8. Capabilities and CSDP: resourcing political will or paper armies

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1. INTRODUCTION AND TERMINOLOGY

The term ‘capabilities’ is used variously in CSDP to denote resources that can be used collectively to attain a given goal. Resources, in turn, can be considered a reference to physical assets, which may take the form of either equipment or trained personnel. There is, however, no generally agreed definition for capabilities, resources or other associated terms like competences. In a useful discussion on terminology Galavan defines capabilities as ‘the capacity to deploy a combination of resources through collective organizational routines to achieve goals’. Resources, in this context, are ‘tangible and intangible assets under the effective control of the organization’.¹

There is the risk that generic definitions of capabilities may lead to rather static ideas or bean counter exercises to establish physical assets, whereas it should be considered to be a dynamic concept that includes not only identifiable and quantifiable ‘assets’, but also the ability to improve the use of assets (and thus upgrade them in a sense) through training and the incorporation of lessons learned from field use. A further definitional quandary arises in the case of CSDP since the capabilities employed for missions or operations are, with a few minor exceptions, not those of the EU but those of the Member States.² Capabilities in this context cannot therefore be divorced from the idea of competences and must be understood as those capabilities that might be available to CSDP. Any discussion of ‘capabilities’ is therefore notional in the sense that assumptions have to be made about their availability although, in reality, they may not be. The Member States are nevertheless to operate in accordance with the principle of a ‘single set of forces’ which can be used nationally or in multilateral frameworks.³ This implies that duplications should be avoided within the ‘single set of forces’ although there is ample evidence of duplications of systems across the EU’s members.⁴

It is this essential uncertainty that has led some to advocate more predictable forms of ‘on-call’ capabilities or even EU-owned resources. There is nevertheless an inherent

¹ RJ Galavan, ‘Understanding Resources, Competences, and Capabilities in EU Common Security and Defence Policy’ (2015) IECEU Working Paper at <[http://www.ieceu-project.com/wp-content/uploads/2016/02/Galavan%20-%20Understanding%20Capabilities%20\(IECEU\).pdf](http://www.ieceu-project.com/wp-content/uploads/2016/02/Galavan%20-%20Understanding%20Capabilities%20(IECEU).pdf) 3>.

² Generally, the EU has used the term ‘mission’ for civilian activities and ‘operations’ for military ones.

³ Council of the European Union, ‘Implementation Plan on Security and Defence’ (14 November 2016) 1, 4.

⁴ European Commission, ‘Reflection Paper on the Future of European Defence’ (7 June 2017) 9.

ambiguity about when the EU should act as the EU and the extent to which subsidiarity should apply to crisis scenarios. In particular, the presence of mindsets that are conditioned to think in terms of national security and defence, as well as legal barriers and conditions applying to the use of force, have proven significant impediments since it is often only after resource sufficiency at the national level is satisfied that thoughts (might) turn to the provision of collective capabilities at the European level. This is of course an imperfect state of affairs since it leads, in circular motion, back to the very surpluses, duplication and shortcomings that CSDP has been battling since inception. It remains to be seen whether the newly established European Defence Fund, which offers up to €5.5 billion to facilitate research, as well as development and acquisition, will attain its core goal of helping the Member States to ‘spend money more efficiently, reduce duplications in spending, and get better value for money’.⁵

The existence of high levels of duplication of assets when it comes to larger-scale and more expensive items, like destroyers or fighter aircraft, should not be read as an indictment of the more recent initiatives since the development of capabilities, or changes to existing ones, demands a longer-term perspective of a decade or more. This, typically, represents the horizon for the development and production of the higher-ticket capabilities. Given the relatively recent development of CSDP, many of the capabilities shortfalls, to use the jargon, are still with us. This applies in particular to the military aspects of CSDP, whereas capabilities in the civilian realm tend to put more emphasis on training, common standards and dynamism (see Chapter 5 in this volume).

The presence, or otherwise, of capabilities has been one of the fundamental concerns of CSDP, even *avant la lettre*. For instance, it was an integral part of Hill’s ‘capabilities-expectations gap’. Indeed, Hill commented that in the absence of an effective military capability the Community (as it then was) ‘would have to face the dilemma of either trusting to other forms of security and/or leaving in place the individual Member State’s armed forces and rights to use them’.⁶ The EU has in effect tried to do elements of both by developing CSDP as a ‘common’ policy in a highly intergovernmental space. This has created an often-awkward duality in the policy whereby consensus is required for a political decision at the European level to use military force or to launch other types of mission or operation, but this may have little bearing on the national decision on whether to make available the required personnel and resources for a CSDP mission or operation.

The capabilities issue is therefore at the heart of the perceived effectiveness of CSDP and is subject to political contention. Reliance upon one of the bigger Member States (a so-called ‘framework nation’) is open to charges by smaller Member States that those missions or operations that are successfully adopted often reflect not only the capabilities, but also the will of the larger members, as was the case with the French

⁵ European Commission ‘A European Defence Fund’ (Press Release, 7 June 2017).

⁶ C Hill, ‘The Capability-Expectations Gap, or Conceptualizing Europe’s International Role’ (1993) 31(3) *Journal of Common Market Studies* 305. It should be recalled that Hill’s remarks came the year after the adoption of the Petersberg tasks by the Western European Union (WEU) and well before these tasks were incorporated into the Treaty on European Union in 1997 during the European Council in Amsterdam.

lead in military operations in the Democratic Republic of the Congo and Mali. From a planning perspective, it is obviously difficult to plan for timely interventions when there is a fundamental uncertainty about what and who is available (this, incidentally, is not uniquely an EU issue since it also applies to UN peacekeeping operations). The response to this has been to advocate various forms of standing or on-call capabilities, as well as various types of sharing, pooling and joint development of platforms.

This chapter will commence by considering CSDP capabilities from a legal perspective, especially whether there are implied or stronger commitments on the part of the Member States to provide capabilities. I shall then consider the manner in which capabilities have been developed in the military and civilian spheres respectively, including the policies and strategies that frame the capabilities debate. Finally, I shall assess the more recent initiatives mentioned above to develop capabilities, especially in the military domain. It should, however, be noted that the defence industrial aspects of capability development are of considerable and growing importance. The European Defence Action Plan (EDAP), in particular, refers to the defence industrial aspects which, to do them justice, merit separate consideration.

2. CAPABILITIES AND THE LEGAL DIMENSION

Questions of capabilities pre-date CSDP.⁷ The introduction of stipulations on security and defence were first specified in the new Common Foreign and Security Policy (CFSP), which formed a new 'title' of the 1993 Maastricht Treaty. The early days of CFSP were, in some ways literally, a baptism by fire since they coincided with the disintegration of federal Yugoslavia and the ensuing conflicts fought over a decade or so. The EU itself had no military capabilities at its disposal and had to rely upon the Western European Union (WEU) to 'elaborate and implement decisions and actions of the Union which have defence implications' (Article 17(3) TEU at Maastricht). The types of mission for which an 'operational capacity' might be necessary are framed by the 1992 Petersberg tasks, which now appear, in updated form, in Article 43(1) TEU. The terminology is general (including, for example, reference to 'tasks of combat forces in crisis management') and does not indicate in any detail what kind of capacities might be necessary since this falls beyond the scope of the Treaties. The role of the WEU as a capacity provider was also hampered by the fact that only ten of the EU's members were full members. Frustration turned to embarrassment as the EU and WEU did little to stabilize the chaotic situation in former Yugoslavia or the unrest in Albania in 1997 following the unravelling of a government-backed pyramid investment scheme. Frustration at the EU's obvious inadequacies led France and the UK to agree that the EU needs to be in a position to 'play its full role on the international stage' and that this should include the development of 'the capacity for autonomous action, backed up by credible military forces, the means to decide to use them, and a readiness

⁷ Historically CSDP first emerged as the European Security and Defence Policy (ESDP) and, for a short time, was even called the Common European Security and Defence Policy (CESDP), before becoming CSDP. For the sake of simplicity, I shall refer to CSDP throughout although this is not strictly accurate historically.

to do so, in order to respond to international crises'.⁸ Although the precise interpretation of autonomy was open to debate, the push to create what eventually became CSDP had to come from these two sources since France and the UK were, and remain, the EU's two main military powers and are also the only members with a global horizon to their foreign policies.⁹

The Anglo-French political push, provided by the St Malo Declaration, was subsequently developed by the European Council and, in time, by specialist military and civilian bodies within the EU. This included the capabilities aspects which are covered in more detail in the following sections. Notwithstanding the development of what became CSDP and the demise of the WEU, the EU remained reliant upon its members. The TEU is clear about this when it states that the Petersberg tasks 'shall be undertaken using capabilities provided by the Member States' (Art. 42(1) TEU). This raises the question of whether there is any legal obligation under EU law on the Member States to place 'capabilities' at the disposal of the EU for the execution of (Petersberg) tasks.

