



## More Competitive, More Efficient? The 2013 European Commission Defence Communication

*Daniel Fiott*

The European Commission has now released its 2013 Communication on defence-industrial policy. But does the latest set of policy ideas offer European defence-industrial cooperation any new impetus? This Brief argues that while the majority of the Commission's initiatives are not new, some much needed ideas have made their way into the latest Communication.

The European Commission has now released its renewed vision of European defence-industrial cooperation called *Towards a More Competitive and Efficient Defence and Security Sector*. It is a Communication that can be characterised as an interesting hybrid of regulatory and project-based proposals. The Commission began thinking seriously about European defence in 1996 with the release of its first Communication; the latest version is the sixth since this time. Indeed, not perhaps since its 2003 defence Communication – developed in the context of the establishment of the European Security and Defence Policy, the convention on the Future of Europe and the then impending EU enlargement – has a Commission Communication on defence been so eagerly anticipated.

This policy brief argues that while the proposals contained in the latest Communication offer some important new initiatives, a lot of the proposals have been carried forward from past Communications and as such highlight the continuity in the problems faced by the Commission, *vis-à-vis* the member states, in defence-industrial cooperation. While much of the latest Communication is not new in scope or ambition, however, it is being released at a time of considerable uncertainty and pressure for the European Defence Technological and Industrial Base (EDTIB) and will feed into the discussions at the European Council meeting on the “state of defence in Europe” in December 2013.

### THE COMMISSION AND DEFENCE-INDUSTRIAL COOPERATION

Before any analysis of the latest Communication can begin, it is necessary to contextualise the Commission's role in European defence-industrial cooperation. It should first be recognised that the Commission's involvement in European defence-industrial cooperation has a relatively long pedigree; its involvement predates the European Defence Agency (EDA) (established in 2004), for example. The Commission has a

set of specific regulatory tools that it can use to influence the direction of defence-industrial cooperation. It can, for example, use the treaties to potentially ensure fair competition and transparency in procurement but it does not – as is the case with the EDA – manage collaborative capability programmes on behalf of and in cooperation with the member states. Aware of its limitations, the Commission has to be rather strategic in using the tools it does have at its disposal.

It is interesting to note the continuity across all of the Communications on defence since 1996. Indeed, it is possible to discern a pattern since the first Communication regarding the *rationale, problems* of and *actions required* for European defence-industrial cooperation.

For the Commission the *rationale* has always been clear. The EU requires a European Defence Equipment Market (EDEM) and EDTIB in order to maintain high-skilled employment in Europe, to support small- and medium-sized enterprises (SMEs), to ensure that European states through the Common Security and Defence Policy (CSDP) and NATO have autonomous capabilities and that the defence sector delivers value for money for European citizens.

The Commission has also been consistent on the *problems* impeding greater European defence-industrial cooperation. It has long held that the internal market for defence is still fragmented; defence budgets and defence R&D funds are in chronic decline; there is a need for closer civilian/military and industrial/defence linkages; military capability development needs rationalising; and European defence equipment requires greater standardisation and interoperability.

Regarding the *actions required* the Commission has long maintained that it will help overcome the obstacles to greater European defence-industrial cooperation by

challenging the member states' application of Article 346 – which allows member states to withhold information and restrict defence-related trade in the name of national security; using the European Social Fund (ESF) and other structural funds to assist SMEs and defence-sector workers; assisting European firms gain access to United States (US) defence markets; reflecting on how it can apply competition rules to the defence sector; looking at ways to boost security of supply and information for member states; and developing a security-related research agenda. The Commission has made important steps forward on this front, of course, most notably through the adoption of two Directives in 2009 on intra-EU defence-related product transfers (Directive 2009/43/EC) and defence and security procurement (2009/81/EC) known as the “Defence Package”.

### THE 2013 DEFENCE COMMUNICATION

When reading the latest offering from the Commission, therefore, one must be careful to decipher what is genuinely innovative in policy terms and what has been on the agenda since at least the mid-1990s. In this regard, the latest Communication has listed 7 priority action points – some new, some not – including:

- 1) *Strengthening the internal market for defence* by actively monitoring the openness of member states' defence markets; preparing guidance notes on the application of the defence Directives; ensuring the rapid phasing out of member state offsets; ensuring coherent application of Article 346; issuing a *Green Paper* on improving defence-security industrial security of supply; and establishing a central register for general licenses on intra-EU defence transfers.
- 2) *Promoting a more competitive European defence industry* by developing standardisations for dual-use products with defence applications such as Chemical Biological

Radiological & Nuclear (CBRN) and Unmanned Aerial Vehicles (UAVs); ensuring a common European approach to product certification for military airworthiness; screening critical defence-related raw materials; establishing greater linkages between defence-industrial regional clusters of excellence; supporting defence-related SMEs across the EU through the use of Horizon 2020; and using the ESF to develop skills needed in the defence sector and to re-train workers.

