Mapping of key policy processes active in the acquisition of multi-state defence capability acquisition

Deliverable 1 of the Expert Group on the European Defence Fund's Financial Toolbox

Secretariat of the Expert Group on the European Defence Fund's Financial Toolbox
10/10/2018

Overall objective

This paper provides an overview of the different institutional and policy processes that are involved in driving, shaping and implementing collaborative defence capability acquisition projects. The purpose is to describe briefly the policy setting in which decisions on the identification, governance and financial structuring of collaborative defence projects takes place. This will help to anchor the Financial Toolbox in this wider set of processes. In particular, it aims to identify when the considerations presented in Deliverables 2 and 3 need to be addressed as part of the emerging European processes for defence and security cooperation.

The focus is on capability requirements and projects for which solutions are being sought at European level. There are several longstanding processes and agencies with diverse geographical and functional scopes that have been engaged in this work. These have been complemented by new developments such as PESCO. This paper attempts to provide a brief description of the inter-relationships between these processes and their respective involvement in the financial planning and structuring of multi-state defence capability acquisitions. This deliverable maps the key capability development processes, initiatives and actors (e.g. CDP, CARD, PESCO, EDA CFM including the role of the EIB within that mechanism, EDF, OCCAR, MCCE and ATHENA[1])[2] involved in initiating, organising or executing multi-state defence capability development and acquisition.

On this basis, the work-stream seeks to identify the actors/processes that will be instrumental in integrating and applying the financial optimisation lessons from the EGFT/Financial Toolbox. It seeks to document the respective spheres of competence of the different actors, and their level of engagement with the financial planning and structuring of capability development or acquisition. In addition, it presents a schematic decision architecture for project promoters/MoDs seeking to develop specific capabilities with respect to key decision points in a project life-cycle and the processes and institutions that may support these decisions.

1. Landscaping; overview of the institutions and processes involved in identifying and meeting the EU's defence capability requirements

This section describes the most important policy processes, frameworks and institutions that are involved in shaping multinational cooperative defence capability development, acquisition and operation. It seeks to highlight the respective roles of these different actors and the interplay between the most important processes from a financing perspective.

The emerging European defence landscape includes the following key elements:

1. Elements framing common policy objectives and priorities (EU LoA in security and defence, PESCO, CDP, OSRA, KSA);
2. Structuring the delivery of specific capability requirements, setting timelines and budgets and framing governance (CARD, PESCO projects, EDF, EDA CFM for supporting budgetary synchronisation);

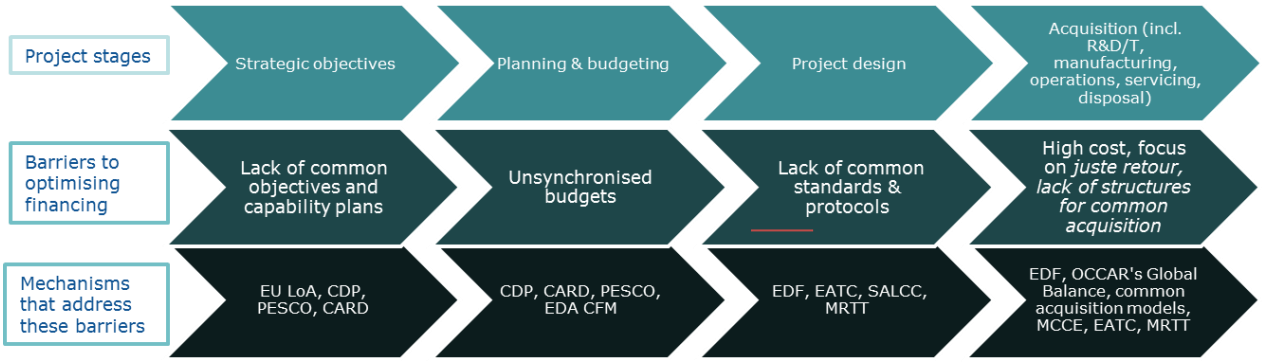
[1] EU MS procure common EU support services for CSDP operations and missions via the ATHENA mechanism

[2] It needs to be noted that OCCAR and MCCE are note EU actors/agencies.

3. (Co-) financing of collaborative research and development projects through the European Defence Fund (available EU funds: EUR 590 million up to 2020, EUR 13 billion for 2021 – 2027);
4. Improving decision-making structures and clarifying (shared) ownership solutions (EDA, EDF Financial Toolbox)
5. Mechanisms to organise the capability acquisition (EDA) and contract management in accordance with political priority-setting (OCCAR, MCCE, etc.).