The simple answer is negative in the sense that there is no specific obligation, but there are nevertheless some general obligations relating to capabilities that are worth noting. Since CSDP is an integral part of CFSP, there are a number of stipulations that apply *per extensionem* to security and defence. For instance, there is the need to 'support the Union's external and security policy actively and unreservedly in a spirit of loyalty and mutual solidarity' (Art. 24(3) TEU). More specifically, the purpose of CSDP is to 'provide the Union with an operational capacity drawing on civilian and military assets. The Union may use them on missions outside the Union for peace-keeping, conflict prevention and strengthening international security in accordance with the principles of the United Nations Charter' (Art. 42(1) TEU). Member States are also expected to 'progressively improve their military capabilities' (while not specifically mentioning civilian capabilities) (Art. 42(3) TEU).¹⁰

The stipulation that any operational capability may be used *outside* the Union is obvious enough but it should be noted that Article 42(7) TEU could imply the use of assets on the territory of a Member State, and the 'Solidarity Clause', or Article 222 TFEU, relates to assistance to a Member State 'in its territory'.¹¹ Article 42(7) TEU notes that '[i]f a Member State is a victim of armed aggression on its territory, the other Member States shall have towards it an obligation of aid and assistance *by all means within their power*, in accordance with Article 51 of the United Nations Charter'

⁸ Saint-Malo, *Joint Declaration Issued at the British-French Summit*, Saint-Malo, France, 3–4 December 1998.

⁹ This chapter was written at a time when the UK was still a full member of the European Union. Although somewhat conjectural, the potential impact of Brexit upon capabilities is discussed throughout the text.

¹⁰ It should be noted that the initial emphasis was upon the military dimensions of crisis management, as a reaction to the unrest in the Western Balkans in the early 1990s. The civilian aspects of crisis management were included later following the 2000 European Council in Feira. Other parts of the Lisbon Treaty (like Article 42(1)) clarified the scope of EU crisis management to include both the military and civilian dimensions.

¹¹ See P Koutrakos, *The EU Common Security and Defence Policy* (OUP 2013) 68–72; European Parliament, 'The EU's mutual assistance clause' (Briefing, November 2015).

(emphasis added). Although the Treaty is careful to note that this shall not 'prejudice the specific character of the security and defence policy of certain Member States' (such as the six neutral or non-aligned EU members), the general remit of 'all means' could extend to various forms of security and defence assistance. This particular part of the Treaty is stronger than the Article 5 counterpart found in the 1949 Washington Treaty, which obliges NATO members to take 'individually and in concert with the other Parties, *such action as it deems necessary*, including the use of armed force ...' (emphasis added).

The only example of the invocation of Article 42(7), following the November 2015 Paris attacks, led rather surprisingly not to direct support for the security of France *per se*, but to the relief of French military commitments overseas so that French security assets could be concentrated on national security tasks following the bombings. Although there was no obligation on other Member States to provide military assistance, there was nevertheless a bilateral obligation upon the EU's members rather than one that applies specifically to the EU context.¹²

With the sole and rather rarefied exception of Article 42(7) TEU, any obligation to provide capabilities to CSDP missions or operations should be considered as a general commitment but subject to decisions by the relevant national authorities. There is, in other words, no automatic right of release that would be required to constitute a 'European army'. The other associated issue is who should provide capabilities. As has been observed, there are varying levels of capabilities and preparedness among the EU Member States and it is unlikely that all EU members will be able, or willing, to contribute. This was foreseen in the Treaties through the provision for flexible forms of CSDP engagement in missions and operations.

An issue that has resurfaced in current debates is permanent structured cooperation (PESCO), which is open to those Member States 'whose military capabilities fulfil higher criteria and which have made more binding commitments to one another in this area with a view to the most demanding missions' (Art. 42(6) TEU). Article 46 TEU refers to a protocol on PESCO which lays down some of the requirements, albeit in somewhat non-specific terms (see Protocol 10 on PESCO). The emphasis is, however, on exclusivity with reference to those who proceed to develop their defence capacities 'more intensively', or to those who have the capacity to supply 'targeted combat units for missions planned' and those who will bring their defence apparatus 'into line with each other as far as possible' and 'take concrete measures to enhance the availability, interoperability, flexibility and deployability of their forces' (Protocol 10: Arts 1–2). PESCO has generated considerable interest as a way to boost the EU's military capabilities post Brexit. I shall discuss this in more detail later.

Article 42(5) TEU makes it possible to entrust the 'execution of a task, within the Union framework, to a group of Member States in order to protect the Union's values and serve its interests'. This rather pragmatic provision recognizes the disparities in capabilities between the Members and foresaw that it would be impossible to insist on every member contributing to a task, in much the same way that PESCO implicitly

¹² See C Hillion and S Blockmans, 'Europe's Self-defence: Tous pour un et un pour tous?' *CEPS Commentary*, 25 November 2015; European Parliament, 'The EU's mutual assistance clause' (n 11).

recognizes the desire of EU members to move at different speeds. How then are we to understand this provision, along with Article 46, when set against Article 42(3) TEU which obliges Member States to ‘make civilian and military capabilities available to the Union for the implementation of the common security and defence policy’?

Article 42(4) TEU requires that decisions relating to CSDP shall be adopted by the Council acting unanimously. Such decisions will typically lay out the mandate and objectives of a CSDP mission, the general requirements, as well as details such as the operational headquarters and commander. Any associated force generation is, however, a separate process that relies in most cases upon capabilities that fall under national command structures and thus the relevant national decision-making structures (which may, in some cases, even include the need for an affirmative decision by the national parliament). In other cases, participation in a CSDP mission by a given Member State may hinge upon a prior UN Security Council resolution (this became a bone of contention in the case of the EU’s Rule of Law mission to Kosovo where the anticipated UN Security Council resolution never materialized). The political-level decision, which requires unanimity, does not therefore extend to an obligation on the Member States to provide the necessary military or civilian capabilities. This logic is consonant with the inclusion of PESCO and the ability to entrust tasks to groups of Member States in the Treaties since it was recognized that not only are there differences in capabilities between the Union’s members, but that not all may wish to be involved in contributing to a CSDP mission or operation since decisions on nearly all resources and personnel are made on a national basis.

The role of the European Defence Agency (EDA) is a further indication of the restricted role that the EU can play in capabilities issues. The powers of the Agency are set out in Article 45 TEU and are generally advisory and, at best, rely upon persuasion. The general lack of authority of the European Court of Justice in CFSP and CSDP also means that the commitments in the articles mentioned above have to be viewed as essentially political in nature (for an in-depth analysis of this point see Chapter 4 in this volume). Security and defence priorities continue to be decided upon at the national level subject to strategic defence reviews that are largely uncoordinated between the Member States. As we shall see later, the EU’s members have (so far) been resistant to most of the arguments put forward by the EDA, which often appeal to economic rationale in a time of austerity.

The arguments so far have suggested that there is no binding obligation for the Member States to provide capabilities, with the possible exceptions of Article 42(7) TEU and Article 222 TFEU. But in both of these cases the precise nature of any assistance, and thus capabilities, lies beyond the Treaties. Generally, the EU continues to rely upon the willingness of its members to make the necessary capabilities available, but this is subject to national determination and the aforementioned principle of a single set of forces. Having said this, there have been numerous efforts on the EU side to make the generation of the required forces and assets more predictable since the effectiveness of the Union will ultimately depend upon the application of the required expertise and capabilities at the right time and in the right place. Since the capability development processes for military and civilian operations and missions have developed in a rather distinct manner, they will be treated separately in the following

sections, notwithstanding the many efforts to harmonize more closely the civilian and military aspects of crisis management.

