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## The War against Ukraine and European Defence: When will we square the circle?

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*After the end of the Cold War, Europe's harvesting of the peace dividend was fed by wrong assumptions and led to a persistent underinvestment in defence. Today, problems are three-fold: too small stocks, inadequate, insufficient capabilities, and very low industrial production capacity.*

### OF PROBLEMS AND DILEMMAS

In many cases, stocks went well below accepted NATO standards, putting many European military units in serious difficulty to achieve NATO and EU readiness-levels. Strategic enablers were in further decline over the last 20 years, and many European countries dismantled their stocks of heavy weaponry. Both in Libya (2011) and in Afghanistan (until the withdrawal of NATO troops, in August 2021), European armed forces were unable to sustain combat, or evacuate, without support of US military hardware. On the eve of the Russian aggression against Ukraine, the intelligence gap left Europeans in disbelief when US intelligence proved almost entirely correct. The European Defence industry is fragmented and overprotected by exemptions to the Single Market regulations for reasons of “national security”. Companies face shrinking export markets (due to stringent export-criteria) and reduced production capacity, often by more than half. They became easy prey for foreign take-overs.

The war against Ukraine propels those problems to the critical edge: the rush to arm Ukraine has depleted national stocks. Heavy weaponry needed for Ukraine's

territorial defence (and for ours) is missing or already sold to private stores. The European industry cannot not ramp-up production without a long term prospect of sustained demand for Europe's Armed Forces.

### SOLVING RUBIK'S CUBE

Since the European Council of June 2022, Ukraine's destiny, now a candidate for accession, is interlocked with that of the European Union. Interestingly, Ukraine's military needs appear already deeply intertwined with those of European NATO Allies and EU member states: requirements to support Ukraine in a sustainable manner are similar to those needed to address our own urgencies in replenishing stocks, strengthen readiness, and beefing up capabilities. They are the 2 sides of the same coin, or a little like the 6 faces of Rubik's cube:

1. Ensure sustained weapons delivery to Ukraine
2. Organize backfilling of our depleted stocks
3. Strengthen readiness of our own military units
4. Ramp-up European industrial production capacity
5. Reduce fragmentation of capabilities and industry
6. Steer the growth path to 2% of GDP Defence budgets (the input) towards commensurate capability output

As national stocks are dwindling, **supplying Ukraine** forces us to turn to alternatives: procure new or second hand material. What the European Union has triggered with great success through the European Peace Facility (EPF, financially compensating national delivery of lethal and non-lethal material to Ukraine) is now running out of steam. Significantly, the 6<sup>th</sup> tranche of €500 million allocated by the Foreign Affairs Council of 17 October

(bringing the total to €3 billion) will now serve to fund “maintenance and repair”, proof that we are indeed running out of stocks. Maintain and repair what is already delivered is critical. Yet, a new batch of equipment is urgently needed as Ukraine is engaged in the counter-offensive of manoeuvre warfare: heavy armoured vehicles, tanks, heavy artillery, and air-defence systems. The industry cannot deliver a new load in urgency. Member States and Allies can either cut deeply into the bone of their own much needed defence capabilities, or purchase second-hand equipment, big quantities of which have been sold to private companies all over Europe.

At the same time, we have embarked on a reflection on the future of the European Peace Facility. This extra-budgetary fund is fed ex-post by national financial contributions: first the member states deliver equipment to a third state (here Ukraine), then they submit bills to a Clearing House Cell (CHC) within the EU Military Staff which examines the eligibility. Based on proposals coming from the CHC, reimbursements are finally decided within the EPF Committee by the Member States. Only after this, the EPF Administrator will issue a call for contributions to the Member States who will pay their part on the basis of a GNI-key. Right at the beginning of the conflict, the EPF was the best available tool we had to rush arms to Ukraine and demonstrate unwavering resolve. But as its business model is running out of steam, we may inadvertently hit the wall. Several other issues come have emerged:

- As they are governed by the principles of the EU’s Financial Regulation, the EPF’s own implementation rules have too many strings attached, and do not allow for advance-payment of national contributions.
- Using the EPF obviously does not offer a platform with legal personality and contractual capability to arrange rapid joint procurement of second or even first-hand material.
- The piecemeal approach is creating a back-log by the ex-post funding by Member States, which upstream must first agree amongst them on the compensations for the already delivered equipment. Those negotiations are particularly complex and could end in a gridlock hindering further funding.
- If we move from stock-delivery to procurement we will rapidly end-up competing against one another and distort defence markets.

While we might review practical aspects of the EPF Council Decision, time has come to start thinking in parallel of a new stand-alone “Ukraine Security Facility”. To off-set grid-locks, we should design a pre-funded facility for joint procurement of big ticket second or first-hand material. It presupposes a mapping of existing stocks in private stores in Europe and cooperation amongst our armed forces to organize logistics, re-fitting and transports to the place of delivery. We should also take lessons learned from creative options designed while running, such as German’s “Ring Tausch” model (delivery of new/used German equipment to backfill stocks of equipment delivered by other Allies to Ukraine) and see how we could scale them up.

