Germany, France, Italy, Netherlands, Portugal	Military transport helicopter
Principal Anti-Aircraft Missile System	France, Italy, UK	Principal weapons system of future Franco-Italian Horizon and British T45 anti-aircraft frigates
POLYPHEME	Germany, France, Italy	Fibre-optic guided missiles
RITA	Belgium, France	Modernization of RITA tactical telecommunications network
SCALPE EG/Storm Shadow	France, UK, Italy	Long-range wire-guided anti-tank missile
SLAT Anti-Torpedo Combat System	France, Italy	Anti-torpedo detection and reaction system for surface vessels
TIGER	Germany, France	New generation combat helicopter

<sup>39</sup> Schmitt, Burkard; Armaments Cooperation in Europe, ISS EU, Paris 2005, <http://www.iss-eu.org/esdp/>, 20 April 2006

For the first time we could read in the Council's Conclusions that the National Armaments Directors of the EU member states were welcome to participate in the ECAP process which could lead to the establishment of "intergovernmental defence capabilities development and acquisition agency" which would enhance armaments cooperation in Europe.<sup>40</sup> Under given conditions, it was widely assumed that a bottom-up approach could bring better results than weak political declarations at the European level.

Burkard Schmitt lists four major weak points of the ECAP process. First of all, it is the voluntary concept of contributions. No member state can be forced to fund properly reserved capabilities. Secondly, the technical level and numerous panels at which ECAP was discussed proved a lack of clear political leadership. Although there were certain timelines and reporting procedures, it was a limited approach to the European military capability both in time (current shortfalls) and scope (dealing solely with EHG problems).<sup>41</sup>

Having many troubles creating the troops for EHG, member states decided to go step by step and start with much less ambitious goals. At the June 2004 European Council meeting, heads of states and governments tabled a new "2010 Headline Goal". It was based on the concept of thirteen multinational battle groups of up to 1,500 men. The priority was given to quality then quantity.

Based on the exchange of views with General Jean-Paul Perruche, Director of the European Union Military Staff, battle groups are military forces with pre-identified

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<sup>40</sup> Missiroli, Antonio (compiled by); From Copenhagen to Brussels. European Defence: core documents, Volume IV, Chaillot Papers 67, ISS EU, Paris 2003, pp. 91

<sup>41</sup> Schmitt, Burkard; European Capabilities Action Plan, ISS EU, 2005, pp. 3-4, [www.iss-eu.org/esdp/06-bsecap.pdf](http://www.iss-eu.org/esdp/06-bsecap.pdf), 16 April 2006

capabilities, which member states would deploy as a rapid reaction force.<sup>42</sup> There would be one (German) battlegroup on alert throughout 2006, followed by two on alert on a six-month rotational basis. The EU should be capable of taking decisions to launch battlegroups within five days of a Council decision to act, with operations on the ground ten days after that, giving a deployment period of 15 days.<sup>43</sup> The battlegroups could be used to intervene in all areas of ESDP and would be particularly adapted to evacuating nationals and providing assistance to humanitarian missions. Full operational capability is expected by the beginning of the year 2007.<sup>44</sup>

Once a full operational capability is reached in 2007, the EU should have the capacity to undertake (and launch nearly simultaneously) two concurrent single battalion-sized rapid response operations. Further on, at the Military Capability Conference in Brussels it was agreed that:

*“The newly established European Defence Agency will play crucial role in the improvement framework for capability development. Its mission is to assist Member States’ efforts to improve their military capabilities to sustain ESDP as it stands now and develops in the future.”*<sup>45</sup>

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<sup>42</sup> Exchange of views, European Parliament: Meeting of the Subcommittee on Security and Defence Brussels, 21 February 2006

<sup>43</sup> EU Security and Defence. Core documents 2004, Chaillot Papers 75, Volume V, ISS EU, Paris 2005, pp. 63

<sup>44</sup> Ibid., pp 301

<sup>45</sup> Ibid., pp 304

### 3. EUROPEAN DEFENCE EQUIPMENT MARKET – CURRENT OBSTACLES

The European Defence and Equipment Market enabling free movement of defence goods and services has not been fully working yet. There are legal and political reasons for this situation. Following chapter tries to find out which reasons and traditions there are. Only states possess sufficient political power to remove these obstacles. They decide whether free competition will be allowed to dominate the common European market. Single but certainly highly important issue has been defence procurement. Recently, new trends in defence procurement, integral part of the European armaments cooperation, positively affected the development of a more transparent and accountable European market with defence goods and services.

### 3.1 ROLE OF THE STATE

There are several reasons for the strong influence of the state in the defence sector. The number of relationships between state institutions and the defence industry creates a dense net of interactions. The complex nature of the so-called military-industry complex attaches to this term mixed and somewhat grey connotations. Therefore a closer look at the relationship could enhance our understanding of its specifics.

The dominant role of the state in defence markets across Europe remains unchanged. However, limited achievements followed after the privatization processes throughout the last decade of the 20<sup>th</sup> Century. Apart from historical reasons to a strong state involvement in this particular field of industry there is a list of five major functions:

- a. The states, as sole clients on the demand side of the free market, determine the demand for products according to their strategic objectives and therefore define the size and the scope of the market with defence goods and services.
- b. The states finance military research and development influencing the technological level of know-how and long term competitiveness of many non-military branches of industry.
- c. As a traditional regulatory body of the arms trade, state institutions usually issue export licenses. It applies actually on the intra-European trade, which should be governed by the EU *acquis communautaire* (EU law).<sup>46</sup>

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<sup>46</sup> The term "intra-European" trade refers to the trading activities among members of the European Union respecting community law provisions applied to the common market.

- d. The state is also the supreme authority for calls for tender. Through this effective tool it is possible to restrict competition on the European market.
- e. States can also control industrial restructuring and levels of shareholding. The “Buy American Act” for example sets minimal qualifications and maximum shares for foreign companies in order to qualify for a tender in the USA.<sup>47</sup>

Security of supply is one of the major concerns of states. For any state/client it is vital to have fixed and solid guarantee of the supply ranging in time horizon from the development of an arms program, testing period, actual use until its withdrawal from the service together with a guarantee of maintenance works during peace and war.

There are two serious consequences of security of supply. First, high level of a state autonomy and independence can be achieved through national suppliers and producers. A national arena of firms and contracting authorities sets up a military-industry complex. Secondly, an important question of technological supremacy, which makes the difference in modern warfare, is secured by special national measures (e.g. security clearances) carried by national agencies in order to grant the confidentiality of the supplier's armaments programs. Any misuse or disclosure of sensitive technologies can give any potential enemy strategic advantage.

The development of defence systems has its implication for military as well as civil use. The time between the expression of an operational need and the end of the system's life (system is discarded from the army equipment) may last well beyond a fifty-year period. Since production volumes are limited and the risk of commercial failure is high,

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<sup>47</sup> Nones, Michele and Darnis, Jean.Pierre; Control of Foreign Investments in Aerospace and Defense, *The International Spectator* 3/2005, 83-90



companies request guaranteed prices whereas states require quality. Special relations between the demand and supply have to be established. In the case of defence companies, it is the relationship between the government and defence industry.

In addition, “off-the-shelf” arms purchases are often conducted under offset conditions, which are set up by the state. This allows the purchasing country to require a return of investment that can exceed the original value of the contract. Offsets can be direct, in the form of orders for local companies or in the form of know-how and technology transfers. Indirect offsets, concerns non-military industrial sectors. Offset policies are related to huge amounts of the capital invested in the given state and region. Any inconveniences and sudden changes can lead to the job loses. Politics is therefore at high stake in this specific field of business.

