



## The Start-Up Fund – An Elegant Treaty Mechanism for Sustaining Defence Capabilities

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When the European Council meets in December, it will face a range of decisions which will lay the foundations for Europe's defence posture and role in the wider world for decades to come, perhaps even beyond the remainder of this century. The Lisbon Treaty has, for the first time, equipped the EU with the range of means to meet that role in practice. The question that remains to be answered is whether Europe's leaders have the political will to implement those means in full.

At his regular press briefing on 6 May 2013, NATO Secretary General Anders Fogh Rasmussen, dramatically threw down the gauntlet to Europe's leaders ahead of this December's European Council. Emphasising the need for improved cooperation and coordination between NATO and the EU, he called on Europe's leaders to ensure that, as a result of the first discussion about European security since the financial crisis at the European Council in December, Europe would be both willing and able to act in the interests of transatlantic security.

When asked directly what NATO and the EU could actually do to bolster Europe's

weakening defence industrial base and declining R&D expenditure, the Secretary General said that the answer was very simple: “to invest more in defence”. Making his challenge to Europe's leaders even more explicit, he went on to say that if the EU Summit failed to deliver this “then all talk about a strengthened European defence will just be hot air”.

According to official NATO figures, since the end of the Cold War, whereas US defence expenditure before the sequester was broadly where it was in the immediate aftermath of the fall of the Berlin wall (5.4% of GDP in 2010 compared to an average of 5.0% in 1990-94), defence expenditure in Europe has crumbled (from 2.5% in 1990-94 to less than 1.8% since 2009). But it is not only the volume of defence expenditure in Europe that is the cause of concern; it is the combination of that with the context in which it is taking place. Prior to the end of the Cold War, when NATO Europe was devoting 2.5% of GDP to defence, NATO Europe forces per se had never been deployed into active hostilities. Since 1990, however, these forces have been deployed almost continually, first in the Balkans and Kosovo backing up the UN, then in Afghanistan and most recently in northern

Africa, which set a new precedent by not being US-led. With the US now cutting its expenditure as a result of the sequester, and, following the “pivot to Asia”, now referred to as “rebalancing”, concentrating those reduced resources in the Pacific region, a far greater burden of responsibility is now going to fall on NATO Europe in general and its EU Member States in particular, just as the resources to meet those challenges have been cut to the bone.

However, it is not just an issue of the volume and context of that expenditure; it is also an issue about the division of that expenditure between manpower and equipment.

Since the end of the Cold War, the US has cut its military personnel by around 35%, while leaving its equipment budget more or less intact, if not reinforced, so making the US military leaner, fitter, more flexible and thus more deployable. While the UK and France have both moved in this direction as well since the St. Malo agreement, most EU Member States have not followed suit, so that while personnel numbers are about 40% down since the end of the Cold War, the proportion of expenditure on personnel remains excessively high and equipment budgets in many Member States have been excessively squeezed. Thus EU Members of NATO are less prepared to respond to crises just at the time that they face more, and more challenging and complex, responsibilities “out of theatre”.

Thus NATO Europe needs to go much further in reducing expenditure on non-deployable personnel, so liberating further funding for equipment essential for “out of theatre” operations.

### **THE LISBON TREATY AND THE START-UP FUND**

The asymmetry of defence expenditure across the Atlantic has dogged NATO throughout its

history, but it was unable to address the problems as NATO acts exclusively by consensus. However, it has become increasingly apparent since the Maastricht Treaty that the mismatch between the defence equipment market and the rest of the Single Market was becoming an disturbing anomaly, not least as an ever greater number of the components used in defence equipment equally have civilian applications subject to the normal rules of the Single Market, established by qualified majority voting (QMV).

The European Defence Agency (EDA) was specifically established to address this fundamental problem at the heart of the European defence industry and its market, but until QMV was enshrined into the Lisbon Treaty with the establishment of the Start-Up Fund, the EDA was always going to be tackling the problem with one arm tied behind its back.

Article 41(3) of the Treaty on European Union explicitly states: “*Preparatory activities for the tasks referred to in Article 42(1) and Article 43 which are not charged to the Union budget shall be financed by a start-up fund made up of Member States' contributions. The Council shall adopt by a qualified majority, on a proposal from the High Representative of the Union for Foreign Affairs and Security Policy, decisions ...*”.

The Treaty thus provides for the establishment of the Start-Up Fund, but leaves the decisions concerning the practicalities, in particular the definition of what constitutes “*preparatory activities*”, to the normal political process. The Lisbon Treaty makes a very clear distinction between the “preparatory activities” to which the Start-Up Fund, and thus QMV, applies and all other defence-related decisions, which remain subject to unanimity, notably concerning decisions about operations (“missions” in the language of the Treaty) and tasks, as set out in Article 43 of the Lisbon Treaty on European Union (TEU).