3. MILITARY CAPABILITY DEVELOPMENT

Until recently it was normal to speak of capabilities as falling under the EU's Comprehensive Approach to external conflicts and crises.¹³ This has now been supplemented by an 'integrated approach to conflicts', stressing the need for coherent use of all of the instruments at the EU's disposal.¹⁴ It is also framed by proposals for a 'new level of ambition' in the EU's security and defence, as expressed in the 2016 Implementation Plan on Security and Defence (IPSD).¹⁵ Part of the IPSD involves using the full potential of the Lisbon Treaty (hence the renewed interest in PESCO and entrusting tasks to groups of Member States). In this document the EDA and the Member States have agreed to 'specify and complement capability priorities based on the Level of Ambition and the EUGS, as part of the revision process of the Capability Development Plan'.¹⁶ The capability requirements therefore stem from strategic perspectives (the European Security Strategy of 2003, its update in 2008 and, more recently, the EUGS) as well as the 'level of ambition'.

The adoption of the Petersberg tasks, mentioned above, framed the initial level of ambition in terms of capacity. Following the St Malo Declaration, also mentioned above, the first of a number of 'Headline Goals' (HLGs) was established at the Helsinki European Council in 1999 and were supposed to be implemented by 2003 (they are therefore often referred to as HLG 2003). The aim set in Helsinki was described as follows:

To develop European capabilities, Member States have set themselves the headline goal: by the year 2003, cooperating together voluntarily, they will be able to deploy rapidly and then sustain forces capable of the full range of Petersberg tasks as set out in the Amsterdam Treaty, including the most demanding, in operations up to corps level (up to 15 brigades or 50,000–60,000 persons).

These forces should be militarily self-sustaining with the necessary command, control and intelligence capabilities, logistics, other combat support services and additionally, as appropriate, air and naval elements.

Member States should be able to deploy in full at this level within 60 days, and within this to provide smaller rapid response elements available and deployable at very high readiness. They must be able to sustain such a deployment for at least one year. This will require an

¹³ Joint Communication to the European Parliament and the Council from the European Commission and the High Representative of the European Union for Foreign Affairs and Security Policy, 'The EU's comprehensive approach to external conflict and crises' JOIN (2013) 30 Final.

¹⁴ European External Action Service, 'Shared Vision, Common Action: A Stronger Europe. A Global Strategy for the European Union's Foreign and Security Policy' (28 June 2016) 9.

¹⁵ European Commission, 'European Defence Action Plan: Towards a European Defence Fund' (30 November 2016) 2–4.

¹⁶ Council of the European Union, 'Implementation Plan on Security and Defence' (n 3) 5.

additional pool of deployable units (and supporting elements) at lower readiness to provide replacements for the initial forces.¹⁷

A year later a Capabilities Commitment Conference was held in Brussels where Member States took it upon themselves to make national contributions to the HLGs on a voluntary basis.¹⁸ But no sooner had the deadline arrived for the implementation of the HLG 2003 than the Council approved new HLGs in 2004 to support the recently adopted European Security Strategy (ESS). The December 2003 ESS called for a 'more capable' Europe, which included the exhortation to use pooled or shared assets to avoid duplication and overheads'.¹⁹ The military capabilities for the new HLGs were calculated on the basis of five illustrative scenarios ranging from separation of forces; stabilization, reconstruction and military advice to third countries; conflict prevention; evacuation operation; and assistance to humanitarian operations.²⁰

The new HLGs envisaged 2010 as the adoption date. HLG 2010 opened the possibility of either a major operation or the ability to conduct a series of operations and missions of varying scope. The EDA was created in 2004 and its role was therefore included in the HLG 2010, with an emphasis on interoperability at the technical, procedural and conceptual levels. The Battlegroup concept was also woven into the new HLGs.²¹

The actual development of capabilities is carried out through three catalogues. The first is the Requirements Catalogue (RC), which is a compilation of the capabilities the EU would be likely to need, based on the five illustrative scenarios outlined above. These estimates were then fed into generic force packages and reference units, which formed the basis for the RC. It should, however, be noted that any capabilities in the catalogue 'are voluntary and non-binding and cannot be used for Force Generation processes'.²² A Force Catalogue (FC) lists actual qualitative and quantitative capabilities which the Member States could make available to the EU on a case-by-case basis.²³ The FC is regularly updated by the EU Military Committee (EUMC) and the EUMC Working Group/Headline Goal Task Force. The FC is then compared to the HLGs and in those capability areas where shortages are identified as 'shortfalls' a third

¹⁷ Council of the European Union, Annex iv of the Presidency Conclusions, Helsinki European Council, 10–11 December 1999 2–3 at <<http://www.consilium.europa.eu/uedocs/cmsupload/Helsinki%20Headline%20Goal.pdf>>.

¹⁸ Denmark did not participate, having obtained an opt-out on all defence-related provisions of the Treaties prior to its second referendum on the Maastricht Treaty.

¹⁹ ESS, 'European Security Strategy: A Secure Europe in a better world' (12 December 2003) 12.

²⁰ Council of the European Union, 'Development of European Military Capabilities' (July 2009) at <<https://www.consilium.europa.eu/uedocs/cmsUpload/090720%20Factsheet%20capacities%20militaires%20EN.pdf>>.

²¹ Council of the European Union, 'Headline Goal 2010' (17 May 2004) <<http://www.consilium.europa.eu/uedocs/cmsupload/2010%20headline%20goal.pdf>>.

²² See P. van der Heijden, 'Military Capability Development' in *CSDP Handbook: Missions and Operations* (Federal Ministry of Defence and Sports, Republic of Austria 2015) 238.

²³ The initial Force Catalogue has been updated to reflect not only new EU members, but also voluntary contributions by non-EU states.

catalogue, the Progress Catalogue (PC), comes into play. The PC 'identifies quantitative and qualitative military capability shortfalls on the basis of requirements set out in the Requirements Catalogue 2005 and the contributions compiled in the Force Catalogue 2007'.^{24, 25}

An initial cross-referencing of the catalogues indicated that around 104 of 144 capabilities had been 'filled', leaving 40 or so shortfalls, but of these 21 were deemed 'significant'.²⁶ A European Capability Action Plan (ECAP) was launched in 2002 to address these shortfalls. Nineteen panels of national experts developed possible solutions in the main shortfall areas.²⁷ Addressing the shortfalls was, however, reliant upon a 'bottom-up' approach where the Member States were expected to make voluntary national commitments.²⁸ Some commitments might therefore depend upon Member States making available national capabilities that had not previously been offered. The more difficult problem was to address shortfalls where no capabilities exist at the European level. Although some shortfalls could be rectified with short-term solutions (such as leasing large transport aircraft), others were more likely to require major investment. ECAP had its limitations, stemming from its voluntary nature, often vague timelines, difficulties for the EU Military Staff to follow the deliberations and the ad hoc nature of the exercise.²⁹ Responsibility for monitoring shortfalls was transferred to the EDA, as were some of the flaws inherent in ECAP.

ECAP's successor, the Capability Development Plan (CDP), was developed in close collaboration with the EDA, the EUMC and the Member States. CDP is built around four chapters addressing: short-term capability shortfall analysis against HLG requirements; long-term challenges and risks based on a Long-Term Vision 2025; the identification of potential cooperation at the national level; and lessons learned from CSDP operations and missions. It is therefore not a 'plan' as such, but a basic planning element showing the likely short- and longer-term capability needs. CDP is regularly updated at the biannual meetings of the EDA Steering Board in Defence Minister format, based upon longer-term strategic perspectives (2030 and beyond). It differs

²⁴ Council of the EU, 'Development of European Military Capabilities' (n 20).

²⁵ It has become increasingly difficult for the external analyst to monitor progress on shortfalls since the EU stopped publishing its shortfalls in public in 2006 (presumably for well-founded security reasons). The basic shortfalls have, however, remained more or less consistent over the last decade.

²⁶ AJK Shepherd, 'EU Military Capabilities Development and the EDA: Ideas, Interests and Institutions' in N Karampekios and I Oikonomou I (eds), *The European Defence Agency: Arming Europe* (Routledge 2015) 68.