### 3.2 MARKET FRAGMENTATION

While globalization and the changing geopolitical environment are trends which force European states to cooperate on armaments, European defence market fragmentation has serious cooperation slow-down impacts (see Chapter 2.1).

A young rank-and-file European will not be surprised that the four economical freedoms are freely floating in the EU nowadays. It is not the case of defence goods and services which are exempted from the regime of free movement in the internal market since the very beginning of the European integration process. In other words, there are 25 different import/export custom rates, administrative provisions and arms trade policies being set up even though one of the core reasons to start the integration in Europe after the Second World War was the control of strategic military related industries – coal and steel sectors. It was a security rather than economic interest.

To establish a common European Defence Equipment Market (EDEM) many things have to change. The trading between suppliers and customers must not be restricted. There are several benefits of the EDEM. Companies could operate on a larger market than only national. They could also rationalize their production in order to achieve the economy of scale. Transnational cooperation would reduce unnecessary duplication. Competition among suppliers would project in reduced prices.

A concept of full autarky in other than strategic and defence matters led to a traditional split into the national defence markets.<sup>48</sup> It affected the size of the market and its ability to cover sufficiently increasing costs of the research and development of the

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<sup>48</sup> See the thorough analysis in: The Green Paper on Defence Procurement, European Commission, Brussels 2004

complex arms systems. There are no doubts about it among the experts. Either the national defence market borders dismantle or the European taxpayers have to pay more for the equipment of their armies.

Since as early as 1957, single market community law, the dominant harmonizing factor, cannot be fully applied to the defence related materials and services. According to article 296 EC of the Treaty, the special nature of the defence sector has been recognized

*“No Member State shall be obliged to supply information the disclosure of which it considers contrary to the essential interests of its security; any Member state may take such measures as it considers necessary for the protection of the essential interests of its security which are connected with the production of or trade in arms, munitions and war material; such measures shall not adversely affect the conditions of competition in the common market regarding products which are not intended for specifically military purposes.”<sup>49</sup>*

The extensive list of products, which fall under the provisions of the above mentioned paragraph, was adopted by the Council in 1958. The considered Article 296 is wide in its definition and therefore in its use as well. Member States often misuse the Article and apply it to items falling under public procurement directive which is ill-suited for defence procurement specifics.

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<sup>49</sup> Schmidt, Burkard (compiled by); European armaments cooperation. Core documents, Chaillot Papers 59, ISS EU, Paris 2003

The recently adopted Directive 2004/18/EC (Article 10)<sup>50</sup> on public procurement states that even the contract awarding authorities in the field of defence have to comply with it. Civilian goods or those not intended for specific military purposes should not be subject for Member States Article 296 derogation. The Court of Justice has issued several interpretations. One of the most profound examples of “incorrect” derogation was considered in the Spain. Spanish law from 1987 exempted exports and imports of hard defence material from value added tax (VAT). But the Community law stated that all intra-Community trade was subject to VAT and contained no exemption but for military use. The European Court of Justice disagreed with the Spanish derogation based on the article 296 and ruled against Spain.<sup>51</sup>

Member States still use the derogation principal extensively – a fact which can be well depicted from the low number of tender publications in the Official Journal of the European Union.

Resting upon national legislation, using exemptions from national public procurements, Member States create disadvantages for possible non-national suppliers. The publication of the contract notice is often hidden in the national publication journal. Technical details are pre-designed to fit to the specifications, which only national firms are able to fulfil. Tendering is held through unclear negotiation procedure. Due to the lack of transparency and competitiveness in the defence market some Member States decided to establish intergovernmental political agreements with the single aim of improving this situation. The success of such an activity had to be limited from the very beginning as these agreements were not legally binding.

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<sup>50</sup> Directive 2004/18/EC of the European Parliament and the Council of 31 March 2004 on the coordination of procedures or the award of public works contracts, public supply contracts and public service contracts

<sup>51</sup> See the case *Commission of the European Communities v Kingdom of Spain*, C-414/97

### 3.3 DEFENCE PROCUREMENT

A new debate on the establishment of the European Defence Equipment Market where Community law would be fully applied started at the European level. Top-down initiatives prepared by two subsequent Commissions (Prodi and Barroso) resulted in several Communications and reports. According to Eurostat estimates, total defence expenditure by the EU 25 in 2003 represented € 169 billion (1.7% GDP) which include €82 billion of defence procurement (0.8 GDP), of which €30 billion was for defence equipment (0.3% GDP) - whereas the US defence budget was more than twice the combined defence budget of the EU 25. The US allocated four times as much as the EU to defence procurement and five times as much to research and technology.<sup>52</sup>

Romano Prodi's Commission released a Communication: European Defence – Industrial and Market Issues – Towards an EU Defence Equipment Policy.<sup>53</sup> This document tried to continue the work started by the Commissioner for industry Erkki Liikanen who issued Communication on the challenges facing the European defence-related industry.<sup>54</sup> Secondly, a new Communication was aimed to give a formal and unbiased foundation to various semi-formal reports such as START 21 report which was compiled by an unofficial group of experts (heads of multinational defence companies, members of European parliament, Javier Solana and a few Commissioners). START 21 was also a controversial material. It contained similar wording as the strategic document

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<sup>52</sup> Briefing file for Commissioner Ferrero Waldner, 16 November 2005, Strasbourg, pp. 7

<sup>53</sup> Communication from the Commission to the Council The European Parliament, The European Economic and Social Committee and the Committee of Regions: European Defence – Industrial and Market Issues – Towards an EU Defence Equipment Policy, COM (2003) 113

<sup>54</sup> Communication COM (96) 10 and Communication on the challenges facing the European defence-related industry, COM (1997) 583

published by AECMA – an aerospace lobby group.<sup>55</sup> Member states jointly rejected the START 21 report. Major concern was raised as regards an involvement of the bureaucratic organization acting mainly in non-military fields (European Commission) in the armaments without previous solid experience with the sector.

While the member states were reluctant to go forward in defence matters, the European Commission took on responsibilities concerning market issues where it had significant powers. The Commission proposed the subordination of the defence market under the first pillar leaving complicated political effects aside. The focus on market issues such as competition, state aid or procurement became an important part of the debate on the EU responsibilities over the defence sector. The debate was launched as a response to the European Parliament Resolution of 10 April 2002.

The 2003 Communication identified seven fields for an action: standardization, monitoring of defence-related industries, intra-Community transfers, competition, procurement rules, export control of dual-use goods and research. This time even the Council reacted in a positive way. It welcomed the Communication

*“as a valuable contribution towards creating the necessary conditions for strengthening the industrial and market situation of European businesses, which are directly or indirectly linked with defence equipment market...which could lead to greater cost effectiveness and more efficient planning and procurement of defence equipment.”*<sup>56</sup>

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<sup>55</sup> Mawdsley, Jocelyn; Policy Choices Ahead for the EU on Armaments in: Mawdsley, Jocelyn; Martinelli, Marta and Ramaele, Eric (eds.); Europe and the Global Arms Agenda: Security, Trade and Accountability, Nomos, Baden-Baden 2004, pp. 42

<sup>56</sup> Council Conclusions of 13 May 2003, Official Journal C149, 26/06/2003

The Green Paper on Defence Procurement, published on 23 September 2004, establishing official consultation procedure between the Commission and any interested party was in fact a follow up of the latter.<sup>57</sup> The intention of the document was to help all stakeholders design future market regulations on the defence procurement where any company would be dealing with the same and fair set of rules and procedures for developing, delivering and supporting equipment as well as tendering for contracts. It should concern products and services procured by national defence ministries as well as the European Defence Agency.