Comes the 2<sup>nd</sup> and the 3<sup>rd</sup> face of Rubik’s cube: how to **replete and renew stocks**, strengthen **readiness** and simultaneously improve **interoperability**. As many other Allies, in the run-up to the Madrid NATO Summit, the Belgian Government decided to allocate €1.5 billion to rapidly repair ammunition stocks, fuel, transport and armoured vehicles. It also agreed on a budget trajectory leading towards 2% of GDP for Defence. Yet, as EU member States and NATO Allies prepare for a buying frenzy, the risk of market distortions seems considerable. Aggregate figures indicate billions of Euros will start flooding the market, whereas each country could well end-up competing. As the industry has levelled down production facilities to peace-time level and prices surge, it will be inclined to serve big contracts (i.e. big member states) first. Pooling demand, as we successfully did for the anti-COVID masks and vaccines, is probably to be considered. And the weak interoperability would only aggravate if things would be left uncoordinated.

This brings us to the 4<sup>th</sup> and 5<sup>th</sup> faces of Rubik’s cube: the **European defence industry** and how to **revert the fragmentation of European capabilities**. Before the European Council of last May, Belgium pleaded for an urgent assessment of short term joint procurement

options. It was included in the Commission and the European Defence Agency's (EDA) "Defence Investment Gap Analysis", and endorsed by the European Council. A [Task Force](#) chaired by the European Defence Agency and the European Commission, together with national defence experts, started to map out shared needs and possible joint procurement projects. In parallel, the Commission's draft regulation to financially support joint procurement (EDIRPA) is presently under negotiation in the Council. What seems a little step (for initially €500 million), is rather revolutionary as the Commission finally stepped over its too narrow interpretation of art 41.2 TEU, thus getting one step closer towards unlocking the EU Treaties' full potential. Interestingly, the joint Task Force can offer proposals for joint procurement whether they serve our stocks or joint deliveries to Ukraine alike.

This new momentum should lead us to consider joint procurement to become the standard procedure, supported by an adequate procurement agency. For sure, reluctance and inertia will be normal companions on the road. Before the May European Council, the defence establishments of bigger member states did not see the need for a "European approach" in procurement. By their sheer size and industry, they generate sufficient economies of scale without having to wrangle with the others. And they will be served by the industry before the others. Some further claimed the European Commission should not embark in defence planning and tell Member States what they would have to buy (as if the Commission really intended to do so...). Member States may also fear that syndicated demand will feed competition amongst industries to the peril of their own. This particular fear is grounded but also a self-fulfilling prophecy: protected by exemptions on the Single Market Regulation for "national security" reasons, many companies have lost appetite for competition. This irreversibly feeds the atrophy that today could kill the European Defence Industry.

Finally, with the NATO steered growth-path of **defence expenditure towards 2% of GDP**, the 6<sup>th</sup> face of Rubik's cube comes in sight. The prospect of sustained increase of defence expenditure allows us to engineer a process to overcome the flaws of European military efforts,

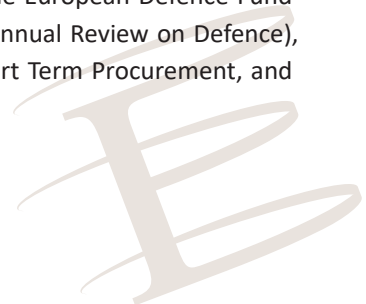
persisting since decades. This is more than an opportunity, it is a historic responsibility. Indeed, failing to do so, we will throw more money on our problems without solving them, inflate fragmentation, debilitate the industry, and confirm again that Europeans are only good at producing words while spending their money badly. Unfortunately, trends still point into that direction: the recent Joint Defence Investment Gap Analysis indicates an average decrease of European collaborative defence equipment procurement from 11% in 2020 to 8% in 2021.

### EUROPEAN DEFENCE WITHOUT A MASTER PLAN

Yet, what is our major mission? Europeans must assume more responsibilities to secure and defend their continent. Because we cannot expect forever our American partners to do the job for us. To maintain a vibrant transatlantic partnership, we must increase our share, if not ensure the bulk of conventional deterrence and defence within NATO. We must therefore produce robust capabilities and repair our industry consequently.

This is probably the true task for European Defence: designing a set of policies to serve this strategic goal, backed-up by a realistic roadmap. Our goal is not to strengthen institutions but the security of our citizens. European Defence is not an EU Policy, but EU policies can serve European defence, which Europeans must pursue through both the EU and NATO. Not by default but by design. With NATO's new force model, the Alliance's conventional deterrence will be further "[Europeanised](#)". It answers in part America's new strategic orientations. Rather than undergoing this transformation within NATO, Europeans should embrace and drive it. The EU is key in supporting European Allies' military efforts in pursuing NATO's military transformation.