Diagram 1 presents a much stylised attempt to situate the role of key actors across a project life-cycle and their role in the preparation, organisation and implementation of multi-state defence collaborative projects.

Diagram 1: Describing the functions of existing mechanisms throughout a capability life-cycle



Step 1: Framing strategic capability needs

The overarching strategic objectives for the EU's security and defence policy are based on the TEU. The EU **Level of Ambition** in security and defence derived from the **EU Global Strategy** for foreign and security policy is laid out in the November 2016 Council Conclusions endorsed by the European Council. These conclusions provide a shared vision and common action to address evolving security threats and challenges with respect to certain generic strategic priorities. This framework seeks to provide a common strategic planning framework to support optimised defence financing. At this stage of the process, financing considerations do not yet come into play (i.e. financing questions are subsidiary to the identification of strategic prioritisation). The EU Level of Ambition is translated into detailed capability requirements via the Capability Development Mechanism (CDM) conducted by the Headline Goal Task Force (HTF) in the frame of the Council with the Member States, and the coordination and support of the EU Military Staff. Based on what the EU needs (catalogue of the total capability requirements to accomplish the TEU tasks) and what the EU has (Force catalogue of the MS' contributions), the Progress catalogue 2018 provides the military assessment of the prioritised capability shortfalls and High Impact Capability Goals to be achieved in a phased approach to fulfil the EU CSDP Military level of ambition. These were taken into account in the review of the Capability Development Plan, which delivered the EU

Capability Development Priorities agreed in June this year in the EDA framework. As agreed by the Council in its 25 June 2018 conclusions, such priorities will, as a key reference for Member States' and EU's capability development, inform CARD, PESCO and the EDF, thus contributing to coherence among these distinct but mutually reinforcing initiatives.

Step 2: Planning & budgeting

In a capability development life-cycle, this step is key as it translates CDP- Capability Development Priorities into concrete programmes and matches the latter with budget resources. This step provides therefore a first opportunity for identifying collaborative capability development programmes and capitalising of the strategic and economic benefits they may bring compared with purely national solutions. The relevant processes at the European level are listed below.

The **Capability Development Plan** (CDP) elaborated by the European Defence Agency (EDA) in cooperation n with MS and the EUMC, aims at analysing military requirements over different time perspectives (short-medium-long-term) in order to support multinational cooperative capability development and national planners in their respective national processes and inform EU's capability development.

Based on this information from all MS, EDA conducts a prioritisation of capabilities to be addressed by MS taking into account threats analysis, the technological perspective and on-going national defence plans, leading to EU capability development priorities agreed amongst MS.

The **Coordinated Annual Review on Defence** (CARD) will help to foster capability development by analysing and assessing the whole EU capability landscape. It aims at addressing shortfalls, deepening defence cooperation and ensuring more optimal use, including coherence, of defence spending plans. It will "develop, on a voluntary basis, a more structured way to deliver identified capabilities based on greater transparency, political visibility and commitment from Member States". CARD will provide a full picture of the European capability landscape, monitor defence plans as well as the implementation of EU capability development priorities (CDP) and R&T priorities, assess defence cooperation in Europe, and identify possibilities for convergence among MS as well as cooperative opportunities, which in turn can be taken up amongst other possibilities of cooperation within PESCO and funded by the EDF. Therefore, CARD will develop a report providing recommendations within these areas to be agreed by defence ministers. The outcome of the CARD trial run launched last year will be presented to Ministers next November with a view to the first full CARD implementation scheduled 2019/2020.

The **Permanent Structured Cooperation** (PESCO) is a Treaty-based framework and process to deepen defence cooperation amongst EU Member States that are capable and willing to do so. The aim is to provide coherent EU defence capabilities and make them available for (*inter alia*) EU military operations as well as to deepen defence cooperation within the EU. Therefore PESCO sets out binding commitments that help participating Member States to reach the level of ambition of the EU. PESCO has a two-layer structure:

- The Council Level is responsible for the overall policy direction and decision-making, including as regards the assessment mechanism to determine if Member States are fulfilling their PESCO commitments.

- PESCO also has a project level. Each PESCO project is managed by those Member States that contribute to it, and in line with the governance rules for project management adopted by the Council[3].