Public procurement Directives were applicable in principle to all sectors, including defence. Open tendering could cause the undesired release of classified information specifying technical details of the contract's subject. Therefore, it was assumed that the defence sector was somehow special and would deserve its own legal instrument. The hidden *leitmotiv* was to substantially support cross-border competition of small and medium enterprises.<sup>58</sup>

In the first part of the document the Commission presented the state of play of European defence procurement. National defence procurement procedures greatly varied; tender publication, specifications, selection and award criteria constructed regulatory patchwork which lacked transparency. Additionally, national governments used the Article 296 as an excuse for any type of defence contract.

The Green Paper identified two initiatives to improve unclear interpretation of the current legal provisions – a communication and directive, the instruments to be put forward into the public consultation. The former should clarify existing Community law

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<sup>57</sup> Green Paper on Defence Procurement, European Commission, Brussels 2004

<sup>58</sup> Press Release, MEMO/04/222, Brussels 23 September 2004

and specify the criteria for the use of the Article 296. The European Court of Justice had not declared any guideline on how to interpret “essential interest of security”. The Communication would guide national procurement authorities. However, legally speaking, there is no force behind it as it is a “soft law”.<sup>59</sup> According to its idea, member states had to assess on a case-by-case basis whether the contract is covered by the exemption or not. The burden of proof stated that essential security interests invoking derogation from rules of the internal market lay with member states. In this respect, the European Commission should exercise its role as a guardian of treaties and if member states breach the community law the Commission had the duty to refer the matter to the European Court of Justice. The Interpreting Communication would enhance transparency and competition for non-warlike items which did not constitute great cost-savings related to complex defence systems. Secondly, the continuity of the status quo doubled with the Communication would not clarify the situation. The Commission would be forced to take an action and refer controversial procurements to the Court. The number of legal disputes would thus increase.<sup>60</sup>

The second possibility – the Defence Procurement Directive – would cover tenders within the remit of the Article 296 for which the use of the derogation was not justified. The ill-suited Public Procurement Directive could be replaced taking into account specific nature of defence including flexible measures on security of supply and confidentiality. The issue of the “essential security interest” would not be solved either. Nevertheless, member states would get a tool, other than derogation, at their disposal in

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<sup>59</sup> Soft law is often used to refer to non-binding official documents and texts of the European Commission such as White or Green Papers, Communications etc.

<sup>60</sup> Schmidt, Burkard; Analysis. Communication, Directive or Code? The Commission’s Green Paper on Defence Procurement Has Opened a New Debate on How to Reach the Aim of an EDEM, ISS EU, Paris 2005



questionable cases.<sup>61</sup> The Commission was aware that the drafting of such a sensitive directive which should deal with offsets and security of supply would take several years. The establishment of the common rules for EDEM would be again delayed resting upon the political will of member states which had to be fully involved in the drafting process.

During the consultation procedure on the Green Paper several member states tabled a third option – Code of Conduct. In March 2005, the recently established European Defence Agency received a mandate to summarize pros and cons of the Code by the end of the year 2005.<sup>62</sup> A text of a primarily political nature would not be legally binding but it would be based on a voluntary decision of the member state to obey agreed principles which could be then reinforced. It should deal with the contracts falling within the remit of the Article 296. Therefore, the Code of Conduct should not be viewed as an alternative to other Commission actions but as a complement. EU companies would be allowed to compete for government contracts in defence field and if the national ministry of defence deviate from agreed principles it would have to explain its position in front of the EU counterparts.

The Commission had already published similar types of text on different issues – the Code of Conduct on Arms Export and it had proven to be a useful and effective tool in committing states to follow unified rules.

The EDA was charged with the Code's administration. The Commissioner for external relations Benita Ferrero-Waldner pointed out that

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<sup>61</sup> For a thorough legal explanation see: Trybus, Martin; Procurement for the Armed Forces: Balancing Security and the Internal Market, *European Law Review*, Volume 27, Number 6, December 2002, pp. 692-713

<sup>62</sup> Schmitt, Burkard; Defence Procurement in the European Union. The Current Debate, ISS EU, Paris 2005, pp. 30

*“the current negotiations within the EDA on a Code of Conduct clearly showed the political will to put an end to a situation which was unanimously considered unsatisfactory”.*<sup>63</sup>

While some experts believe that it will not have a success the others are convinced that the Code will have positive impacts due to the high-level political involvement in the EDA. Some authors argue that the Code will be successful if it applies to cooperative projects run by the EDA which are high-technology and high-value.<sup>64</sup>

The consultation on the Green Paper gathered 40 contributions from member states, industry representatives and institutes. The Commission made its assessment of the debate in the Communication from December 2005.<sup>65</sup> The majority of respondents agreed with the Commission on the analysis describing current obstacles. Interpretative Communication and Defence Procurement Directive were seen as suitable instruments. Since the devil lies in detail, timing and conditions were varying characteristics. The contributors identified four key problematic areas:

- open tendering procedures based on the publication in the Official Journal of the European Union were not compatible with confidentiality requirements;

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<sup>63</sup> Speech of the Commissioner for external relations B. Ferrero-Waldner, Plenary Session of the European Parliament, Strasbourg 16 November 2005

<sup>64</sup> Schmidt, Burkard; Analysis. Communication, Directive or Code? The Commission's Green Paper on Defence Procurement Has Opened a New Debate on How to Reach the Aim of an EDEM, ISS EU, Paris 2005, pp. 5

<sup>65</sup> Communication from the Commission to the Council and the European Parliament on the results of the consultation launched by the Green Paper on Defence Procurement and on the future Commission initiatives, (2005) 626, Brussels, 6.12. 2005

- the use of a negotiated procedure were not properly defined;<sup>66</sup>
- the selection criteria were based solely on technical, economical and financial aspects, and key conditions for selecting tenders in the defence sector – such as security of supply, confidentiality and urgency – were missing;
- the rules on technical specifications, time limits and follow-up contracts.<sup>67</sup>

Only a few stakeholders rejected the idea of the Directive because of insufficient flexibility and the lengthy process of adoption. One of the biggest surprises was that the dividing line was not constituted by the difference between big and small states. The six largest arms-producing countries – United Kingdom, France, Spain, Germany, Italy and Sweden were considered as “big” states. These European countries with a strong defence industrial base had traditionally favoured intergovernmental cooperation.<sup>68</sup> Despite this fact, they agreed that defence market should be open up.

The Commission committed itself to prepare an Interpretative Communication in the course of the 2006. Secondly, it considered drafting of the Directive coordinating national procedures for the procurement of defence goods and services.

The Green Paper was widely discussed in the European Parliament. From the Wuermeling report, adopted in form of Resolution on 16 November 2005, it became

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<sup>66</sup> Negotiated procedure represents the situation where the contracting authorities, after a call for tender, consult and negotiate contact terms with selected companies.

