
The European Commission: an enabler for the European Security and Defence Union

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Theme

The European Commission has been pushing for deeper European cooperation in the security and defence sector for the past two decades despite the reluctance of the member states.

Summary

The European Commission has found its way into the European security and defence sector. To the surprise and scepticism of many, given that this sector has long been considered a *domaine réservé* of the Member States, ambitious Commission initiatives have come to fruition. Looking at recent developments, this paper examines the Commission's leadership capacity to bring security and defence-related issues into the EU framework, giving a new impetus to this strategic area and ultimately enabling the European Security and Defence Union.

Analysis

Introduction

The European defence industry has long been regarded only at the national level, with potential bilateral and multilateral cooperation mostly outside the EU framework. Contrary to this tradition, the 2016 'European Defence Action Plan' (EDAP) is clearly a turning point, if not a 'revolution'.¹ With the newly-launched European Defence Fund (EDF), proposed in the EDAP, the European Commission (hereafter Commission) can use the EU budget to support directly and entirely research projects in defence, and to co-finance defence capabilities.² Commissioner Elżbieta Bieńkowska, responsible for Internal Market, Industry, Entrepreneurship and SMEs, presented the EDF as 'a game-changer for the EU's strategic autonomy and the competitiveness of Europe's defence

¹ Michel Cabirol (2016), 'L'incroyable révolution de Bruxelles dans la défense', *La Tribune*, 1/XII/2016, <http://www.latribune.fr/entreprises-finance/industrie/aeronautique-defense/l-incroyable-revolution-de-bruxelles-dans-la-defense-621416.html>; Nicolas Gros-Verheyde (2016), 'Financer l'industrie de défense. Un tabou se brise', *Bruxelles2*, 1/XII/2016, <https://www.bruxelles2.eu/2016/12/01/financer-lindustrie-de-defense-un-tabou-se-brise/>.

² European Commission (2016), 'European Defence Action Plan', COM(2016) 950 final, Brussels, 30/XI/2016.

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industry'.³ For the Commission, it is 'the engine powering the development of a European Security and Defence Union'.⁴ Considering this, the French Defence Minister Florence Parly qualified the EDF as 'cultural revolution in Brussels' during the recent 2018 Munich Security Conference.⁵

However, the EDAP did not come out of the blue, as it is the culmination of several Commission attempts since the mid-1990s to encourage member states to move towards a common defence. Back in 1996 the Commission already proposed to address in a comprehensive manner the 'Challenges Facing the European Defence-related Industry', combining the Common Foreign and Security Policy (CFSP) with the existing Community instruments.⁶ In this spirit, the Commission proposed ambitious initiatives that have been endorsed through the establishment of the European Security Research Programme (ESRP) in 2007 and the adoption of the European Defence Equipment Market in 2009. Therefore, this paper evaluates the extent to which the Commission has become a key enabler in EU security and defence, exerting its leadership capacity, irrespective of the fact that this mainly intergovernmental domain is still not within its proper area of competence.

In order to measure the scope of the Commission's contribution, this paper first examines its involvement in the debate and in the policy process for closer European defence cooperation. Then it analyses the Commission's approach, focusing on the new key initiative, the EDF, which aims to create a defence research programme and support EU-wide cooperation regarding defence capacities. Finally, it assesses the Commission's impact on the level of integration, on deepening the European defence market and extending dual-use item export controls. The analysis shows that by building on its competences (trade, research and innovation), the Commission has proved its ability to bring security and defence issues further into the EU framework, ultimately enabling the European Security and Defence Union.

Part of the debate, part of the policy process

The Juncker Commission (2014-19), like the Barroso Commission before, is actively engaged in the debate on the future of European security and defence. To strengthen the Commission's contribution, President Juncker appointed for the first time a Special Adviser on European Defence and Security Policy in 2015-16. Michel Barnier, previously Commissioner in charge of the Internal Market (2010-14), was given the task as special adviser to ensure the continuity of leading key initiatives towards a more integrated

³ European Commission (2017), 'A European Defence Fund: €5.5 billion per year to boost Europe's defence capabilities', Press Release, IP/17/1508, Brussels, 7/VI/2017.