- 3) *Increasing civil-military synergies and innovation* by launching pre-commercial procurement schemes for cutting-edge prototypes such as CBRN detection. This means that the Commission can invest in R&D projects in order to assist companies share the risks and benefits of designing, prototyping and testing products, to create the optimum conditions for commercialisation and to pool the efforts of several procurers without involving state aid.
- 4) *Developing capabilities* by identifying dual-use products that can be used to meet CSDP-related capability shortfalls.
- 5) *Increasing civil-defence space activities* by examining ways to pool and share satellite communications; analysing how member states can maintain military satellite systems in the future; and exploring the possibility of developing a high resolution EU satellite for Common Foreign and Security Policy (CFSP)/CSDP operations.
- 6) *Designing a European energy strategy for the defence sector* by developing in tandem with the member states a defence energy concept that reduces energy consumption in defence estates, increases the use of renewable energies and promotes the use of smart grid technologies.

- 7) *Strengthening the international dimension* by integrating security and defence into the EU's external trade policy; gaining greater access to the US market for European firms; helping EU defence firms with offset demands in third-countries; promoting European firms and technologies in third-country markets; presenting a guide on strategic export controls.

### **MORE OF THE SAME?**

Given the continuity over the various Communications it is not surprising to learn that some of its latest policy intentions are not that new at all. For example, the Commission has consistently made a point about challenging the member states on their application of Article 346. When the Commission has taken relevant member states to the European Court of Justice (ECJ) to challenge an Article 346 situation the Court has tended to rule in favour of the Commission. Yet the Commission, by consistently referring to the fact that it needs to challenge member states more regularly and effectively on Article 346 in each Communication since 1996, must feel it can still do more in this regard. The latest Communication yet again indicates that the Commission will challenge Article 346 cases on a consistent basis.

Another area that has been on the agenda since 2009 has been the application of the “defence package”. By their very nature Directives set the desired end result of policy or law (in the case of the “defence package” this means more liberalised intra-EU defence-related transfers and procurement processes), but it is up to national authorities to adapt laws and policies to meet this end in a manner they choose. While the task of monitoring each national response to the two Directives is challenging, it remains unclear whether the Directives have been beneficial for the proposed end. Indeed, it would be beneficial to have a clearer answer to the question: what

tangible overall impact has the Commission's "defence package" had on European defence markets?

Another issue of importance to the Commission is that of defence spending in the member states. Military spending, which is the sole prerogative of the member states, is a delicate issue for the Commission to weigh-in on. Nevertheless, it does recognise that the problem in Europe is not so much the amount being spent on defence but rather what the existing money is being spent on. The Commission understands that much of Europe's defence spending 'goes to manpower rather than the procurement of new equipment and forward-oriented research' (2012). Indeed, since 2006 EU member states have consistently spent over 50% of total defence spending on personnel costs (EDA, 2010). Yet, since 1996 – for obvious political reasons – the Commission has been unwilling to make concrete political recommendations on how EU member states should spend their defence budgets.

Layoffs in the defence sector – be it military personnel and/or defence firm employees – are an inevitable casualty of European defence restructuring. The Commission estimates that approximately 1.5 million highly skilled workers are employed in the defence-industry sector, so the sector is sufficiently relevant (Commission, 2009: p. 17). One idea the Commission has long pushed for in its Communications is using the ESF and the European Regional Development Fund (ERDF) to support, among other things, worker re-training and re-skilling. The Commission has in the past supported such projects in countries such as France. However, the challenge facing any use of the structural funds in the defence sector relates to the economic crisis: in the face of greater demand on the structural funds, the Commission will have to justify investing finances into the defence sector as opposed to other sectors equally in need of support.

Another issue that has long been present on the Commission's agenda is dual-use technologies and the importance of SMEs. Indeed, the Commission is correct to suggest that SMEs comprise a large proportion of defence companies with important linkages to the rest of the European economy, and the line between strictly military and civilian technologies is increasingly blurred. SMEs and dual-use technologies are the focus of the Commission's activities in Europe's defence markets, not just because of market composition but because it allows the Commission to draw on policy tools – such as the structural funds and the Framework Programmes – that cannot strictly be used for funding in the military sector. In essence, emphasising the civilian and dual-use nature of the defence sector as opposed to the more strictly military side plays to the Commission's existing policy tool strengths.

There is good reason for this continuity, as it shows the persistent and perennial challenges faced by the European Commission. Firstly, the Commission is only able to use specific legal and policy tools to shape defence markets in Europe and it thus lacks the full range of powers needed to shape the EDTIB alone. Secondly, member states recognise that the European Commission is playing the double game of helping with the construction of an EDTIB while simultaneously trying to increase its own policy powers in the defence-industrial sector. Certain member states thus pose a countervailing resistance to the Commission's supranational ambitions in EDTIB-related initiatives, and they task other bodies such as the EDA and undertake bi-lateral agreements with each other to balance these ambitions. Given these two factors, the Commission should be credited for playing the role it has played so far in European defence-industrial cooperation.