Each participating Member State is required to communicate every year a National Implementation Plan (NIP) to assess the fulfilment of the binding commitments they have made to one another. From a financing standpoint it will be important that the participating Member States fulfil their financial commitments in a credible and comprehensive financing way which would minimise the risk of project delays due to e.g. frozen budget lines within the participating MS' budgets. The PESCO Secretariat is provided by the European Defence Agency (EDA) and the EEAS (EU Military Staff and CMPD).

Step 3: Project design

PESCO provides a new EU institutional framework to Member States to develop and run capabilities and specific projects in all areas, including via new specialised structures that will be able to specify concrete projects in each domain (e. g. command and control, energy, medical, force package, …).

In the frame of the EU Concept Development and Implementation Programme (CDIP) validated annually by the EU Military Committee, the **EU Military Staff** prepares in particular official EU military technical requirements for the Council, in coordination with EU Member States and in consultation with relevant national and multinational centres of expertise.

Concrete projects can also be further specified in particular through the **European Defence Agency**. EDA brings together Member States interested in working on joint projects in order to agree modalities for their common acquisition, under a range of cooperative mechanisms to facilitate pooling or joint acquisition. These projects will typically start with a harmonisation of the requirements among the Member States interested and a business case followed by feasibility studies to identify the most effective technical solution to the expressed need. Such studies will also compare the cost of different acquisition options. The latter is of key importance as it will provide the basis for the next stage – the actual capability development and/or procurement. Member States efforts in harmonizing of requirements and common technical specification can be supported with feasibility and design/definition studies (co-) financed through the EDF. It is at this stage, that discussions on the scale of the project (relative to national budgets and priorities) should become clear, and the extent to which pooled/collective solutions can provide one avenue for meeting the funding challenge. This should help to inform decisions on the project governance arrangements (degree of mutualisation involved) and subsequently the margin for using alternative acquisition/financing solutions other than direct procurement. The EDA/OCCAR Agreement defines points of transfer for procurement project. Duplication of structures should be avoided.

Member States efforts in harmonizing of requirements and common technical specification can be supported with feasibility and design/definition studies (co-) financed through the **European Defence Fund**. Actions coming up later in the development cycle (i.e. prototyping, testing, qualification and certification) will be eligible for funding under the EDF only if they are based on common technical specifications. In this sense, the conditions for the eligibility for funding under the EDF can be factored in at an early stage in the project design. It is at

[3] Council decision establishing a common set of governance rules for PESCO projects dated 25 June 2018

this stage, that discussions on the scale of the project (relative to national budgets and priorities) should become clear, and the extent to which pooled/collective solutions can provide one avenue for meeting the funding challenge. This should help to inform decisions on the project governance arrangements (degree of mutualisation involved) and subsequently the margin for using alternative acquisition/financing solutions other than direct procurement.

The **EDA's Cooperative Financial Mechanism** is being developed as a solution to project financing delays that may arise due to lack of budget synchronisation between participating Member States. CFM foresees a system of reimbursable advances and deferred payments between MS participating in R&T, R&D or capability acquisition projects. This aims to allow projects to progress in the face of temporary budget shortfalls on the part of some of the participating Member States. The involvement of the European Investment Bank within the CFM has been welcomed by Member States at the EDA Steering Board in May 2018.

Step 4: Acquisition and project management (including development, manufacturing, operations and maintenance)

Once there is agreement to proceed with acquisition of the identified solution, once cost/work sharing has been resolved, and once robust governance arrangements are in place, attention can turn to acquisition (arrangement of the procurement) and management of the contracts. The operational phase constitutes a challenging and resource-intensive phase which is critical in realising the anticipated benefits of the shared capability acquisition. Any weaknesses in the previous steps in project framing can quickly crystallise in delays and overruns at this stage. A decisive step is the preparation of successful terms of reference for the project that deliver the desired capability within budget and announced time-schedules.

Depending on the project financing/governance solution retained, this responsibility could reside with a lead MS. Lead purchaser models[4] could be facilitated through the development of a range of formal and bilateral acquisition and cross servicing agreements (similar to the US ACSAs) between EU Member States. This would allow access to MS capabilities and contracts in a similar way to the EU-US ACSA signed by the HRVP and US SofS in 2016. At the military strategic level, these Agreements are managed by the ATHENA mechanism with the technical support of the EUMS to coordinate the requests and provision of services and goods.