⁴ European Commission (2017), 'Launching the European Defence Fund', COM (2017) 295 final, Brussels, 7/VI/2017, p. 17.

⁵ French Ministry of Defence (2018), 'Mme Florence Parly, Ouverture de la Munich Security Conference', Munich, 16/II/2018, p. 5, <http://dicod.engage.augure.com/pub/attachment/12160/0157054120581518808408850-dicod.defense.gouv.fr/20180216%20-%20Munich%20Security%20Conference.pdf?id=43245%3E>.

⁶ European Commission (1996), 'The Challenges facing the European Defence-related industry', COM(96) 10 final, Brussels, 24/II/1996.

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European defence market. As Commission President, Jean-Claude Juncker participated in the EU-NATO summit in July 2016. He signed the joint declaration with Donald Tusk, President of the European Council and Jens Stoltenberg, Secretary General of NATO. This acknowledged the Commission's growing involvement and relevance in the European security and defence sector. Against this background, and in support of the objectives of the 'EU Global Strategy's Implementation Plan on Security and Defence' as well as the 2016 EU-NATO joint declaration, the Commission produced the EDAP. According to the Commission, the measures proposed in this plan should 'lead to a stronger European Union in defence, which ultimately means a stronger NATO'.⁷

In addition, to develop its vision further and clarify its potential contribution, the Commission proposed different scenarios in its 'White paper on the future of Europe'.⁸ Then, more specifically in its 'Reflection paper on the Future European Defence',⁹ it outlined various options towards a Security and Defence Union by 2025, according to the level of ambition and political will of the member states. In this regard, the Commission has repeatedly said that its objective is not gradually acquiring new competences but building on its assets to improve cooperation between member states, which remain in the driving seat in the defence sector. However, the Commission is obviously keen to take an active role in the debate, pointing at the added value of the EU in joint approaches towards policy fields of common interest.

In the perspective of the Global Strategy and its 'integrated EU approach', which supports the linking of the security and defence sector to other EU policies and tools,¹⁰ the Commission argues that it is well-equipped to foster coherence across EU instruments and to contribute to this sector. After the successful work and experience gained with its Defence Task Force (2011-13), it seems increasingly realistic that a Directorate-General (DG) for Defence will be created. This would help coordinate the Commission's services, tools and actions, and facilitate the dialogue with actors in the sector, especially with the member states. Ultimately, a DG Defence would further enable the European Security and Defence Union to an extent member states consider appropriate.

The European Defence Fund: research and capability windows

The EDF, launched in June 2017, has broken a long-lasting taboo. It allows Commission actions with an EU budget in two key dimensions of the European defence industry with an urgent need for further development, namely defence research and capacity.

⁷ European Commission (2016), 'European Defence Action Plan', *op. cit.*, p. 3.

⁸ European Commission (2017), 'White paper on the future of Europe. Reflections and scenarios for the EU27 by 2025', COM(2017) 2025, Brussels, 1/III/2017.

⁹ European Commission (2017), 'Reflection paper on the Future European Defence', COM(2017) 315, Brussels, 7/VI/2017.

¹⁰ European External Action Service (2016), 'Shared Vision, Common Action: A Stronger Europe, A Global Strategy for the European Union's Foreign and Security Policy', Brussels, June, p. 50.

Towards a Defence Research Programme

Already in its 1996 communication, the Commission had proposed to officially include dual-use technologies in its 'Research and Technological Development Programme'. A decade later, in 2007, it launched the ESRP. However, the ESRP was designed to deal with only the civil aspects of security, yet the dual use of some technologies meant that there had to be a broad definition of security. Following the idea that the programme should contribute to Common Security and Defence Policy (CSDP) activities, the Commission (in charge of security research in the civil sector) and the European Defence Agency (EDA, in charge of coordinating defence research activities) started to cooperate in 2009. Since then they have coordinated their work and promoted synergies within the 'European Framework Cooperation for Security and Defence Research'.