<sup>67</sup> Communication from the Commission to the Council and the European Parliament on the results of the consultation launched by the Green Paper on Defence Procurement and on the future Commission initiatives, (2005) 626, Brussels, 6.12. 2005, pp. 5

<sup>68</sup> For the analysis see: Bitzinger, R. A.; *Towards a New Brave Industry?*, The Adelphi Papers, Rutledge, London 2003

crystal clear that the Parliament was supportive to the Commission's proposals.<sup>69</sup> It encouraged the Commission to go ahead with both an Interpretative Communication and a Directive on Defence Procurement. Deputies regarded

*“a restrictive interpretation of national security interests as appropriate, given that Member States were already mutually dependent in areas such as monetary affairs or energy; wondered to what extent any meaningful distinction at all can still be drawn between national and common European security interests”*.<sup>70</sup>

A particular concern was raised as regards equal access to defence markets in Europe and the USA. Parliamentarians were convinced that the new EU defence procurement legislation should not be used as an instrument enabling US corporate interests to unilaterally infiltrate European defence procurement markets.

A big separate issue constituted collaborative projects of the EDA. There was a question whether to include these programs of the EDA into the remit of the proposed Defence Procurement Directive. The Commission seemed to be willing to do so but the hesitation of member states was foreseen. In any case, the Commission's role as the watchdog of the Community law had already expanded to the areas of production and trade in armaments.<sup>71</sup> Despite oral declarations, the establishment of the Agency

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<sup>69</sup> The report was the result of wide negotiations in the Internal Market Committee (IMCO), Security and Defence Sub-committee and Industry Committee. German Christian Democrat Joachim Wuermeling from IMCO was elected as a rapporteur.

<sup>70</sup> Report of the European Parliament on the Green Paper on Defence Procurement, adopted by plenary in Strasbourg 16 November 2005, pp. 12

<sup>71</sup> Georgopoulos, Aris; Defence Procurement and EU Law, *European Law Review*, Volume 30, Number 4, August 2005, pp. 568

operating in the same field as the Commission could cause some competences frictions and overlaps in the future. Clear allocation of powers and roles is urgent.<sup>72</sup>

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<sup>72</sup> Ibid., pp. 569

#### 4. INSTITUTIONALIZED ARMAMENT COOPERATION

In order to understand problems of the institutionalized cooperation in armaments one had to explore the history which offers us a great opportunity to learn a lesson from it and avoid repetition of the same mistakes. This chapter will provide the reader with a closer look at the development of armament activities at the transnational level beginning with the Independent European Programme Group in the late seventies up to the recent creation of the European Defence Agency.

Because of the fact that it has been merely an intergovernmental cooperation, we pay attention to views of European states which have been the major actors pushing or limiting any progress in the defence sector. A less important, however interesting role, has been played by European institutions – the Western European Union and the European Union. A description and an analysis of the history of armaments cooperation should give us a broader context for the current debate about the EDA's implications for the future of the armaments sector.

#### 4.1 THE FIRST ATTEMPT FOR ARMAMENTS COOPERATION – WESTERN EUROPEAN ARMAMENTS GROUP/ORGANISATION

The Western European Armaments Group (WEAG) has traditionally been the most important forum for armaments cooperation in Europe. We can date its origins back to the 1976 when all NATO countries except Iceland established a new type of institutionalized cooperation – the Independent European Programme Group (IEPG). The Declaration agreed by the WEU Ministers in Maastricht on 10 December 1991 developed the notion that the defence component of the European Union would be a suitable means to strengthen the European pillar of the Atlantic Alliance and ensure better cooperation of European armaments programmes which could lead to consolidation of the European defence and equipment market.<sup>73</sup> Observers and experts agreed that the IPEG had a limited impact. It lacked strong political support and therefore any driving force.<sup>74</sup> IPEG and later on the WEAG meetings were held at the level of national armaments directors (NAD) every six years and at the level of defence ministers annually. NADs should manage cooperation and decide on a basis of a shared consensus. A tiny secretariat based in Brussels looked after the daily business. The IPEG changed to the Western European Armaments Group and transferred its responsibilities and functions to the Western European Union in 1992.

The WEAG member states decided to fulfil four major objectives: more efficient use of resources through, *inter alia*, increased harmonization of requirements; the

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<sup>73</sup> WEU Maastricht Declaration 10 December 1991, <http://www.weu.int/documents/911210en.pdf>, 20 April 2006

<sup>74</sup> James, Andrew D.; European Armaments Cooperation – Lessons for a Future European Armaments Agency, *The International Spectator*, Volume 38, Number 4, October-December 2003, pp. 63

opening up of national defence markets to cross-border competition; the strengthening of the European defence technological and industrial base; cooperation in research and development. These goals should be achieved via three working panels.

The first panel dealt with promotion of cost-effective cooperative equipment programmes which fulfilled the WEAG nations' military requirements and improved European defence industrial capability and competitiveness. Strengthening the European position in the defence research and technology was the mission of the second panel. The EUCLID Program, involving industry and research institutes, had been the main instrument for pursuing the panel's aim. Limits to the organization were especially due to scarce financial resource at its disposal. The last panel focused on a common defence economics policy and armaments cooperation procedures.

Missing political will and unrealistic declarations meant that the WEAG could not evolve into the solid intergovernmental organization. On contrary, supporters of the WEAG appreciated equal treatment off all members and argued it was a unique way how to prevent arms-producing states from creating a cartel agreement and impose their interests on smaller countries.

Apart from political aspects there was an issue about the "juste retour" which caused disagreement among participating states. The principle should ensure that each country carries out work on a project in proportion to its government's contribution to the common budget. This led to the support of rather ineffective corporations which would not be able to survive in the environment of the open market forces. Secondly, divergent national interests and technical procedures resulted in long delays and overruns.



We can find a first notice about an armament agency in the Maastricht Treaty which spoke that “*proposals for enhanced cooperation in the field of armaments with the aim of creating a European armaments agency*”. After a very short period, when the WEAG was tasked to prepare provisions for the establishment of the European Armaments Agency (EAA), it became clear that major European powers would not be able to find agreement on aims and responsibilities of such an agency. The Ad Hoc Study Group was set up to review possibilities if there were convenient circumstances to the creation of the EAA in 1993. However, the recommendations were negative member states decided to push further the development three years thereafter.

It was again a name change. Instead of the WEAG we could read about the Western European Armaments Organization (WEAO). But little had changed in reality. Only the research and technology part of the cooperation was a breakthrough while a permanent WEAO Research Cell could newly place contracts using its own legal personality and broader scope of executive powers. The Research Cell distributed over 500 millions euros in 120 research and technology projects. It represented only 2.5 percent of the European military R&T spending.<sup>75</sup>

The WEAO decided to publish a “masterplan” for the establishment of the EAA at the Erfurt ministerial meeting in 1997. A concrete timetable was accepted a year later and just a month before the Franco-British summit in St. Malo (see Chapter 2.3). In subsequent several years, a group of national experts defined the EAA’s functions, guiding principles, and its structure and organisation charter.

WEU Ministers of defence concluded in Rome meeting in spring 2002 that WEAG should be maintained as a forum for political consultations in the field of

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<sup>75</sup> Ibidem, pp. 71

armaments in Europe and for the promotion of cooperation among member nations. The EAA should be established “*as soon as all appropriate conditions were met and political consensus reached*”.<sup>76</sup> It was de facto a statement of lacking political will to continue in an initiated work on the way towards the EAA. Governments showed no interest in the masterplan implementation.