²⁷ These were: attack/support helicopters; nuclear, biological and chemical protection; unmanned aerial vehicles; medical role and protection role; special operations forces; suppression of enemy air defences; air-to-air refuelling; combat search and rescue; cruise missile/precision guided munitions; theatre ballistic missile defences; deployable communications modules; headquarters; theatre surveillance and reconnaissance air picture; strategic image intelligence collection; early warning and distant detection strategic level; strategic air mobility/outsize transport aircraft; roll-on-roll-off vessels.

²⁸ Council of the European Union (2001), *General Affairs*, 2386th Council meeting, Press Release 13802/01, Brussels, 19–20 November, Section III.

²⁹ See B Schmitt, *European Capabilities Action Plan* (EU Institute for Security Studies 2003).

from ECAP in the sense that its primary focus is on the future development of research, technology, armaments and industry, which are at the centre of the EDA's work.

The CDP was able to incorporate the consequences of HLG 2010, estimates of capability requirements in 2025 (see below), plans and programmes announced by Member States and the 'lessons learned' from CSDP operations.³⁰ Since a number of non-EU NATO members have been involved in CSDP missions or operations (such as Canada and Norway) complementarity between the EU and NATO capability plans was essential and led to the development of common Capability Codes and Statements, which apply in either context. Timelines for reporting and longer-term development are coordinated between the EU and NATO. The EDA also placed more emphasis on pooling and sharing of military capabilities, as well on the education and training of military staff. A 2010 Pooling and Sharing initiative, based upon a German-Swedish food for thought paper (also known as the Ghent initiative), was launched the following year with the adoption of a list of priorities.³¹ This, in turn, was followed by a 'Code of Conduct on Pooling and Sharing' in 2012 in an attempt to incorporate pooling and sharing into national planning and decision-making processes.³²

Thereafter the Council regularly called for further development of military capabilities 'for sustaining and enhancing CSDP'.³³ The December 2013 European Council held its first thematic debate on defence since the entry into force of the Lisbon Treaty. The European Council identified three axes or priority areas: increasing the effectiveness, visibility and impact of CSDP; enhancing the development of capabilities; and strengthening Europe's defence industry.³⁴ With regard to the second priority, the European Council identified several capability developments in particular:

- the development of Remotely Piloted Aircraft Systems (RPAS) in the 2020–2025 timeframe; a programme for the next-generation European Medium-Altitude Long Endurance MALE RPAS; a RPAS user's community; synergies with the European Commission on regulation; and appropriate funding for RPAS activities;
- air-to-air refuelling capacity: progress in establishing a Multi-Role Tanker Transport capacity, with synergies in certification, qualification, in-service support and training;
- satellite communications: preparations for the next-generation Government Satellite Communication through close cooperation between Member States, the Commission and the European Space Agency;
- cyber defence: the development of a roadmap and concrete training and exercises, improving civilian/military cooperation on the basis of the EU Cybersecurity Strategy as well as the protection of assets in EU missions and operations.³⁵

³⁰ Council of the EU, 'Development of European Military Capabilities' (n 20).

³¹ The list currently concentrates on air-to-air refuelling, medical support, helicopter initiatives, counter improvised explosive devices and the European Air Transport Fleet.

³² European Defence Agency, 'Code of Conduct on Pooling and Sharing' (2012) at <<https://www.eda.europa.eu/docs/news/code-of-conduct.pdf>>.

³³ Foreign Affairs Council, 19 November 2012, Conclusions.

³⁴ European Council, European Council Conclusions EUCO 217/13, 19–20 December 2013, 2.

³⁵ *ibid* 5–6.

The fact that many of the major capability programmes have a horizon of beyond 2025 tells us something about the research, development and manufacturing cycles of major defence assets. Nevertheless, the EDA's provisional assessment is positive, with 'good progress' in the four key capability programmes.³⁶

To summarize, military capability requirements are derived from the HLGs and more recently the EUGS and its 'Level of Ambition'. The strategic level will, in turn, inform the illustrative scenarios and the strategic planning assumptions, which will then lead to the identification of shortfalls as input into the CDP. The EDA is the primary body with responsibility for working with the Member States to develop military capabilities, although progress thus far has depended heavily on voluntary actions and national calculations.

4. CIVILIAN CAPABILITY DEVELOPMENT

The civilian aspects of crisis management developed after the initial emphasis on the military aspects, with the 2000 Feira European Council often being marked as the starting point. Despite this, most CSDP operations have been civilian in nature, as are the majority of the ongoing operations (which include police, rule of law, training and advice missions). As of 2015, the EU deployed 1,500 international experts on three continents for CSDP civilian missions.³⁷

Unlike their military counterparts, which were able to draw upon a long history of collaboration prior to CSDP through the WEU, NATO or even the UN, much of the Union's civilian crisis management capacities had to be built up from scratch. Most of the EU's civilian crisis management experts are volunteers from the Member States who are usually available for a year at a time. As with military experts, the Member States have to make an often-difficult cost-benefit calculation about the relative merits and demerits of seconding a national expert to EU missions. Based upon evidence from the Annual CSDP Lessons from 2013–2015, the EU has been beset by shortages of adequately trained and experienced staff for its civilian missions, especially when it comes to niche specializations and senior experienced staff. The issue is compounded by different national procedures for assessing the range and quality of civilian personnel; an issue that will hopefully be addressed through Goalkeeper's 'Registrar' module (see below). Further problems with availability have arisen due to legal, administrative and financial conditions applying to secondment to CSDP missions. Legal issues have arisen as a result of variations in contract terms for seconded personnel from one seconding agency to the other, while the financial complications arise from the fact that the contributing states bear all personnel-related costs for seconded personnel. There have also been administrative issues due to the differences between the EU's members on training, coaching (before and after deployment) and reintegration into the domestic labour markets. Other more general challenges arise

³⁶ European Defence Agency, *Annual Report 2015*, 3 at <<http://www.eda.eu>>.

³⁷ NA Tovornik, 'Civilian Capability Development' in *CSDP Handbook: Missions and Operations* (n 22).

from debates about what should constitute ‘best practice’ at the European level for civilian missions.³⁸

Generating the required civilian capabilities and expertise for CSDP missions has proven challenging due, in large part, to the scarcity of trained expertise at the Member State level or, where it exists, the reluctance of members to spare such expertise. Capability development in the civilian sphere is broadly modelled on that in the military sphere, outlined above. As has been noted, this is logical enough given the prior development of the military aspects.

The civilian aspects were first clearly enunciated in 2000 at the Feira European Council, which also adopted ‘priority areas for targets in civilian aspects of crisis management and of specific targets for civilian policy capabilities’.³⁹ These priorities were listed in an annex to the Presidency Conclusions as police, strengthening the rule of law, strengthening civilian administration and civil protection. A further annex laid down specific targets for the development of police capabilities, which are sometimes referred to as the ‘Civilian Headline Goals’, whereby the Member States undertook to provide up to 5,000 police officers for international missions ‘across the range of conflict prevention and crisis management operations’ by 2003. In addition, 1,000 police officers should be deployable within 30 days. This necessitated the pre-identification and training of a large pool of police staff. Their identification, ‘levels of expertise’ (DEL and expertise) were fed into a police database originally housed in the Council Secretariat.

The ESS provided the political-level justification for the development of civilian crisis management capabilities, having noted the value added of developing ‘operations involving both military and civilian capabilities’.⁴⁰ Subsequently two civilian HLGs established the level of ambition, tasks and thus capabilities. The first, adopted in 2008, had as the level of ambition approximately a dozen CSDP civilian missions of varying types, alongside a major mission, which could involve up to 3,000 experts for several years.⁴¹ The 2008 goals formulated the capability requirements around the four priority areas identified at Feira. But they also noted the importance of contributing to monitoring missions, providing support to Special Representatives as well as, *inter alia*, contributing to ‘activities such as security sector reform and support disarmament, demobilisation/reintegration processes’.⁴² The emphasis was not upon substitution of local forces or authorities, but to strengthen local institutions, as well as upon preventative activities. Since few crises are uni-dimensional, emphasis was also placed on the development of ‘integrated civilian crisis management packages’ and providing ‘an effective response across the full range of tasks in conflict prevention and crisis

³⁸ European Parliament, ‘Civilian and military personnel in CSDP missions and operations’ PE 578.035 (February 2015); and ME Smith, *Europe’s Common Security and Defence Policy: Capacity-Building, Experiential Learning and Institutional Change* (CUP 2017) 128–173.