Ongoing developments in the European airspace became an excellent field for this new type of cooperation, especially the emerging technology of Remotely Piloted Aircraft Systems (RPAS). Despite the still *civil-only* dimension of the EU's 'Research and Innovation Programme Horizon 2020', the Commission stressed the need to

'... explore synergies in the development of dual-use applications with a clear security dimension or other dual-use technologies like, for example, those supporting the insertion of civil RPAS into the European aviation system to be carried out within the framework of the SESAR Joint Undertaking'.¹¹

Also, the EDAP promoted civil-military synergies through EU policies, and notably reaffirmed the importance of the aviation field, where the Commission had already encouraged the involvement of the military through the EDA in the development of the Single European Sky (SES). Especially, it underlined the necessary civil-military coordination regarding the integration of drones for security purposes in the European airspace as well as in research and development.¹²

Besides, the Commission proposed the evaluation through a preparatory action of a more comprehensive programme for the next EU multiannual financial framework (MFF) post-2020, including EU-funded defence research.¹³ Like the security research programme, it should directly and entirely be funded by the EU budget. Both programmes should be coordinated due to their complementarities, but the financing should remain separate.¹⁴ This European defence research programme constitutes the European Defence Fund's 'research window' with a potential budget of €500 million/year after 2020. Its establishment pursued a two-step approach: first, the Preparatory Action (PA) on Defence Research over the 2017-19 period and, afterwards, the programme as such to be included in the next MFF. As a first step, based on the strategic advice of the 'Group

¹¹ *Ibid*, p. 11.

¹² European Commission (2016), 'European Defence Action Plan', *op. cit.*, p. 18.

¹³ European Commission (2013), 'Towards a more Competitive and Efficient Defence and Security', COM/2013/0542 final, p. 5 & 11.

¹⁴ European Commission (2017), 'Launching the European Defence Fund', *op. cit.*, p. 4 & 7.

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of Personalities',¹⁵ including various stakeholders, the Commission launched in 2017 the PA with the first Pilot project on Defence Research to provide guidance for the upcoming programme. The PA implementation phase, focused on the selection of the research topics, is in line with the comitology procedures. For the PA it is even a double comitology: in an initial stage, a group of member-state experts evaluate the correspondence of proposals with EU needs; then, an advisory group (industry, research and technology organisations, academia, EDA and the European External Action Service) gives its assessment in the second phase.¹⁶ This approach confirms the inclusion of key stakeholders in the process and the close involvement of the Commission as well.

The Commission's most recent initiatives also strengthen its relations with the EDA. On 31 May 2017 the two entities signed a Delegation agreement on the implementation of the PA annual work. Three first calls for proposals were announced in June 2017, regarding the PA on Defence Research for 'projects in the areas of unmanned systems in a naval environment and soldiers systems'.¹⁷ They were managed by the EDA 'on behalf of the Commission' after it did so successfully with the Pilot Project.¹⁸ While the EDA has the competence and expertise for defence research, there is a risk here that EDA becomes a simple administrator in a process led by the Commission.

Supporting defence capacity

Besides the 'research window', the other major innovation of the EDAP is the 'capability window' of the European Defence Fund. To be developed in the next few years, it will offer co-funding from the EU budget and the Commission's technical support to member states for the 'joint development and the acquisition of defence equipment and technology [...] for example jointly investing in developing drone technology or satellite communication',¹⁹ which are defined as defence capacity priority areas in the EU's Global Strategy.

To promote joint development projects and to complement the 'research window', the Commission proposed a regulation in June 2017 to create a European Defence Industrial Development Programme.²⁰ The European Parliament agreed to this legislative proposal

¹⁵ European Commission and EUISS (2016), 'Report of the Group of Personalities on the Preparatory Action for CSDP-related research', Paris, February.

¹⁶ European Commission (2017), 'Launching the European Defence Fund', *op. cit.*, p. 6.