As a new institutional option emerged the EU which could overcome the shortcomings of the former armaments cooperation formats. The WEAG meeting of NADs and the first head of the future European Defence Agency met in Dublin on 26 February 2004. It was the start of the speedy process of power and functions transfer on the EDA. From many points of view incorporation of the WEAG/WEAO into the EDA became a reality. The last WEAG Ministers of Defence meeting took place in Brussels on 22 November 2004. By the mid-2005 the WEAG/WEAO was dissolved both legally and politically. Ministers concluded:

*“In view of the establishment of this European Defence Agency and the intention of the Agency to assimilate or incorporate relevant principles and practices of WEAG as appropriate, the Ministers recognized that European armaments co-operation in the future would take place within the European Union and that there is no longer a need for activities in the framework of the WEAG.”*<sup>77</sup>

The EU and its European Defence Agency slowly but gradually became the focal point for pan-European armaments cooperation. To avoid repeating the same mistakes

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<sup>76</sup> WEAG Rome Declaration, 16th May 2002, [http://www.weu.int/weag/Rome\\_Declaration.pdf](http://www.weu.int/weag/Rome_Declaration.pdf), 20 April 2006

<sup>77</sup> The Ministers of Defence of the 19 WEAG Nations held their last meeting in Brussels on 22 November 2004, <http://www.weu.int/weag/>, 20 April 2006

legislators should bear in mind that the WEAG/WEAO format was never anything other than a consultation forum. Its weak powers and insufficient political backing were general reasons for lost opportunity. At the practical level, principal of “juste retour” could not lead to the establishment of effective (cost-saving and fast) collaboration of national armaments industries. Consensus-based decision-making pushed major arms-producers to set up a separate institutional arrangements which would allow a more flexible and exclusive framework. On the contrary, instead of simplification of structures the process resulted in duplication. As put it precisely Burkard Schmitt: “*WEAG has addressed the right issues but has lacked the means and structures to find satisfactory solutions*”.<sup>78</sup>

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<sup>78</sup> Schmitt, Burkard; The European Union and Armaments. Getting a Bigger Bang for Euro, Chaillot Papers 63, ISS EU, Paris 2003, pp. 23

## 4.2 2<sup>ND</sup> – ORGANISATION FOR JOINT ARMAMENTS COOPERATION

In the meantime, during the negotiations about the final design of the WEAO four European countries with the largest defence sectors decided to form a new institution – the Organisation for Joint Armaments Cooperation (better known under the French abbreviation OCCAR). Defence ministers of France, Germany, Italy and the United Kingdom signed the Administrative Arrangement in November 1996. After successful ratification in all founding countries, a formal treaty in a form of the OCCAR Convention entered into the force in January 2001. The core activity of the organization focused on management of common armaments projects in multinational teams.

The OCCAR set up five basic principles to be followed during the management period of any defence programme. These are: cost effectiveness, harmonisation of requirements and technology, competitive industrial base, renunciation of "juste retour" and openness to other countries willing to subscribe to the principles. Belgium and Spain joined the club via individual programmes in 2003 and 2005. The organization structure was the same as in the WEAO. There was a supervisory body composed of defence ministers and the daily run was governed by a group of National Armaments Directors.

Currently the OCCAR manages several projects including A400M, TIGER, BOXER, FSAF, COBRA and ROLAND. The A400M, involving also non-OCCAR members, was a project of significant importance. It should bridge the gap concerning strategic airlift of European troops into remote areas. It could provide the ability to deploy troops within a theatre of operations, either by parachute or by landing on short, semi-prepared landing strips. The aircraft could move such large items as helicopters and

certain outsized armoured or engineering equipment. Originally, the project was launched in the framework of the IPEG in 1984.

The current intention of the participating nations is to procure a total of 180 (after the withdrawal of Italy) aircrafts made up as follows: Germany 60, France 50, Spain 27, Turkey 10, UK 25, Belgium 7, and Luxembourg 1. Deliveries extend from end 2007 (first aircraft) to 2020. The value of the initial contract is €18 billion.

The rejection of the “juste retour” and replaced by a multi-year/multi-programme balance led to the more effective management allowing contracting authority to select suppliers according to the best offered quality/price ratio. However, the development phase of the strategic airlifter A400M has lasted over twenty years. Should the OCCAR become more than a management agency it needs to be tasked with more new projects in earlier stage of the procurement process. Even though some European politicians were considering a transmittal of the OCCAR under the EU umbrella, the small number of participating countries compared to the EU disabled such a solution.<sup>79</sup>

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<sup>79</sup> Keohane, Daniel; *The EU and Armaments Cooperation*, Centre for European Reform, London 2002, pp. 26

### 4.3 LOI FRAMEWORK AGREEMENT

The third option for defence collaboration evolved from the Letter of Intent (LoI) signed by defence ministers of France, Germany, Italy, Spain, Sweden and the UK in July 1998. It should ease defence sector restructuring in Europe. Two years later, a Framework Agreement was signed. It covered several areas of a common interest: security of supply, export procedures, security of information, research and technology, treatment of technical information and harmonisation of military requirements.

Despite German and Italian slow down effects during the ratification period there were several quite innovative approaches which aimed at enhanced European cross-border cooperation and competition.<sup>80</sup> In the area of security supplies LoI member states recognized that the security environment in the post-bipolar period was accompanied by trends towards greater international interdependence excluding full national autarky in armaments. The code of practice would bring higher level of transparency in ownership structures of defence companies. It would provide customers with better information and confidence. As regards exports, an objective of the Global Project Licence (GPL) was to grant certain programmes free movement of the system itself or its components within LoI countries without any restrictions. For the non-LoI markets a prior consensus had to be reached and special export permission issued.

Besides harmonisation of security clearance procedures harmonisation of military requirements appeared to be a field where member states wished to coordinate national

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<sup>80</sup> James, Andrew D.; European Armaments Cooperation – Lessons for a Future European Armaments Agency, *The International Spectator*, Volume 38, Number 4, October-December 2003, pp. 66

planning and established a data base which listed their capability needs. The needs would be than evaluated in order to find common solutions.

The LoI has not evolved into the permanent standing institution yet. Its Executive Committee meets four times a year at the level of sub-National Armaments Directors. This is a reason for limited success. The LoI does not have the capacity to set up a completely new regulatory framework. It has to rather harmonise current national rules and procedures. A comprehensive approach should be required.

Even though the LoI brought into the debate on the establishment of the European Armaments Agency new inputs and useful innovative methods it could never replace an idea itself. Institutional setting remains without the EAA a complicated patchwork with competences overlaps and missing the coherent armaments policy administered by a single institution with widely-shared political support.

## 5 EUROPEAN DEFENCE AGENCY - EVOLUTION

The first mention about the European armaments agency was in the founding treaty of the European Defence Community. While it was originally a French proposal, the ratification process was stopped by the French National Assembly in 1954 which declined even to vote on the Treaty, moving to other businesses on the agenda.<sup>81</sup> European political circles were not sure if this new orientation of integration was correct.<sup>82</sup> Half-a-century later, the idea of a pan-European supranational body acting in the defence sector field became a part of the reality. Re-opening of the debate on this issue was partly linked to two strategic documents which were drafted at the EU level and one bilateral declaration.