³⁹ European Council, Conclusions of the Presidency, Santa Maria da Feira, 19–20 June 2003.

⁴⁰ ESS, ‘European Security Strategy: A Secure Europe in a better world’ (12 December 2003) 11.

⁴¹ Council of the European Union, ‘Civilian Headline Goal 2008’ 15863/4 (7 December 2003).

⁴² *ibid.*, 2.

management'.⁴³ The emphasis of the 2008 Headline Goals was very much upon personnel and establishing what and who might potentially be available.

A further set of Civilian Headline Goals (2010) were approved by the Council in 2007. The main purpose of the second set was to help the EU 'establish a clear illustrative framework for civilian capability planning and development, drawing on civilian European Security and Defence Policy (ESDP) mission experience and informed assessment of the expected and most urgent threats and challenges, and set capability targets accordingly'.⁴⁴ A Civilian ESDP Capability Planning Process was agreed to in 2007 and work began the following year to review illustrative scenarios (as in the military case), assess required capabilities and survey civilian capabilities. A report on civilian preparedness would then be fed into national ministerial guidelines and civilian capability targets. As in the case of their military counterparts, a series of 'conferences' was envisaged from 2009 onwards to assess the state of play, monitor progress and guide future efforts.

The 2010 Civilian Headline Goals were more sophisticated in the sense that the latter could benefit from the lessons learned from the first civilian missions, as well as being able to consider other important aspects such as the emerging synergies between the Area of Freedom, Security and Justice and CSDP and other relevant actors. In December 2010 the Council extended the implementation of the civilian (and military) HLGs beyond 2010, thus offering the opportunity to explore in greater depth the synergies mentioned above, the chance to build in 'lessons learned' (as the result of CSDP missions), national strategies and other changes in the strategic environment (such as the 2016 EUGS). The extension also permitted more effective use of support instruments (such as the 'Goalkeeper' software mentioned below) and other technological innovations (including those developed through or notified by the EDA).

The Civilian HLGs, like their military counterparts, are scenario driven. Based on various scenarios, Member State capabilities will be identified, the availability of resources will be based on a questionnaire and the subsequent responses will then lead to the identification of shortfalls. This process is supported by the 'Goalkeeper' information hub in the EEAS, which is based upon the Civilian HLGs, mission outcomes, agreed concepts for the conduct of civilian CSDP missions and training offered to support civilian CSDP.⁴⁵ The 'Goalkeeper' software is built around training (schoolmaster), standard job descriptions (head-hunter), rosters in the Member States and electronic responses (registrar) and EU Concepts and national measures (governor). Each of the components of 'Goalkeeper' has specific access protocols, with the intention of allowing appropriate access to each of its components.

In the post-Lisbon context, the HLGs continued to provide the general level of ambition for capability development. In December 2011 the Council called for a multi-annual capability development approach, which led the following year in July to the Civilian Capability Development Plan (CCDP). The CCDP adopts a multi-annual

⁴³ *ibid.*, 3.

⁴⁴ Council of the European Union, 'Civilian Headline Goal 2010', approved by the Civilian Capabilities Improvement Conference and noted by the General Affairs and External Relations Council (19 November 2007).

⁴⁵ EEAS, *Goalkeeper*, at <<https://goalkeeper.eeas.europa.eu/index.do>>.

approach, incorporating the software environment, with the overall aim of making better use of existing resources as well as efforts to facilitate rapid deployment of personnel and assets. The objective of the CCDP, based on the HLGs, was to establish a 'list of generic CSDP tasks' based on abstractions from the (civilian) scenarios.⁴⁶ A permanent CSDP warehouse for civilian assets was established in 2012 to support the launch of operations with around 200 personnel within 30 days of the approval of the Crisis Management Concept.⁴⁷

The May 2015 Foreign Affairs Council noted that '[r]ecognising the continuous high demand for rapidly deployable, well trained civilian experts, including specialised profiles, the Council underlines the need to further improve and expedite the development of civilian capabilities', while noting that the CCDP was still not fully implemented.⁴⁸ It is, however, worth noting that the formulation of a number of generic civilian CSDP tasks in 2015 was an important step towards the implementation of the CCDP.

In terms of the EEAS's support structures the most relevant in this domain are the Committee for the Civilian Aspects of Crisis Management (CivCom), an advisory body composed of Member State representatives, and the Crisis Management and Planning Directorate (CMPD). CivCom was established in 2000 and it advises the Political and Security Committee (PSC), an ambassadorial-level committee, on the civilian aspects of crisis management. It also prepares planning documents for new missions, makes recommendations to the PSC and helps develop strategies for the civilian crisis management and capabilities. CMPD also reports to the PSC but was only created in 2009 and is also composed of representatives of the Member States. Among its mandates is the development of the EU's civilian and military capabilities, with special attention being paid to the synergies between the two aspects of crisis management.

It is worth noting several contrasts between the civilian and military capability processes. The former suffered from having far less information on availability of assets and levels of training and expertise than their military counterparts. As noted, the latter could benefit from decades of coordination and information stemming from collaboration through other organizations (such as the WEU or NATO). There was no such civilian crisis management collective memory to build upon from the outset. The lack of a 'one-stop shop' in the civilian arena was a further source of frustration although, unlike the military domain, civilian missions can at least draw upon a modest but permanent CSDP warehouse.⁴⁹ The CSDP permanent warehouse for civilian assets was established in 2012 and became operational in June 2013. The warehouse is, however, limited to providing storage for strategic equipment for the rapid deployment of up to 200 personnel of newly launched missions within 30 days. It was used to provide equipment for EUBAM Libya. The European Parliament has since urged the

⁴⁶ Council of the European Union, 'Multi-annual Civilian Capability Development Plan: Action Lines for 2012–2013' 12111/12 (6 July 2012).

⁴⁷ Council of the European Union, 'Council conclusions on Common Security and Defence Policy', 3130th Foreign Affairs Council (1 December 2011) 4.

⁴⁸ Council of the European Union (2015), 'Council conclusions on CSDP' 8971/15 (18 May 2015) 12.

⁴⁹ 'Council conclusions on Common Security and Defence Policy' (n 47).

expansion of its stocks and mission service under a new Shared Services Centre. Currently, The involvement of different national ministries, personnel and contacts complicates the collection of basic information and liaison. From the perspective of many of the national ministries, the primary purpose of personnel and resources that could be of potential interest for civilian CSDP missions remains, in the first place, subject to national priorities.

The first sections addressed the nature of the obligations of the Member States to provide capabilities for CSDP operations and missions. At the political level, provision of the necessary capabilities has been driven by a series of 'Headline Goals'. This led the European Council, with a carefully parsed statement, to claim at Laeken in 2001 that '[t]hrough the continuing development of ESDP, the strengthening of its capabilities, both civil and military, and the creation of the appropriate EU structures, the EU is now ready to conduct *some* crisis-management operations' (emphasis added).⁵⁰ By 2003 the European Council was ready to declare that '[b]ased on the Forces contributed to the Helsinki Force Catalogue 2003, the current military assessment of the EU military capabilities is that the EU now has operational capability across the full range of Petersberg tasks'.⁵¹

In retrospect, both declarations seem optimistic since the EU remains reliant upon the willingness of its members to provide the political will and capabilities, notwithstanding efforts to develop common understanding of capability shortfalls and development, or pooling and sharing, options. The voluntary nature of capability development is an obvious pitfall, which explains some of the enthusiasm for pooling and sharing, but this has only produced 'marginal results' that are 'not yet an adequate response to the size of the problems'.⁵²

The procedures to identify military capability shortfalls were developed reasonably rapidly, largely due to the legacy of similar exercises carried out in the WEU or NATO context. By way of contrast, there was little legacy to build upon when it came to civilian capabilities. But the issues encountered with civilian CSDP missions were more related to the availability of personnel, their training and compatibility of standards and procedures. Those relating to the military operations were in many ways more difficult to address, due, in large part, to the challenges associated with the transition from Cold War contingencies, which stressed defensive postures and equipment, to those that required expeditionary-type forces for out-of-area operations. Other issues, such as austerity measures across much of the EU following the financial crisis, also had an impact upon capabilities for CSDP missions and operations.