¹⁷ European Commission (2017), 'A European Defence Fund: €5.5 billion per year to boost Europe's defence capabilities', *op. cit.*

¹⁸ European Defence Agency (2017), '2017 calls for proposals published for PA on Defence Research', Press Centre, Brussels, 7/VI/2017, <https://www.eda.europa.eu/info-hub/press-centre/latest-news/2017/06/07/2017-calls-for-proposals-published-for-pa-on-defence-research>

¹⁹ European Commission (2017), 'A European Defence Fund: €5.5 billion per year to boost Europe's defence capabilities', *op. cit.*

²⁰ European Commission (2017), 'Proposal for a Regulation of the European Parliament and the Council establishing the European Defence Industrial Development Programme aiming at supporting the competitiveness and innovative capacity of the EU defence industry', COM(2017) 294 final, Brussels, 7/VI/2017.

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on 21 February 2018²¹ and the Council is expected to present its amendments soon in order to start the negotiations for its adoption in June 2019. This should allow first projects to be funded with a budget of €500 million (2019-20), probably on military drones and cyber defence. With a budget of €1 billion/year in the next MFF, it should offer different financial options, potentially also for countries that are now cooperating within the newly established Permanent Structured Cooperation (PESCO) in defence. In this regard, to give a clear leverage effect and encourage them, the Commission proposed that PESCO projects could receive an additional 10%, namely up to 30% of the total costs.²² Besides, financial contribution to the technological development and demonstration of projects, including prototypes, feasibility studies and testing facilities as well as dual-use products and technologies will be eligible for funding, including projects coordinated by the EDA.²³ With the financial toolbox that the Commission proposed to support member states in the joint acquisition of defence capabilities, there will be substantial financial incentives for EU countries to move forwards towards the European Security and Defence Union if they wish to do so.

Consolidating the defence market and export controls of dual-use technologies

The EDAP also intends to consolidate the European Defence Equipment Market, which has included armament procurement in the EU's internal market. The defence package, adopted in 2009, consists of the Commission's Directive 2009/43/EC on 'Transfers of Defence-related Products within the EU', and Directive 2009/81/EC on 'Defence and Security Procurement', which restricts the derogation clause to very exceptional situations in order to address the protectionism issue in the hitherto nationally-structured defence industry. Already in its 2013 communication 'Towards a More Competitive and Efficient Defence and Security Sector', the Commission proposed a series of measures that the EDAP reiterated for the 'effective implementation' of both directives, applying strictly (even through enforcement, as confirmed by the infringement procedures against five EU member states launched in January 2018)²⁴ to armament procurement and transfers of defence-related products within the EU, hence elevating arms-related policies again to a European level.

In the perspective of the European Security and Defence Union, the review process of Council regulation 428/2009 of 5 May 2009 'Setting up a Community Regime for the Control of Exports, Transfer, Brokering and Transit of Dual-use Items', though not part of the EDAP, deserves to be mentioned as well. It might foster European integration in this key dimension of the sector through an increased role of the Commission: while arms exports are managed through intergovernmental coordination based on the Council

²¹ European Parliament (2018), 'Report on the proposal for a regulation of the European Parliament and of the Council establishing the European Defence Industrial Development Programme aiming at supporting the competitiveness and innovative capacity of the EU defence industry (COM(2017)0294 – C8-0180/2017 – 2017/0125(COD))', PE 608.022v01-00, Brussels, 26/II/2018.

²² European Parliament (2018), 'MEPs approve first EU programme dedicated to the defence industry', Press room, 98120, Brussels, 21/II/2018.

²³ European Commission (2016), 'European Defence Action Plan', *op. cit.*, p. 9-10.

²⁴ European Commission (2018), 'Defence procurement: Commission opens infringement procedures against 5 Member States', Press release, Brussels, 25/II/2018.

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Common Position 2008/944/CFSP of 8 December 2008, the dual-use export controls regulation falls under the Common Commercial Policy, which lies in the exclusive competence of the Union.