As the Treaty itself does not define what “*preparatory activities for the tasks referred to in Article 42(1) and Article 43*” are, this will have to be decided by the Council, acting “*by a qualified majority*”. This is the challenge confronting Europe's leaders at this December's Summit.

### IMPLEMENTING THE START-UP FUND

Following the Franco-British Summit in St. Malo in December 1998, the EU moved remarkably swiftly to put the main principles enshrined in the St. Malo Declaration into practice at the EU level, but in the process, the Council has identified a number of EU shortfalls which are regarded as critical, notably relating to the capability of transporting forces to theatre, deploying them in theatre and protecting them while they are there. Strategic transport assets and the availability of helicopters are obvious examples of these shortfalls.

It has always been, even well before the end of the Cold War, very much in the Franco-British interest for all EU states to bear a more equitable burden on defence expenditure in general, and the equipment budget in particular, than they have ever managed to do since NATO's inception. Following the Lisbon Treaty, only the EU provides the legal and political framework for overcoming this problem, as Article 41(3)(a) requires the Council to decide, by qualified majority: “*the procedures for setting up and financing the start-up fund, in particular the amounts allocated to the fund*”.

Evidently, the IGC took the view that such intensely political decisions could only be taken by ministers in the course of the normal political process. But broadly speaking, they will have to choose between three basic options: to spend more on defence overall in the light of the EU/NATO Europe's enhanced role in transatlantic security in recent years; to spend less but maintain existing outputs through enhanced efficiency, not least through

the collaboration that the Start-Up Fund entails; or to enhance outputs while remaining budgetarily neutral, as a result of the efficiencies gained through the Start-Up Fund. Which way ministers will ultimately go remains to be seen, but the whole point of qualified majority voting is that the decision will go with the option that gains the greatest consensus, while no individual Member State will be able to wield a veto, as would be the case within NATO.

But beyond making up for existing shortfalls as recognized by the Council and for establishing a fairer, more equitable burden sharing on defence expenditure among the EU Member States, there is a range of other decisions that ministers will also have to make in order to implement the bare bones of the Treaty's provisions. The most important of these will be the scope of the activities of the Start-Up Fund.

### POTENTIAL RANGE OF “PREPARATORY ACTIVITIES”

The best starting point for defining what the Start-Up Fund should do is in the remit of the EDA provided in Article 42(3) TEU, which it says is the “*defence capability development, research, acquisition and armaments*” agency and is responsible for measures to “*strengthen the industrial and technological base of the defence sector*”. This, in a nutshell, encompasses what the IGC intended by “*preparatory activities*”, which clearly goes well beyond just the development and acquisition of equipment.

In the spirit of Pooling and Sharing and Smart Defence, there are a number of topics that could be addressed that fit under the label “preparatory activities.” If these “preparatory activities” are translated into “the continuing process of ensuring appropriate readiness, resilience and quality of capabilities through a methodical capability development and capacity building regime” the EU Start-Up Fund could

open the door to sustaining the effectiveness of EU defence and crisis management. The following is an indicative list of areas that if backed-up by the Start-Up Fund could significantly enhance EU capabilities, increase efficiency, both technological and financial and boost the EU's domestic security as much as its global role :

**Science, Technology and Innovation:** As the EU's multiannual R&D Framework Programmes and the ESA's Science and Technology Programme have demonstrated over the past few decades, R&D is an area which has been shown beyond doubt to benefit from a multinational and multiannual approach to funding. Then Europe can perform on equal terms with the rest of the world and, as with CERN, even lead the world. For all the reasons alluded to above, this has never really happened on a properly coordinated basis in Europe as far as defence is concerned and is one of the key reasons why the EU and NATO Europe have tended to lag behind the US over recent decades. This should therefore be the very first priority to address through the Start-Up Fund.

However, there are certain specificities to defence-related R&D that do not apply either to the EU's civilian industrial programme or even the ESA's programme, as defence equipment is neither purely scientific, nor is it purely commercial operating in a "normal" market, given that for the vast majority of products, governments are the sole purchasers, and the military have certain requirements the cost of which would never be supported by a purely civilian market. That said, the building-blocks of many of these products, especially at lower systems levels, often have dual-use applications. Establishing a "*Hoover and Harvest*" mechanism backed by the Start-Up Fund would enable the EU to maximize the return on total investments in civilian and defence R&D in particular by enabling entrepreneurs to present their business cases to a panel of expert financiers to expedite the process of turning business ideas into

profitable products. If this were established as a public-private mechanism, it would provide a forum in which technological innovations would gain exposure to defence and civilian investors, the latter thus opening up the door for both institutional and private venture capital.