Despite the fact that the European Constitution has not been accepted by all member states yet, one of its recommendations, mentioned in the Javier Solana's European Security Strategy, changed armaments cooperation.<sup>83</sup> It paved the way for the establishment of the European armaments agency stating:

*“Setting up a European Armaments and Strategic Research Agency to strengthen the industrial and technological base of the defence sector, allow member states to pursue different cooperation programmes among themselves and ensure fulfilment of capabilities commitments...by promoting policy of harmonised procurement by the member states and to support research into defence technology. The Agency would*

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<sup>81</sup> European Defence Community Treaty. Signed at Paris 27 May 1952, accessible via [http://aei.pitt.edu/5201/01/001669\\_1.pdf](http://aei.pitt.edu/5201/01/001669_1.pdf), 20 April 2006

<sup>82</sup> Duke, Simon; *The Elusive Quest for European Security. From EDC to CFSP*, Palgrave, 2002, pp. 34-35

<sup>83</sup> *A Secure Europe in Better World. European Security Strategy*, Brussels 12 December 2003, accessed via <http://www.consilium.europa.eu/uedocs/cmsUpload/78367.pdf> on 20 April 2006



*incorporate, with a European label, closer forms of cooperation which already exist in the armaments field between certain Member States (OCCAR, LoI).<sup>84</sup>*

The text was drafted by Michel Barnier at the fall of 2002. Barnier served as a European Commissioner for regional policy in the Prodi Commission and chaired Working Group on Defence in the European Convention which was a broad political forum for discussion on future of the European integration. The Working Group on Defence shed some light on armaments matters as well.

Subsequently, in within two-months, a Franco-British summit took place at Le Touquet. After St Malo (ESDP evolution), it was a second bilateral initiative of Blair and Chirac aimed at boosting a debate on European defence. This time it was not a Franco-German engine that brought into the debate a new trend. Both “Channel politicians” jointly proposed the creation of a defence agency which ought to take care of European military capabilities defined in the European Headline Goal.

There was a question of what stood behind the London’s and Paris’s decision to step further in the armaments field when there had been a number of unsuccessful ad hoc projects trying to pursuit the same objectives (NATO or WEAG examples). Britain left aside an old fear about a “Fortress Europe” excluding American suppliers from the European market. Blair understood that the EU was a much wider political framework affecting many other policy areas such as industry, competition or regional development. On the other hand, Chirac favoured independent European activities in defence sector balancing the strength of the USA military-industry complex. Both partners were also convinced that the armaments agency could play a major role in a political review and an

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<sup>84</sup> Final report of working group 8 on Defence: CONV461/02 dated 16 December 2002, pp.2 and 22

assessment of the European military capabilities development process and in some ongoing defence projects (Eurofighter).

How to make from the bilateral summit the EU institution? France and the United Kingdom represented two out of six largest arms-producing countries which accounted for more than 90 percent of defence equipment production in the EU. Some of the producers actually hoped that the agency could preserve their ineffective national defence industrial bases thanks to “buy European” logic. The remaining EU member states were condemned for to be in a position of mere consumers. These states had to be persuaded that the proposed agency did not serve to meet interests of big powers. In such a case, it would never push competition among companies at both sides of Atlantic and would never reduce prices of the equipment.<sup>85</sup>

As said before, the Agency happened to be part of the wider consideration on future of Europe. In June 2003, the European Council of Thessalonica consecrated the Council bodies to carry out works on the concept of the Agency’s establishment.<sup>86</sup> A bilateral initiative was transferred to the catch-all declaration. European heads of states and governments committed themselves to set up an Agency, under the Council’s authority in the course of 2004. An ad hoc preparation group reorganised into the Agency Establishment Team delivered its work on the mission statement, legal, financial and administrative provisions. The Council’s experts concluded that in place of fragmentation in defence matters, caused by partial inputs of various institutions, the EDA’s comparative advantage should be its ability to comprehend all related agendas, so as to

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<sup>85</sup> Keohane, Daniel; *Europe’s New Defence Agency*, Centre for European Reform, London 2004, pp. 1

<sup>86</sup> Presidency Conclusions – Thessalonica, 19 and 20 June 2003, accessible via: [http://ue.eu.int/uedocs/cms\\_data/docs/pressdata/en/ec/76279.pdf](http://ue.eu.int/uedocs/cms_data/docs/pressdata/en/ec/76279.pdf), pp. 20, 20 April 2006

realise its synergies.<sup>87</sup> These findings served DG RELEX and COREPER as a basis for drafting the legal act.<sup>88</sup>

The second document giving the Union strategic assessment of the security environment - The European Security Strategy referred to the Agency saying that “*progressive framing of a common defence policy will be supported by, as Member States consider appropriate, cooperation between them in the field of armaments*”.<sup>89</sup>

The decision to create the European Defence Agency was adopted in the General Affairs and External Relations Council. The Joint Action of 12 July 2004 was a landmark decision. Some authors believed that the new agency could have the potential to apply a major impact on EU defence policy via cooperation in purchasing and development of military equipment for common European military forces.<sup>90</sup> The Agency staff was progressively being built up from initial number of 22 (2004) to the total of 80 personnel in 2005. The Agency was composed of fixed-term officials hired directly by the EDA and seconded national experts which ought to grant it an intergovernmental perspective.

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<sup>87</sup> EU Security and Defence: core documents 2004, Vol. V, Chaillot Papers 75, ISS EU, Paris 2005, pp. 52

<sup>88</sup> RELEX – Directorate General for External Relations part of the European Commission; COREPER – Comité des représentants permanents is a standing Council’s body composed of heads of missions to the EU.

<sup>89</sup> Article 17, A Secure Europe in a Better World, European Security Strategy, Brussels 12 December 2003

<sup>90</sup> Keohane, Daniel; Europe’s New Defence Agency, Centre for European Reform, London 2004, pp.2

## 5.1 EUROPEAN DEFENCE AGENCY – POWERS AND ORGANS

In order to avoid mistakes known from previous cooperation formats, the EDA needed a strong political guidance and senior officials in the top management posts assisted by national governments. Germany and Italy argued for an agency with minimum powers and wished to see formal and regular meetings of defence ministers in the Council of the EU. Defence ministers could ensure a strict policy control as a part of the EDA review. *“It won’t achieve anything that defence ministers don’t want to see achieved”* voiced out Nick Witney a new Chief Executive of the EDA.<sup>91</sup>

On contrary, Paris preferred a fully-fledged armaments agency defining common armaments strategies. Standing in-between, Britain advocated latter approach being afraid that the National Armaments Directors would not secure a sufficient level of political control. Second reason was to emphasise industrial and market views in defence sector which outweigh the French approach. The French government, having long-term and strong strategic interests in the defence industry, always supported a higher degree of state involvement in national armaments companies.<sup>92</sup> These symbolic and theoretical differences had concrete repercussions in terms of the suitable candidates for the Chief Executive post in the new Agency.

At the end a compromise was reached, Javier Solana was entrusted to head the Agency and British official Nick Witney, former Director-General for International Security Policy at the UK Ministry of Defence, was appointed the Chief Executive for three years by the Steering Board.

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<sup>91</sup> Europe’s Defence Agency on the starting blocks in: European Voice, 22-28 July 2004, pp. 3

<sup>92</sup> For more on French military-industry complex see: Maulny, Jean-Pierre (ed.); Industrial and Strategic Cooperation Models for Armaments Companies in Europe, IRIS, 2004, pp. 82-94

Solana's task was to ensure that the guidelines issued by the Council and decisions made by the Steering Board (SB) such as a work programme or the budget framework were implemented by the Chief Executive who should report to the Council twice a year. In harmony with the directives of the SB, the Chief Executive was responsible for negotiations with third countries and organisations.