The previous sections prompt obvious questions about the future. Will there be more initiatives at the EU level which will be frustrated by decisions made at the national level predicated upon calculations of national interest or perhaps even the lack of political will to back up the rhetoric? Or, are we at a watershed where the economics

⁵⁰ Laeken Declaration, 'Declaration on the Operational Capability of the Common European Security and Defence Policy' (2001).

⁵¹ Council of the European Union, 'Declaration on EU Military Capabilities' Press Release 9379/03 (19–20 May 2003).

⁵² European Parliament, 'State of play of the implementation of EDA's pooling and sharing initiatives and its impact on the European Defence Industry' PE 534988 (6 June 2015).

associated with affording comprehensive national civilian and military capabilities has become simply unaffordable, thus making joint development, pooling and sharing necessities? If so, are there any initiatives that are likely to upset the trends outlined so far that will not only bolster the Union's security capabilities but might also lead to a common defence? These are the questions that underpin the following section.

5. FUTURE CAPABILITY REQUIREMENTS

This section will discuss future capability requirements based primarily on the EUGS and the IPSP, both of which were mentioned briefly in an earlier section. A third document, the Commission's European Defence Action Plan, which, among other things, proposed the establishment of a European Defence Fund (EDF) to support investment in joint research and the joint development of defence equipment and technologies, SMEs and start-ups, and a strengthening of the Single Market for defence. The EDF has two windows, one for 'research' and the other for 'capabilities', although it is not yet entirely clear how complementarity between the two will be ensured. This, as Fiott has observed, marks 'a radical shift in the way the EU thinks about and supports defence'.⁵³

The EUGS makes a number of striking comments with potentially far-reaching implications for CSDP capabilities. To start with, it nicely encapsulates almost 35 years of debate on capability issues when it states that 'Member States remain sovereign in their defence decisions: nevertheless, to acquire and maintain many of these capabilities, defence cooperation must become the norm'. The strategy then maintains that

the EU needs to be strengthened as a security community: European security and defence efforts should enable the EU to act autonomously while also contributing to and undertaking actions in cooperation with NATO. A more credible European defence is essential also for the sake of a healthy transatlantic partnership with the United States.⁵⁴

The EUGS introduces three important notions that may both have important implications for capabilities issues. First, it introduces the notion of autonomy under the general heading of Europe taking more responsibility for its own security. The EUGS acknowledges that

[w]hile NATO exists to defend its members – most of which are European – from external attack, Europeans must be better equipped, trained and organised to contribute decisively to such collective efforts, as well as to act autonomously if and when necessary. An appropriate level of ambition and strategic autonomy is important for Europe's ability to foster peace and safeguard security within and beyond its borders.⁵⁵

⁵³ D Fiott, 'Promoting European Defence Cooperation and the Promise of Financial Incentives' (Comment No. 16, Armament Industry Research Group 2017).

⁵⁴ 'Shared Vision, Common Action' (n 14) 20.

⁵⁵ *ibid*, 22.

What exactly does this mean? As explained elsewhere in the EUGS, it implies that 'European security and defence efforts should enable the EU to act autonomously while also contributing to and undertaking actions in cooperation with NATO'.⁵⁶ Indeed, 'strategic autonomy' informs the underpinning level of ambition of the strategy. The phraseology employed is reminiscent of that employed in the 1998 St Malo Declaration, which also mentioned 'the capacity for autonomous action', largely to pander to French political wishes, but also referred to the ability of the EU to 'take decisions and approve military action where the Alliance as a whole is not engaged', presumably to placate British anxieties. The EUGS introduces a similar dilemma of what might happen when, for whatever reason, NATO (which usually means the US) does not come to the assistance of its European allies.

A second term which is hard to ignore is 'resilience' since this word and 'resilient' are used no fewer than 41 times in the EUGS. This suggests that CSDP has a responsibility to bear for the security of its own citizens and societies and a wider (not entirely altruistic) duty to enhance different types of resilience, including those pertaining to a wide variety of security challenges.⁵⁷ Part of resilience, which is seen as something that encompasses all individuals and the whole of society, involves intensifying EU–NATO cooperation in order to 'bolster resilience as part of their work on countering hybrid threats'.⁵⁸ In practical terms this involves, *inter alia*, greater coherence between the EU CDP and NATO's Defence Planning Process (NDPP). While they are broadly compatible, there are also notable differences.⁵⁹

The CDP is analytical but it is still based upon five illustrative scenarios developed as part of the 2003 HLG (which tend to reflect the EU's experience in the Western Balkans at that time). This leaves significant gaps in the overall capability assessments. Traditionally, the bigger-ticket items, at the higher end of the combat spectrum, have been left to NATO's NDPP. Unlike CDP, which is based on overall shortfalls, NDPP assigns national targets but it is worth noting that US capabilities often have a distorting effect (which, if unavailable for a non-Article 5 contingency, could leave NATO with significant shortfalls). The focus of NDPP also tends to be far shorter, with a horizon of around 4–5 years, in contrast to the longer-term horizon of CDP. The assignation of national targets by NDPP also moves the focus away from multilateral research, development and procurement, which tends to be the focus of CDP. The largely overlapping membership of NATO and the EU also poses the question of whether a common defence planning system might not be preferable to further align the two organizations and to avoid duplicative reporting. Since NDPP is older and in many ways better established, this might be the default choice. There is, however, no consensus on this point and both CDP and NDPP are at the mercy of the sovereign members of the respective organizations who make the ultimate decisions on which capabilities are required and what to develop.

⁵⁶ *ibid.*, 20.

⁵⁷ Joint Communication to the European Parliament and the Council, 'A Strategic Approach to Resilience in the EU's external action' JOIN (2017) 21 Final.

⁵⁸ *ibid.*, 17.

⁵⁹ European Parliament, 'State of play of the implementation of EDA's pooling and sharing initiatives and its impact on the European Defence Industry' (n 52).

More broadly, EU–NATO cooperation has been frequently discussed, even if it has been circumscribed in practice by differences over Cyprus. Most recently this resulted in a declaration designed to give ‘new impetus and substance’ to mutual relations.⁶⁰ The capabilities implications are not entirely clear since they involve boosting abilities to counter hybrid threats (that is, hostile acts that may employ irregular warfare, terrorism, indiscriminate violence, criminal acts and propaganda) and bolstering ‘resilience’, including that of the Union’s neighbours. Cooperation at sea and on migration, cyber security and defence is also advocated. Defence capabilities should be ‘coherent, complementary and interoperable’ while defence industries, defence research and industrial cooperation will also need strengthening. If such declarations are to be taken seriously, the need for full-spectrum capabilities is evident, albeit subject to the inevitable political questions of who should do what (which will be complicated by uncertainties over US political will and commitments to the defence of NATO allies, as well as by the ambiguities surrounding the UK’s future relations with the EU). It is far from clear that the type of ‘step-change’ that this would necessitate is anywhere on the horizon since it would imply far more accountability and commitment on the part of the Member States.⁶¹

This brings us to the third notion, the frequent use of the term ‘defence’. This could be explained by the tendency in this and other EU documents to use security and defence as interchangeable terms. For instance, the EUGS exhorts members to take ‘greater responsibility for our security’ but then states that ‘[w]e must be ready and able to deter, respond to, and protect ourselves against external threats’ – deterrence and defence, in other words.⁶² It may also be explained by the historical reservations and political reluctance, at least until the EUGS, to clearly define the ‘D’ in CSDP. Yet the use of both terms in the EUGS has elements that go beyond random word choice. Take the example above where strategic autonomy implies the need for the EU to have the requisite capabilities for security (addressing challenges external to the EU) *as well as* defence (deterring or meeting challenges to the territory of the EU’s members). While the EUGS acknowledges that NATO is the ‘primary’ collective defence framework, the Alliance does not extend to all of the EU’s members. For these countries, whether they are then left to rely on national defence efforts, or if there is some implied EU responsibility for their collective defence, remains an open question.