The "Hoover and Harvest" concept could be designed with three primary aims. The first would be to act as the bridge over the infamous void between research funding and funding associated with product development (also known as the "valley of death"). The second would be to expose innovations coming from both the civilian and defence domains with the ambition of identifying new opportunities in the path of exploitation that could be beneficial for the whole of Europe. The third would be to ensure that the path of exploitation actually leads to a competitive product with export potential.

**Common Asset Acquisition and Management:** However complex, acquisition of common assets and providing appropriate through-life management for certain applications might be the only viable way ahead in a cost sensitive future. A recent example of this is the acquisition and deployment into ISAF of a forensic capability. EDA provided the seed funding on behalf of all its Member States for the actual acquisition and a coalition of the willing deployed the equipment into theatre along with personnel and logistical support, such that it has since autumn of 2011 provided an important exploitation capability. This is a good example of how having access to the funding necessary for initial acquisition significantly catalyses the process – one and a half years after receiving the ministerial green light to use EDA funds for the acquisition, the capability was in operation. This could be extended by the creation of a network of certified forensic laboratories bringing together both the civilian and military intelligence communities, thus

strengthening both domestic security and that of personnel deployed on operations. There is an opportunity for the Start-Up Fund to play a similar role on a wider scale building on this example, including “through-life management” arrangements applicable to existing multi-national pooling and sharing regimes.

**Knowledge Base:** Knowledge, Skills and Competences (KSC) are the backbone of capabilities. Without a strong knowledge base there is a risk of increased dependencies on non-European sources to the extent that it might compromise one or more capabilities. This applies to the whole chain, from tactical KSC through design and production all the way to management of requirements. It is apparent that there are areas within defence and crisis management where the ageing of staff along with the lack of influx of younger generations is threatening to compromise capabilities. This is particularly evident in research, design and manufacturing. It is also apparent that tactical experience from theatre can be lost as operations come to an end, at the cost of loss of lives the next time around (as has already been witnessed in, for example, the countering of improvised explosive devices). The Start-Up Fund can support deploying mechanisms for capturing KSC, establishing critical KSC centres and strengthening of education and training schemes, for instance in the fields of energetics and munitions research, where defence companies often face stiff competition for scientific excellence from other sectors of private industry. By supporting the establishment of exchange programmes and post-graduate research centres, the Fund could provide a vital boost to the research base as well as reinforce more vocational skills such as precision mechanics and test and evaluation engineers.

### **Climate, Environment and Energy Security:**

Making the defence and crisis management community more sustainable in terms of its

energy use and impact on the environment, and thus more consistent than it presently is with the EU's general climate and environmental strategy, offers a new opportunity for the Start-Up Fund. EDA's vehicle for this is Military Green, an umbrella effort that could translate into a programme. However, funding is an issue and there is little money in defence budgets earmarked for energy and environment. There is a clear role for the Start-Up Fund in promoting and facilitating development and use of more responsible systems and technologies. There is even a strong case for having a dedicated section of the Start-Up Fund to support “Military Green” programmes specifically, such as those currently eligible under the “Go Green” project for retrofitting military infrastructure with renewable sources of energy and for facilitating the achievement of the EU Military Staff's Environmental Protection Concept's priorities (approved by ministers in autumn of 2012), notably energy, water and waste management by EU forces deployed abroad.

Mitigating risks to international security coming from changes to climate and biodiversity requires the development of a new palette of capabilities. There is also the aspect of governing climate/geo engineering, an emerging sector with a good cause but in the wrong hands it could act as a threat. Since tackling climate change is in the interests of the EU as a whole, using the Start-Up Fund to this end, where appropriate in collaboration with the European Commission and the civilian sector, could bring benefits well beyond the strictly military sphere.

### **CONCLUSION**

Beyond this range of “preparatory activities”, the Start-Up Fund could be an invaluable instrument to achieve other fundamental EU military objectives, including reducing Europe's dependence on imported technology,

providing a common European mechanism for test and evaluation of new technologies as they emerge from the joint research effort, providing much more extensive homecoming support for personnel serving abroad than currently exists and for providing improved infrastructure for evidence-based operations.

In conclusion, the Lisbon Treaty provides Europe's leaders with the means to tackle Europe's long-standing security and defence deficiencies, but only Europe's leaders themselves can demonstrate that they have the will to use these means to ensure that Europe's defence is not “just hot air”.

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