Because of the fact that the EDA did not have its own procurement and research budgets to buy or manage multinational armaments programmes it had to establish good working relations with other bodies within the EU framework (Council, Commission), Capabilities Development Mechanism (CDM) operated by the NATO and other organisations.<sup>93</sup> Defence ministers approved the EDA's budget for less than €2 million in 2004 and €25 million for 2005.<sup>94</sup>

The OCCAR was seen as a first option to manage cooperative programmes arising in the Agency. Future incorporation of the OCCAR under the EDA umbrella was a considered option. An early objective was the assimilation of the LoI's harmonisation of defence equipment and research activities. As the WEAG/WEAO was about to terminate its existence, member states agreed to transfer I and III Panel responsibilities under the Agency remit. Non-EU states and partners should not come across any obstacles participating in individual projects.

As Denmark had an opt-out from the Treaties on defence related matters, it did not participate in the EDA. Its main decision-making body was therefore composed of 24 national defence ministers and the Head of the Agency. The SB meets twice a year.

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<sup>93</sup> N. Witney predicted that it could be ten years before the Agency was carrying out major procurement projects on behalf of some or all EU states. Europe's Defence Agency on the starting blocks in: *European Voice*, 22-28 July 2004, pp. 3

<sup>94</sup> [http://www.eda.europa.eu/procurement/Consolidated%20Version\\_EDA%20Financial%20Provisions\\_%20Amended%2016-12-05.pdf](http://www.eda.europa.eu/procurement/Consolidated%20Version_EDA%20Financial%20Provisions_%20Amended%2016-12-05.pdf), accessed 20 April 2006

Meetings are convened and chaired by Solana and attended by the Chief Executive and the Chairman of the EU Military Committee and the National Armaments Director of the EU Presidency. In praxis, the Commission is usually represented by the Commissioner for Enterprise and Industry Günter Verheugen. According to the debated agenda, the SB more often meets at the level of NADs, National Defence Research Directors, National Defence Planners or Policy Directors. It may decide to invite the NATO Secretary General or the third party representative if it is in the pursuit of a common interest. But only representatives of member states take part in decision-making which is carried out by the qualified majority.

Daily business of the EDA is run by the Management Board which includes the Chief Executive, his deputy and five directors (Capabilities, Research and Technology, Armaments Industry and Market and Corporate Services). It is hard to believe that it has happened by accident that out of eight key positions in the EDA Management Board, six posts were occupied by officials coming from arms-producing countries. It is likely that the next Chief Executive would have to come from either a small member state or from those newly joined Eastern European countries.

## 5.2 EUROPEAN DEFENCE AGENCY – MISSION AND PROJECTS

The agency was ascribed four major functions and roles including: defence capabilities development; armaments cooperation; the European defence, technological and industrial base and defence equipment market and research and technology. It was designed to define capability needs of ESDP/Headline Goal 2010 and to force member states to coordinate planning of defence purchasing.

In comparison with the single Joint Strike Fighter project developed by the USA, inside the EU, there have been ongoing three jet programmes: Eurofighter (collaboration of Germany, Italy, Spain and the UK), French Rafale and Swedish-British Gripen. But individual European states cannot afford to purchase or develop all imaginable weaponry they could need. The resources are limited. The EDA should encourage EU countries to match their procurement needs and come up with common solutions.

Besides defence market and research issues there is a key role to be played by the EDA in armaments sector. How best to contribute to the increasingly urgent improvement of both the quantity and quality of individual national armies in the EU? In order to address these questions it has to tackle older cooperative programmes, identify its shortcomings and benefits and propose new collaborative projects. Ideally, collaboration starts with a common understanding of capability needs followed by priorities projection into the joint equipment or system development phase.

There are other examples of the shared capability need such as a long-distance transport plane (the EU has at disposal only four aircrafts of this type in comparison with

200 of these in the USA).<sup>95</sup> The EU summit in Hampton Court decided to look deeper into the road map of the Armoured Fighting Vehicle, Unmanned Aerial Vehicle programme and lately Command, Control and Communications (C3) development.<sup>96</sup> Primarily, attention of the Agency should focus on the four strategic priorities which can assist the EU member states to face adequately threats and challenges of the 21 century.

Unlike the ECAP, the EDA favoured to top-down approach, driving coordination and exercising immanent pressure on member state to enhance their military capability improvements. The EDA should help to eliminate waste and unnecessary duplication of defence budgets and replace it by pooling of efforts and market consolidation. The Head of the Agency will have to convince its members to complete defence market reconstruction. This is a very sensitive issue for governments as it requires discharging employees. Given the fact that European politicians are worried about the current high level of job losses they will certainly pay a special attention to changes in defence industry sector with any labour implications.

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<sup>95</sup> Keohane, Daniel; Europe's New Defence Agency, Centre for European Reform, London 2004, pp. 2

<sup>96</sup> Informal meeting of Head of States and Governments in Hampton Court on 27 October 2005  
<http://www.eu2005.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1107293391098&a=KArticle&aid=1119527321606>



### 5.3 EUROPEAN DEFENCE AGENCY – FUTURE IMPLICATIONS

Even though the EDA has a short track record, the Agency achieved in certain areas a success while in other spheres it still waits for an impetus. Some experts predicted that the EDA could become fully operational and effective only in long-term perspective, which is in 5-10 years.<sup>97</sup> In current transition years many improvements have to be achieved if not to repeat old mistakes in the armaments cooperation sector.

It is hardly possible to imagine that Javier Solana could dedicate his time only to the armaments portfolio being the High Representative and Secretary General at the same time. Some advised the appointment of a new deputy Secretary General of the Council responsible for armaments. It has to be a respected political figure that would look after the sector's development thoroughly.<sup>98</sup> It is also worth noting that the political priority has been already given to the subject by the fact Verheugen, as a vice-president of the Commission, is a standing member of the EDA's Steering Board.

Recently, the Steering Board approved a voluntary Code of Conduct on Defence Procurement on 21 November 2005. It will come into effect on 1 July 2006 in those member states which decide to subscribe to it. Member states committed themselves to inject more transparency and competition into the procurement practices which have greatly influenced armaments market fragmentation. The Code covers all contracts exceeding €1million. The majority of tender contracts were exempted from the single European market applying Article 296.

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<sup>97</sup> Flournoy, Michele A. and Smith, Julianne; *European Defence Integration: Bridging the Gap between Strategy and Capabilities*, Centre for Strategic and International Studies, Washington 2005, 56-57

<sup>98</sup> Keohane, Daniel; *Europe's New Defence Agency*, Centre for European Reform, London 2004, pp. 6

The new intergovernmental regime forces participating states to announce all relevant defence procurement opportunities through a single online portal setting objective criteria for selecting bidders (Electronic Bulletin Board) and operated by the EDA. Only Hungary and Spain (Denmark is not involved in any of EDA's activities) exercised their option not to join the Code. However, both have indicated the possibility of doing so later.

The regime will embody certain classes of exception for procurement of research and technology; collaborative procurements; and procurements of nuclear weapons and nuclear propulsion systems, chemical, bacteriological and radiological goods and services, and cryptographic equipment. When exceptions are invoked or when other irregular events occur, participating member states will wish to have an explanation - and the opportunity, if need be, to debate the circumstances in the Agency Steering Board. These procedures combined with the support of small and medium enterprises via the Code of Best Practice in the Supply Chain reinforce mutual confidence and thus usefulness of the Code itself.<sup>99</sup>

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<sup>99</sup> The Code of Best Practice in the Supply Chain, Brussels 27 April 2006; accessed via <http://www.eda.europa.eu/reference/eda/EDA%20%20Code%20of%20Best%20Practice%20in%20the%20Supply%20Chain%20-%20European%20Defence%20Equipment%20Market.pdf>, 27 April 2006

## 6. CONCLUSION

We have entered the 21<sup>st</sup> century. New threats and challenges of globalization in the defence and economic field, as well as national policy restraints set a new impetus for the cooperation within the Europe-wide framework. How to deliver national policy programmes to important domestic constituencies under the circumstances of falling defence budgets and the American firms competing on the global market?