Care is taken to make it clear that the EU is not presenting itself as an alternative to NATO, but that ‘a more credible European defence is essential also for the sake of a healthy transatlantic partnership with the United States’.⁶³ This resonates with the demands made by Donald Trump during his presidency campaign that US allies shoulder more equal shares of the collective defence burden, demands repeated by Mr Trump when he visited Brussels as President in May 2017. There are nevertheless

⁶⁰ NATO Declaration, ‘Joint Declaration by the President of the European Council, the President of the European Commission and the Secretary-General of the North Atlantic Treaty Organization’ (8 July 2016).

⁶¹ M Drent, L Landman and D Zandee, ‘A New Strategy: Implications for CSDP’ (Clingendael 2016).

⁶² ‘Shared Vision, Common Action’ (n 14) 19.

⁶³ *ibid.*, 20.

residual doubts surrounding the Trump administration's observance of the collective defence guarantees under Article 5 of NATO's founding treaty, which may make the quest for strategic autonomy in security and defence less of a choice for the EU and its members and more a matter of a necessity. This led Chancellor Merkel to observe two days after President Trump's visit that 'the times in which we can fully count on others are somewhat over'.⁶⁴ Either way, the development of a genuine 'D' for CSDP will have widespread implications for capabilities and it will be a matter of diplomatic finesse whether this is perceived as an alternative to NATO or the emergence of a more credible European partner. The overall rise in defence expenditure in the EU during 2015–2017 may in part be a result of hectoring by the Trump administration but it is more likely to be the result of support for local arms industries, in the Italian case, and heightened threat perceptions of Russia, in Central Europe.⁶⁵

The difference between 'security' and 'defence' could be dismissed as semantic quibbling but in capability terms the importance is crucial. Currently the types of capabilities required for missions outside the EU will tend to emphasize 'expeditionary force' military structures for low-intensity operations; in other words, forces that put more emphasis on the ability to move forces and their associated hardware from A to B, that are sustainable, networked and nimble. Those tasks, however, that are more associated with *defence* are likely to emphasize less mobility, more emphasis on air, land and sea (where applicable) interdiction, static defence installations, as well as quite different implications for logistics and intelligence support. As Luis Simón has observed, if the EU and its members are to rely less upon NATO, or the US specifically, it will imply serious thought and investment into anti-access and area denial (A2/AD) capabilities, including precision-guided munitions, short-range guided rockets, guided artillery and mortars, direct-energy or rail guns, stealth aircraft and greater numbers of submarines.⁶⁶

The EU's members are evidently torn on this issue, with some favouring 'rebuilding the credibility of conventional deterrence and collective defence in light of a resurgent Russia', while others 'remain keen to engage in multi-faceted crisis management operations, and are prepared to ramp up efforts in defence capacity building to train and equip missions for which the EU seems to be a more natural fit'.⁶⁷ As Schilde has aptly commented, a succession of crises surrounding the EU (in Georgia in 2008 and in Ukraine in 2014) has

changed aspects of force structure in some, but not all, EU Member States with indications of a shift from the dominant 2000s pattern of investing in expeditionary capabilities (those of a discretionary nature for managing conflict or projecting power outside the continent) back

⁶⁴ P McGee and G Parker, 'Europe cannot rely on US and faces life without UK, says Merkel' *Financial Times* (London, 28 May 2017).

⁶⁵ See *SIPRI Yearbook 2017*, chapter 9, 'Armaments, Disarmament and International Security, "Military Expenditure"' (OUP 2018).

⁶⁶ L Simón, 'The "Third" Offset Strategy and Europe's "Anti-access" Challenge' (2016) 39(3) *Journal of Strategic Studies* 417.

⁶⁷ B Giegrich, 'European military capabilities and future conflict' *Geostrategy* (5 March 2016) at <<http://www.europeangeostrategy.org/2016/03/european-military-capabilities-and-future-conflict/>>.

towards territorial capabilities (resources towards defending territory or projecting power within Europe).⁶⁸

The threat from the south is less obvious, but the sale of sophisticated weapons systems by Russia to Syria, or the arming of terrorists or rebels in Libya or Yemen with precision-guided munitions give pause for thought. Until then direct territorial aggression against an EU member had been a rather abstract notion, especially since most of the Union's members are also NATO members and could therefore count on US security guarantees. The advent of the Trump administration and allied concerns about the reliability of these guarantees has renewed debates about the desirable extent of European autonomy from NATO and its principal benefactor. The possible twin demands of providing for both expeditionary-style capabilities as well as those of a more defensive nature will not only lead to intense political debate (notably among the six neutral and non-aligned EU members), but it will also require far more serious thought about the type of capabilities required, including the question of who should provide for them.

These are not entirely new concerns, since similar debates erupted in the 1950s and 1960s, but they have taken CSDP into strange terrain that considers not only defence but its adjunct *deterrence*. The very thought of a nuclear dimension to CFSP would until very recently have been dismissed as completely *outré*. Yet, although still rather unlikely, the very fact that the notion of a European nuclear deterrent was introduced by Roderich Kiesewetter, a senior member of Merkel's CDU, into a debate in the Bundestag is a remarkable, if surreal, development.⁶⁹ Suffice it to say that the possibility of a common defence policy and a common defence in the EU context has yet to be linked up to any purposive capabilities considerations.

If the uncertainties introduced in the early stages of Donald Trump's presidency can be overcome, it is possible that EU–NATO relations will follow the path suggested by the July 2016 EU–NATO declaration and that these debates will become less relevant (but are still worth having). If they do not, it is important to recognize that the types of investments and capabilities that the EU institutions are currently advocating are linked to the Petersberg tasks and are generally speaking *not* those associated with defence and deterrence. It could plausibly be argued that the capability aspects of security and defence are tangentially linked in the sense that A2/AD capabilities may be required to access operational theatres in Africa or elsewhere and that some capabilities may serve dual purposes, but the overall capability requirements for successful A2/AD in Europe would imply a radically different debate on capabilities and a change in investment and industrial perspectives from those currently under way. There is little indication that the

⁶⁸ K Schilde, 'European Military Capabilities: Enablers and Constraints on EU Power?' (2016) *Journal of Common Market Studies* 1, 3 (pre-publication version DOI: 10.1111/jcms.12444).

⁶⁹ A Shalal, 'German lawmaker says Europe must consider own nuclear deterrence plan' *Reuters* (16 November 2016) at <<http://www.reuters.com/article/uk-germany-usa-nuclear-idUSKBN13B1GO>>; and B Kohler, 'Das ganz und gar Udenkbare' *Frankfurter Allgemeine Zeitung* (27 November 2016) at <<http://www.faz.net/aktuell/politik/inland/nach-donald-trump-sieg-deutschland-muss-aussenpolitik-aendern-14547858.html>>.

EU's members are ready for this debate, unless they are forced to this point by an increasingly recalcitrant Trump administration and a hollowed-out NATO.

The ambiguous language regarding security and defence has also crept into the CSDP lexicon as a reaction to the UK 'Brexit' referendum result of 23 June 2016 after which the French and German Foreign Ministers advocated a European Security Compact encompassing 'all aspects of security and defence dealt with at the European level', promoting the EU as an independent actor.⁷⁰ Their Italian counterpart, Paolo Gentiloni, called for a 'Schengen for defence' and the development of 'the defence capabilities needed to be a prominent player on the international scene'.⁷¹ In both cases the foreign ministers recognized that core groups may wish to move ahead more swiftly with defence integration. An informal meeting of 27 EU defence ministers (minus the UK) in Bratislava in September led to a declaration and the adoption of a 'roadmap'.⁷² The 'roadmap' was high on ambition but less specific when it came to capabilities, which was left to the IPSD.

The IPSD, adopted by the Council in November 2016, makes the case for a new Capability Development Plan, a review of military requirements, revisiting the Feira priority areas for civilian missions in light of the changing security environment, and emphasizes the key role of the EDA.⁷³ On the development of civilian capabilities, the plan recommends:

- establishing a list of generic civilian CSDP tasks common to all missions and identifying the required capabilities;
- ensuring more effective and rapid force generation, including by deploying specialized teams of experts;
- strengthening capacities available for generic functions common to all missions;
- improved training of mission staff, including through the new CSDP Training Policy.