In order to modernise export control, in September 2016 the Commission proposed a new regulation, 'Setting up a Union Regime for the Control of Exports, Transfer, Brokering, Technical Assistance and Transit of Dual-use Items (recast)'.²⁵ It mainly focuses on the 'human security' dimension in export controls and proposes expanding the set of controls on cyber-surveillance technology (having gained prominence as 'spyware' most recently) through the creation of an EU 'list of items'. This might further aggregate the Commission's ability to take the lead in adding items to the EU dual-use list, but more than anything, and for the very first time, it might create 'an EU control list for dual-use items that is not drawn from one of the multilateral export control regimes'.²⁶ A first step has been taken, as the European Parliament adopted its proposed amendments in January 2018, and 11 EU countries are already supporting the Commission's proposal.²⁷ The negotiations will take place in the coming months, once the Council has proposed its amendments. If things continue to develop as projected, the Commission will definitely have the opportunity to show its capacity as an enabler towards the European Security and Defence Union.

Conclusions

The Commission has been pushing for deeper European cooperation in the security and defence sector for the past two decades despite the reluctance of the member states in this intergovernmental domain. While important steps have been taken with the security research programme and the 2009 defence package, the EDAP definitively marks a qualitative leap with the launch of the European Defence Fund. Opening access to the EU budget for defence-related expenses has broken a taboo. It has occurred at the right time: Brexit has outmanoeuvred the British government's traditional reluctance towards any kind of Commission role in this sector, US President Donald Trump's pressure to increase defence spending to 2% of GDP to cope with unsustainable post-Cold War trends of limited defence budgets and the increasing security concerns in the EU member states from their direct neighbourhood (Russia, Ukraine, Syria and Libya, to mention just a few) undeniably offer a conducive environment for the Commission's initiatives to enable more European defence cooperation.

However, the Commission has adapted its approach to complement and stimulate national efforts with financial incentives –and not to replace them²⁸ or to only use directives with relative success through the 2009 Defence package–. In this endeavour, the Commission is still building its leadership capacity to facilitate and foster cooperation

²⁵ European Commission (2016), 'Proposal for a Regulation of the European Parliament and of the Council setting up a Union regime for the control of exports, transfer, brokering, technical assistance and transit of dual-use items (recast)', COM(2016) 616 final, Brussels, 28/IX/2016.

²⁶ Mark Bromley (2017), 'Export controls, human security and cyber-surveillance technology', SIPRI, December, p. 19.

²⁷ Catherine Stupp (2018), 'Eleven member states back EU controls on selling spyware', *EurActiv*, 21/II/2018.

²⁸ European Commission (2016), 'European Defence Action Plan', *op.cit.*, p. 7.

in defence under its competences. Nevertheless, it clearly recognises the role and responsibilities of the member states, which remain in the driver's seat, are consulted and involved throughout the development process of the Commission's proposals. An increasing and closer cooperation is also taking place with other key actors, such as the EEAS and especially the EDA for its competence and expertise in defence research. Hence, the Commission's initiatives have certainly opened up a new opportunity for EDA activities, notably in research as well as in aviation security. Moreover, the planned coordinating mechanism between 'legally distinct but complementary windows', research and capacity, should include relevant stakeholders, namely member states, EDA, HR/VP, industry and Commission representatives.²⁹ This shows the Commission's willingness to enable cooperation between actors through an inclusive approach.

The debate is no longer about the Commission's legitimacy and capacity to play or not a role in this field but on the scope of the implementation of the EU's new tools. As discussed at the NATO Defence Ministers' meeting and during the Munich Security Conference in February 2018, these initiatives towards the European Security and Defence Union have unexpectedly revived old debates and concerns from the US Administration about the scope of European strategic autonomy. US representatives have continued to say that EU initiatives should not duplicate NATO efforts and lead to the creation of a protectionist framework, especially regarding the defence market.³⁰ This Europeanisation process in a competitive market has raised some concerns about access for non-European companies. This came as a surprise for many European officials, especially considering Trump's 'America First' policy.³¹ Therefore, it remains for the EU's officials to explain, as they have done for each previous step, the rationale behind the new European cooperation dynamics in the defence sector.

²⁹ European Commission (2017), 'Launching the European Defence Fund', *op. cit.*, p. 4.

³⁰ Michael Peel, Katrina Manson & Mehreen Khan (2018), 'Pentagon fires warning shot to EU over Nato unity', *Financial Times*, 15/II/2018.

³¹ 'US offer first reaction to EU defence PESCO pact', *EurActiv*, 28/II/2018.