The modalities for collaborative capability acquisition will above all depend on the type of capability sought. The following general approaches can be identified:

1. In the case of armament programmes involving heavy investment in complex capability development, the acquisition process can be managed by **OCCAR** on behalf of the States participating in the programme as in the case of the Eurodrone, A400M or the Multi-Role (AAR, Transport, Medevac, etc.) Tanker Transport (MRTT) Aircraft, the helicopter TIGER as well as armoured transport vehicle BOXER or the interoperable communication waveform ESSOR. OCCAR has emerged as a pan-MS (currently 6 MS plus 7 participating nations) international organisation dedicated to the organisation and acquisition of complex defence projects. Through its experience, OCCAR has a series of management procedures governing the organisation of these procurements. OCCAR has also put in place a cross-project account clearing system

[4] In which case one of participating Member States takes on the role of the agency organising the acquisition process on behalf of the whole group.

so that net positive financial positions of a particular Member State/ Programme Participating State on a given project can under certain conditions be offset against outstanding deficits to another project, thereby reducing risk of delays to the second. In addition, OCCAR has developed a system for balancing participating states' work shares across several projects (Global Balance) which increases economic efficiency. OCCAR is considered to be one of the preferred collaborative programme management organizations for PESCO projects. To organise a seamless transition from the preparation phase to the development phase, EDA and OCCAR have established practical arrangements.

2. In the case of eligible collaborative projects leading to the development of a defence product or technology the EDF provides credible incentives through the possibility of (co-)financing by the EU budget. Feasibility studies and design can be funded up to 100% of the total eligible costs. The co-financing of prototypes is up to 20%, but can reach up to 50-55 % when bonuses are included. Other actions such as or testing/qualification/certification/ can received funding reaching between 80 and 100%[5] of the total eligible costs.
3. In the case of more tailored capabilities not available on the market requiring customisation/adaptation/harmonisation, EDA can translate Participating Members' needs into standardised technical requirements (STR)
4. In the case of R&T projects EDA can manage the projects developing the technologies needed for the future defence systems, as it happens already within the ad hoc projects (CAT A/B) format. Collaborative R&T projects can also be (fully) funded under the research window of the **EDF** (now Preparatory Action on Defence Research, proposed to be integrated in the EDF Regulation in the future). MS will have access to a special report, which provides them with all the necessary information to assess the content of the action and of the results, without revealing information on know-how. In the case that at a later stage, two or more Member States conclude a contract with a beneficiary of a project to further exploit the results funded by the research window of the Fund and owned by the participant, these Member States will have royalty free access to those results.
5. In the case of logistics a number of organisations have specialised in setting up collaborative frameworks based on joint acquisition, joint leasing or internal settlement systems. These organisations include notably the **Movement Coordination Centre Europe** which is a multinational coordinating body aimed at providing cost saving alternatives for member nations by utilizing air, land and sea transport assets owned or leased by national militaries of the members or supported agencies. NSPA, the NATO procurement agency is currently the most active actor cooperating with Member States in that area.
6. In the case of EU common support services, EU Member States procure and control directly common EU support services via **the Athena Mechanism** for military operations and missions of the Common Security and Defence Policy. Technical expertise for specifications and control is provided, upon request, by the EU military staff, making use of the EU military technical requirements prepared by EUMS with Member States and approved by the Council.

[5] Depending on the applicability of bonuses and on whether it is project selected for support under the EDIDP over the 2019-2020 period or by the EDF for the 2021-2027 period.

2. Decision architecture: linking key financing and governance decisions with capabilities sought and the relevant processes and institutions at the right time in the project definition

Drawing on the preceding discussion, this section identifies the moments throughout the project life-cycle where key financing decisions have to be taken. This is captured in the form of a "decision architecture" linking the different stages in a project life-cycle with the corresponding decisions that will impact financing and the institutions and processes that can help MoDs in optimising their capability acquisition plans.

The analysis encompasses the following **key decision-points**:

1. Developing a new system or procuring off the shelf with possibly minor adaptations.
2. Acquiring/owning/using jointly. At which stage, and through which process, do Member States manifest their interest in working with possible partners and identifying a possible joint contracting entity;
3. Selecting the type of technology (development of new disruptive approaches; purchasing prototypes);
4. Determining the required degree of State control over/access to asset;
5. Formalising of decisions on project governance and financial commitments taking into account the possibility of financial support for capability development projects through the EDF (costs will notably relate to the overall technologies of a capability, the length of production, unforeseen costs and decisions related to the volume of capabilities to be procured);
6. Fixing budget projections for project and allocation of respective contributions and work sharing;
7. In case of willingness to rely on market provision (of services), organising the design and conduct of procurement.