Politicians in sovereign member states grasped that the best answer to the question lays in international bargains management. What is more, the processes of intergovernmental bargaining at the European level also strengthen states vis-à-vis their home policies. Traditional forms of bilateral interstate cooperation had an air of obsolescence in the post-bipolar environment.<sup>100</sup>

With independent military and technical resources Europeans are more likely to diverge from the US government. One single representative case could be arms embargo imposed on China after Tiananmen Square massacre in 1989. Recently, export embargo was partly damaged by several EU countries exporting military equipment worth more than 340 million Euros to China in 2004 despite the continuation of the sanction regime.<sup>101</sup> The embargo does not apply to military components and dual-use items. These goods, which sensitive technologies were developed by the US companies or purchased by the US government, were sold to Peking. Transatlantic partnership and mutual confidence was therefore endangered.

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<sup>100</sup> Rosamond, Ben; *Theories of European Integration*, MacMillan, London 2000, pp. 139

<sup>101</sup> Cronin, David; EU military export to China continue despite arms embargo in *European Voice*, Vol. 11, No. 40; 8 December 2006

Besides market-oriented issues, the evolution of the ESDP and precisely the Battle Group Concept 2007 was internal European and second major factor which stood behind the decision of heads of states and governments to create the European Defence Agency. The EU governments declared their will to go step by step towards synchronized development of military capabilities under the EU heading leaving traditional concept of military industry autarky aside.

The EDA was tasked with defence market consolidation and to bridge European military capabilities gap. The EU has its soldiers (via national contributions) but it lacks military equipment designed to combat new threats and challenges.

*“Yes, the Agency has important functions related to, for example, the defence industry. But our leading light, the star we steer by, is the aim of building Europe’s military capacity – or, if you will, of trying to ensure that Europe gets a better output from what it spends on defence.”<sup>102</sup>*

In contrast to previous collaborative projects WEAG/WEAO, OCCAR or WEU, the new Agency seems to be better designed to deal with national administrations which have been traditionally reluctant about any defence topic transfers to Brussels. Intergovernmental nature of the EDA offers to defence ministers a formal forum for discussions on armaments. For the first time in history ministers of defence have been meeting on a regular and formal basis in the EDA Steering Board. It provides greater political leadership in armaments efforts especially in the European Capability Action

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<sup>102</sup> Witney, Nick; The European Defence Agency – Strategic Directions and Impact on Transatlantic Relations; Press Club; Washington 24 October 2005; accessed via <http://www.eda.europa.eu/news/2005-10-24-0.htm>; 20 April 2006

Plan review and assessment. Some authors speak about the inevitable need to establish “Mr ESDP” function run by a senior political person.<sup>103</sup>

It is crystal clear from many opinion polls that European citizens want the EU to become an active and powerful global actor. European public opinion is still very receptive to issues relating to the European Security and Defence Policy (ESDP). At 77%, support for a common security and defence policy remains at the same high level obtained in 2005. The intensity of this support is even stronger in the ten new Member States: there is a difference of 10 points between the average obtained in the fifteen old Member States and that recorded in the ten new Member States (75%).<sup>104</sup>

Missing methods of open scrutiny in the European Security and Defence Policy, constantly criticised by the European Parliament, explains a pan-European feeling of democratic deficit. In the long term view, public credibility of EU external actions could be severely damaged. The EU in cooperation with the Capitals needs to find a proper balance between their security interests and their citizens being able to control development of the ESDP and armaments collaboration.

One should not underestimate the theme of disarmament. The EU is very active in non-proliferation and disarmament of Weapons of Mass Destruction. The legitimate question therefore is: “Shell we pool national resources in defence armament cooperation or rather prohibit the EU from being a major arms producer?” The EU officials cannot respond to it. It is up to the decision of individual member states to declare their interests in these two opposing policies.

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<sup>103</sup> Keohane, Daniel; *The EU and Armaments Cooperation*, Centre for European Reform, London 2002, pp. 34

<sup>104</sup> Eurobarometer 64, 12/2005, [http://ec.europa.eu/public\\_opinion/archives/eb/eb64/eb64\\_first\\_en.pdf](http://ec.europa.eu/public_opinion/archives/eb/eb64/eb64_first_en.pdf) 20 April 2006

The Code of Conduct on Defence Procurement, increased budget for security research and technology and support of the EDA's pilot projects (on-line tender publication) indicate enhanced interest of national executives in armaments cooperation at the European level. However, there are few obstacles related to coordination of defence need. The text of the European Security Strategy is without any doubt a highly professional piece of document. Unfortunately, it is not mirrored in national security or military strategies which are crucial for any defence ministry planning. It states which goals are to be achieved in mid-term perspective. It is exactly room where combined effort can make a difference. It also orientates the way the authorities view current and future security environment. Without harmonisation of formal military strategies a common armaments policy cannot be effective.

I would like to conclude:

*"We are trying to climb the same mountain and we are all roped together."*<sup>105</sup>

The author believes that this paper could be a practical and comprehensive material analysing armaments sector in the European Union. Its solid theoretical grounds combined with unique literature and info sources covered, hopefully, provide even an expert reader with original and enriching insight into the complex subject.

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<sup>105</sup> Witney, Nick; Role of Different Actors: Industry, National Governments, European Commission, European Defence Agency; Economist Conference, Paris 29 November 2005; accessed via <http://www.eda.europa.eu/news/2005-11-29-0.htm>; 20 April 2006

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## 8. RESUME

Předkládaná práce se snaží o analýzu zbrojní spolupráce realizované jednak mezi členskými státy Evropské unie tak i na komunitární úrovni. Autor čerpal z anglicky psané literatury sestávající se z literatury primární (oficiální dokumenty, smlouvy, novinový archiv European Voice) a sekundární (zejména publikační řada Chillot Papers ISS EU) včetně množství článků z odborných periodik. V neposlední řadě měl autor možnost vstřebat množství praktických poznatků během stáže u Evropské komise v Bruselu. V teoretické rovině se práce opírá o aplikovanou mnoho-úrovňovou analýzu Evropské integrace dle B. Buzana a tématické dělení aktivit EU dle U.Mörth. Převládající perspektivou na mezinárodně-politické dění je liberální mezivládní přístup. Časová linie je vztažena na období 90. let a první dekády 21. století.

Jedině na základě geostratické proměny bezpečnostního prostředí v Evropě po skončení bipolárního konfliktu a důsledků globalizace světových trhů je možné pochopit proč se znovu obnovila diskuse o zbrojní spolupráci v Evropě. Společná bezpečnostní a obranná politika, odstraňování zbývajících bariér na vnitřním trhu EU a dramatická restrukturalizace zbrojního průmyslu spojená s novou úlohou státu ve zbrojním sektoru předznamenaly nutnost zvýšené kooperace na mezinárodním poli. Několik dřívějších pokusů o takovouto spolupráci dosáhlo pouze omezených úspěchů. Nedávný vznik Evropské obranné agentury však může, díky vysokému politickému zájmu zúčastněných aktérů, znamenat zásadní obrat v chápání tradiční role státu ve zbrojním sektoru.