Indeed, the EU is remarkably well fitted, with all the appropriate instruments that are missing within NATO: it runs a Single Market, produces legislation and regulations, designs industrial policies and runs important budgets. Recent initiatives such as the European Defence Fund (EDF), CARD (Coordinated Annual Review on Defence), the Joint Task Force for Short Term Procurement, and



the proposal on EDIRPA are opening new avenues. The Commission overcame internal hesitations and is now mobilizing the Community Budget into the sphere of security and defence (R&D, and facilitating joint procurement by Member States) thanks to an appropriate interpretation of article 41.2 TEU. The use of the EPF has fostered rapid delivery of equipment to the Ukrainian armed forces. The Treaty's potential is being further explored. The EU's Strategic Compass (endorsed by the European Council in March 2022) brought different strands of work into a single document with ambitious timelines. It is particularly important to deliver on its chapter on capabilities ("Invest"), the main topic of this article.

Yet, as crucial pieces of a puzzle are being laid on the table, no one seems to have designed the puzzle. Building blocks are put on the ground, but who designs the building?

### TOWARDS A EUROPEAN DEFENCE UNION

The COVID crisis has energized political will and imagination. It forced us into "trial and error". We syndicated demand for masks and later procurement of vaccines. Learning by doing, we succeeded. The security of our own citizens made this imperative and forced us to brush specific national considerations aside. Lessons learned obviously feed present discussions on how to handle the present energy crisis.

But is the war against Ukraine not as much affecting the security of our citizens? Are the EU and NATO's security and defence goals not broadly shared? Are the EU policies and instruments not particularly fitted? Yet, despite the "Stunde Null" moment for all of Europe, we still stay on course of a piecemeal approach. There is a real danger that we miss the historic duty ahead of us.

We must now design a truly European Master Plan for European Defence. The incoming presidencies, the European leadership and Parliament must wrap bold new steps, back-up the implementation of the EU Strategic Compass and design support for shared goals with NATO in a new strategic framework. This is probably what Ursula

von der Leyen's proposal for a European Defence Union could serve for. The stars seem well aligned to bring flesh on this bone during the three next years, as the Multi-Annual Financial Framework (MFF) may undergo a mid-term review and the Council Decision on EPF will be reviewed. The outgoing European leadership may lay ground for the incoming leadership after the May 2024 European elections, thus anticipating and guiding also negotiations of the next MFF, scheduled to start as of 2025. It is also then, in 2025, that Ursula von der Leyen suggested to establish a European Defence Union.

What could this look like?

It should first state that it contributes to security and defence objectives shared with NATO, in complementarity to NATO's core mission (i.e. collective defence of NATO's territory). This if of course enshrined in the EU Treaty, but the political framing of a European Defence Union should restate that the project shares and supports NATO's mission, and does not substitute to it. The project should also set the frame to fully unlock the potential of the EU Treaty, making sure Europeans can better calibrate policies and instruments to design a "European approach to defence spending" that generates more bang for the European bugs allocated to military efforts within NATO and through the EU. The same instruments and policy would ensure sustainable support to Ukraine and lay the ground for more military effectiveness, once Ukraine will have joined the European Union.

Calibrating policies and instruments for more European military effectiveness does not require a full-fledged treaty revision per se. Indeed, the present treaty foresees a [magic button](#) under article 42.2 TEU stating that "*This (i.e. CSDP) will lead to a common defence, when the European Council, acting unanimously, so decides. It shall in that case recommend to the Member States the adoption of such a decision in accordance with their respective constitutional requirements*". Were this provision to be activated, it would allow all instruments, including the community budget to serve a common defence policy, the Commission to design legislation and platforms to implement and act. This would further

allow the institutions and instruments to put their full weight behind the implementation of the EU's Strategic Compass and to reformat the EPF in a more liquid, robust and sustainable instrument for defence cooperation with third partners. An alternative to the activation of art. 42.2 TEU would be a treaty revision, embedded in the a revision-process that could stem from the Conference on the Future of Europe if it were to lead towards such path.

What the European Defence Union should also provide for is a much higher level of funding for the already existing instruments such as the European Defence Fund, European military mobility, EDIRPA and its possible successor (EDIP or European Defence Investment Program). EPF should be brought into the community budget thus settling the numerous practical problems we face today and allow the Commission to directly support implementation of assistance measures to third parties. A Security and Defence Council should be established allowing Ministers to meet monthly with the "Security and Defence Commissioner/deputy High Representative" and EDA and a possible procurement branch to adopt formal decisions and overview implementation. The relevant Commissioner should establish a permanent platform for consultations with the Defence and Security industry. A thorough review of the EU's security architecture should be contemplated, since the PSC, EUMS, EDA and the HRVP's double hat (CFSP and CSDP) were designed more than 20 years for a different context. Is all this still fit for purpose? Last but not least, the European Council should meet annually to ensure the necessary political impulse to get the Strategic Compass forcefully implemented and set practical milestones to deliver more strategic responsibility.

Russia's onslaught against Ukraine has unleashed Europeans' existential need to assume more strategic responsibility, through NATO and the EU. Time has come to shift from a piecemeal approach to new bold steps, backed-up with a political framework to support European contributions to NATO's military transformation and the new strategic agenda of the EU.

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