The outcome of the analysis should notably identify ways to overcome finance-related barriers at different project stages including Member States contributions to capability development projects supported through the EDF. It should also provide guidance on how to ensure that the stages are well coordinated e.g. to avoid situations where national budgetary decisions prevent a timely programme deployment because joint capability plans have not been sufficiently taken into account or have not been precise enough with respect to financing aspects.

The decision architecture included in Table 1 below combines all of the above elements with the aim of providing a simplified reference/guide to MoDs on the available options for organising financing for capability acquisition.

Table 1. Capability development decision architecture

Project stages	Decision points and relevant institutions and processes
Step 1: Strategic objectives	• *What common objectives and capability plans to match them?* – EU LoA, CARD, CDP, PESCO, regional strategies
Step 2: Planning & budgeting	• *Acquire/own/use jointly?* • *What are the opportunities for synergies across the national spending plans?* – CDP provides perspectives on capability needs. Helps to identify opportunities for collaboration; – CARD provides an analysis and assessment according to national spending plan as well as recommendations as guidance; – PESCO provides a structured process for cooperation notably on shortfalls prioritised through CDP including financing commitment through NIPs; – EDF support reduces national financing commitments – EDA CFM intends to ensure budget continuity
Step 3: Project design	• *New system, upgrade of existing one or off-the-shelf?* • *Acquire jointly?* • *Required degree of control: Purchase or lease?* Organised through: – Issues to be addressed as part of early feasibility studies supported through EDF but also other entities - OCCAR, EATC, SALCC, MRTT, ad-hoc industry consortia. Sources of funding: – Funding for feasibility studies and design available under the European Defence Fund (EDIDP now, integrated EDF Regulation in the future).
Step 4a: Research	• *Disruptive or prototype*? • *Scope for EU financing, including beyond the very early TRLs*? Organised through: – Typically organised through the Commission as part of EDF and through EDA Sources of funding:

	– the Preparatory Action on Defence Research (in the future part of the integrated EDF Regulation) - funding of 100% of collaborative R&T projects with specific conditions for the access to the results. – National budgets
Step 4b: Acquisition (including development, manufacturing, use, upgrades, disposal)	• *Cost and work share (and scope for applying Global Balance?)* • *Scope for contracts covering whole asset life-cycle including servicing? ('In-service support contract'/'Full Contract Logistics Support)* • *Infrastructure: outright purchase or PPP?* • *Scope for EU financing? (EDF/EDIDP for pure military; EIB for dual use notably through the CFM; InvestEU for both)* • *Cost recovery?* • *Market financing and third-party revenues for dual-use capabilities?* Organised through: – OCCAR for the development and acquisition of pure major military equipment programmes – Dedicated organisations for logistics: MCCE, EATC, MRTT (future) – Ad-hoc arrangements (e.g. ad-hoc programme management organisation) – EDF for lower TRL development actions – EPEC can help structure PPPs Sources of funding: – EDIDP now, integrated EDF from 2021 can provide funding for development actions over the full development cycle from feasibility studies and design, through prototypes and up to testing, qualification and design. – EDA CFM aims to address possible temporary budget shortfalls, bilaterally or thanks to the EIB's involvement. – Market financing and EIB for dual-use goods. – InvestEU (future) (see: Deliverable 3) – National for acquisition For list of reference acquisition models please see Deliverable 2

Glossary:

CARD: Coordinated Annual Review of Defence

CDM: Capability Development Mechanism

CDP: Capability Development Plan

CSDP: Common Defence and Security Policy

EDA: European Defense Agency

EDA CFM: European Defence Agency's Common Financial Mechanism

EDF: European Defence Fund

EDIDP: European Defence Industrial Development Plan

EPEC: European PPP Expertise Centre

EUMS: European Union's Military Staff

EU LoA: European Union's Level of Ambition

KSA: Key Strategic Activities

MRTT: Multi-Role Tanker Transport

NIP: National Implementation Plan

NSPA: NATO Support and Procurement Agency

OCCAR: Organisation for Joint Armament Cooperation/Organisation Conjointe de Coopération en matière d'Armement

OSRA: Overarching Strategic Research Agenda

PESCO: Permanent Structured Cooperation

SALCC: Strategic Air Lift Coordination Cell

TRL: Technology readiness level

ACSA: Acquisition and Cross-Servicing Agreement