**SO WHAT'S NEW?**

The latest Communication does, however, offer a number of innovative and potentially promising avenues for European defence. For example, one development is the Commission's move to create policy linkages between the EU's *Raw Material Initiative* and critical material supplies to the defence sector (as previously called for by Fiott, 2011). The Commission has already conducted some important work in the field of resource security: the step to include the defence sector in these efforts is a sound progression. Thus, by the end of 2013 the Commission proposes to screen critical defence sector materials as part of its overall *Raw Materials Strategy*. Another important – if overdue – initiative on the horizon for security of supply relates to foreign investment in and ownership of European defence industries (as previously called for by European Parliament, 2007; Fiott, 2012). The Commission proposes to assist member states in maintaining security of supply, and its proposed *Green Paper on the control and ownership of critical industrial and technological assets* on this basis is to be welcomed.

The Commission has also signaled its intention to assist in boosting the EU's civilian capabilities under the CSDP. This is an interesting avenue of work that could see the Commission play a bigger role in CSDP capability development, and indeed it intends to work with the European External Action Service (EEAS) to draw up a joint assessment of dual-use capability needs for the CSDP. Given the wide-spectrum of capabilities covered under the label “dual-use” this could interestingly but perhaps controversially also include UAVs. However, space and satellite communication capabilities have been listed as priority areas in the Communication. The European Commission recognises that in the EU ‘there is no structural link between civil and military space activities’ (2013: p. 12). One potential project that the Commission will look into therefore is high-resolution satellite capabilities

sourced in the civilian sector for use under the CSDP.

Furthermore, most interesting is the way the Communication notes how the Commission and the EEAS will ‘[o]n the basis of this assessment [...] come up with a proposal for which capability needs, if any, could best be fulfilled by assets directly purchased, owned and operation by the Union’ (Commission, 2013: p. 12). While the Commission will no doubt guard against the idea that it will start purchasing military equipment, it must be evident to those reading the Communication that – if indeed we take the Commission's own understanding of the blurred lines between the civil-military sectors and dual-use technologies – there will be some contestation over what is classed as a “military” piece of equipment. Nevertheless, as has been the case with the Frontex Agency allowing a supranational authority ‘to buy and lease equipment in partnership with the Member States could greatly improve the shortfalls in equipment required for military missions’ under the CSDP (Fiott, 2013: p. 59).

Another project-based idea that the European Commission wants to develop is in the area of an *Energy Strategy for Defence*. The Commission recognises that Europe's armed forces are among the biggest consumers of energy in the EU. Accordingly it wants to develop an energy concept to reduce the energy consumption of Europe's armed services and increase renewable energy and smart grid technology usage. By the first half of 2014 the Commission plans to present a guidebook on renewable energies and energy efficiency for the defence sector. Having more energy efficient militaries in Europe is crucial from a strategic as well as economic and environmental sustainability perspective. As the EDA has been the pioneer in promoting this very concept at the EU-level through its “Military Green” initiative, and because the EDA has greater linkages with the member

state armed services and defence firms, the Commission has the task of building on the EDA's work with its own energy and environmental expertise found in its respective DGs.

### **FUTURE CHALLENGES**

Even if the European Commission's latest Communication is far from revolutionary, it does give much food for thought. Indeed, in the latest version it is possible to notice an interesting admixture of new and not so new *legislative* and *project-based* initiatives. While the Commission wants to continue utilising its legislative powers, it is increasingly interested in project-based initiatives. This can be seen in its increasing involvement in dual-use capability initiatives and its realisation that its expertise on raw material and energy issues can give it a greater stake in European defence-industrial cooperation beyond the use of mere legislative initiatives. Close coordination with the EDA is, however, required given that it – especially in the case of energy initiatives – is already working along similar lines.

While the member states will perhaps fall short of agreeing to the Commission's call for a *European Defence Industrial Strategy*, what is clear is

that the Commission's latest Communication comes at a crucial time for European defence-industrial cooperation. While it can be critiqued for repetition, the latest Communication will surely give extra voice to the need for action by the member states on the unsustainability of Europe's defence-industry. Decreasing defence budgets and increasing international competition makes ever clearer what has been known for some time: member states cannot afford to go it alone. Working more closely with the Commission on its latest round of policy initiatives may now be a very real necessity for the member states.

*Daniel Fiott is a Doctoral Researcher at the Institute for European Studies, Vrije Universiteit Brussel (IES-VUB) and a Senior Editor of European Geostrategy. The opinions expressed in this policy brief are his own and do not reflect in any way the official policy or position of the IES-VUB or European Geostrategy.*

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