On the military side the plan wants the Member States to 'collectively retain and further develop *full-spectrum* military land, air, space and maritime capabilities' (emphasis added).⁷⁴ The areas that need investment and collaborative approaches are those identified in the earlier HLGs, namely:

- intelligence, surveillance and reconnaissance, RPAS, satellite communications, and autonomous access to space and permanent earth observation;
- high-end military capabilities, including strategic enablers;
- cyber and maritime security.

⁷⁰ J-M Ayrault and F-W Steinmeier, 'A Strong Europe in a World of Uncertainties' (Voltaire Network, 27 June 2016) 3 at <<http://www.voltairenet.org/IMG/pdf/DokumentUE-2.pdf>>.

⁷¹ P Gentiloni, 'Europe needs "Schengen for Defence"' *Politico.eu* (15 September 2016).

⁷² Council of the European Union Presidency, 'The Bratislava Declaration' (16 September 2016).

⁷³ Council of the European Union, 'Implementation Plan on Security and Defence' (n 3) 2–4.

⁷⁴ *ibid.*, 20.

Precise military requirements, over and above the four priority areas identified by the European Council in 2013, will derive from the EUGS and the Level of Ambition, based on a review of the illustrative scenarios and strategic planning assumptions. The need to deepen defence cooperation is noted due to the rising cost of defence technology and the need to retain full-spectrum armed forces. Yet, as the IPSD notes, '80% of defence investment in Europe is still spent nationally and our collective output need to be increased substantially'.⁷⁵ There remains the question of why so little seems to have changed since the EDA was founded in 2004 in terms of changes in defence expenditure habits and procurement of big-ticket items. There is the hope though that the injection of funding, in the form of a proposed EDF, may redirect defence expenditure towards joint research and the joint development of defence equipment and technologies.⁷⁶ There is also the possibility that funding for the EDA may also increase since British objections to increasing funding for the agency will disappear.

Recent progress has been made on building the EU's capacity to respond to civilian and military contingencies through, for example, the introduction of a new Military Planning and Conduct Capability (MPCC) and a Joint Support Coordination Cell to strengthen civilian–military coordination.⁷⁷ Without dismissing the potential benefits of streamlining and various other forms of institutional plumbing, it is evident that any real movement on the underlying capability issues will be far more difficult and less amenable to quick fixes.

A Coordinated Annual Review on Defence (CARD), as advocated in the IPSD, is a good place to start, since it would allow coordination between EU (EDAP and the revised CAP), NATO (NDPP) and national planning processes and capability requirements. CARD could then 'provide an overarching assessment on capability-related issues contributing to political guidance by the Council'.⁷⁸ CARD has been promoted as a 'more structured way to deliver the key capabilities needed in Europe, based on greater transparency, political visibility and commitment from Member States, while avoiding any unnecessary additional administrative effort by Member States and EU institutions'.⁷⁹ CARD could also be of importance in terms of coherence with NATO's NDPP since it would facilitate information on the contributions provided to NATO through NDPP (or the Defense Investment Pledge or the Partnership for Peace Planning and Review Process) which is currently not automatically released to the EDA.⁸⁰ CARD could also complement the activities of the NATO-EU Capability Group, which was established in May 2003 to reinforce the respective capability development efforts. The Group, which comprises officials from the EDA and NATO, identifies and attempts to address common capability shortfalls, while promoting 'Smart Defence' in the NATO context and the EU's Pooling and Sharing Initiative. However, it is worth noting that CARD relies entirely upon voluntary efforts in 'full respect of Member State's

⁷⁵ *ibid.*, 21.

⁷⁶ See European Commission, 'European Defence Action Plan' (n 15).

⁷⁷ Council of the European Union, 'Council conclusions on progress in implementing the EU Global Strategy in the area of Security and Defence' Press Release 110/17 (6 March 2017).

⁷⁸ *ibid.*

⁷⁹ *ibid.*, para 10.

⁸⁰ Council of the European Union, 'Council conclusions on Security and Defence in the context of the EU Global Strategy' 9178/17 (18 May 2017) 13.

prerogatives and commitments in defence, including, where it applies, in collective defence, and their defence planning processes, and taking into account external threats and security'.⁸¹ The EDA would support the biannual meeting of defence ministers through assessments and supporting analysis (they would, in essence, play the role of a secretariat).

Progress on the civilian capability aspects should, in theory, be slightly easier with the emergence of 'standing capacity, pre-configured specialised teams of experts and contingents of police and/or other professional categories ...'.⁸² Even here though, tensions between the internal security demands on Member State human resources and budgets will be an important determinant of the willingness to create any standing capacity and other forms of investment. (The experience of the EU's Battlegroups on the military side, which, having been created have never been used, offers a salutary lesson on the creation of standing capacities.)

The extent of any capability development in the civilian or military realms will also depend upon wider political developments. A Commission follow-up to their 'White Paper' on the future of Europe, addressing security and defence, presents three possible scenarios.⁸³ Each has implications for capabilities. First, a continuation of voluntary cooperation with no binding common direction for security and defence. While this scenario envisages greater exchange of information on external threats between the Member States, defence cooperation would be driven in a 'bottom-up' manner by economic and technological drivers. This could result in reliance on voluntary national contributions 'leading to insufficient national cooperation in critical areas such as high-end capabilities'.⁸⁴

A slightly rosier scenario sees the Member States move towards shared security and defence. Under this, '[n]ational defence planning would become far more aligned, facilitating Member States' cooperation on the acquisition and maintenance of capabilities, thus improving interoperability'.⁸⁵ The EDF would also come into its own by facilitating the development of multinational capabilities, supported by joint planning, command and logistics at the EU level.

Finally, a move towards common security and defence (a Security and Defence Union) would involve fully integrated defence forces which are pre-positioned and permanently available for rapid deployment on behalf of the Union. Defence planning would be fully synchronized and national capability development would take into account European priorities. Capabilities in such areas as 'space, air and maritime surveillance, communications, strategic airlift and cyber would be commonly procured by the Member States' with the support of the EDF. This would be underpinned by

⁸¹ European Commission, 'Reflection Paper on the Future of European Defence' (n 4), para 11.

⁸² Council of the European Union, 'Council conclusions on progress in implementing the EU Global Strategy in the area of Security and Defence' Press Release 110/17 (6 March 2017).

⁸³ *ibid.*

⁸⁴ *ibid.*, 13.

⁸⁵ European Commission, 'Reflection Paper on the Future of European Defence' (n 4) 14.

a genuine European defence market and a dedicated European Defence Research Agency.⁸⁶

6. PESCO TO THE RESCUE?

It is too soon to ascertain which of the three scenarios might transpire but there has never been so much political momentum behind European security and defence. The gap between political vision and actual capabilities remains wide but there is at least now acknowledgement of this fact. The Council's conclusions of 18 May 2017 noted that there remains the need to 'substantially update civilian capability development in order to address both identified new challenges and persisting gaps in the originally agreed capabilities'.⁸⁷ PESCO has gained momentum as the vehicle to develop capabilities which will remain owned and operated by the Member States and which will remain a 'single set of forces' that can be employed in other frameworks, like NATO and the UN.⁸⁸ The frequency of its mention, in the EU Global Strategy, in the EU-NATO declaration and the EDAP, all point to the political weight now attached to PESCO as a core means of addressing the EU's capabilities and strategic shortcomings.

The debates surrounding the extent to which PESCO would be exclusive or inclusive were eventually answered by the European Council, which states that it would be 'inclusive and ambitious'.⁸⁹ The European Council acknowledged that any common criteria and commitments that include the most demanding missions will apply to 'those Member States which are in a position' to enter into binding commitments based upon agreed criteria.⁹⁰ Twenty-three EU members signed the joint notification on PESCO in November 2017 and they were soon joined by Portugal and Ireland (leaving only Malta, Denmark and the UK outside). Although PESCO is an intergovernmental programme, the European Commission saw the role of the EDF and the European Defence Industrial Development Programme as a way not only of supporting PESCO, but also of moving the EU and its members towards a European Defence Union.

In a further significant development with implications for capabilities, the European Council also advocated that the deployment costs of Battlegroups, which have largely fallen to the Member States participating in the six-monthly rotating Battlegroup, should be borne as a common cost under the Athena mechanism on a permanent basis. This could also be a positive development but it skirts significant questions about the size and utility of the Battlegroups themselves, which have been on standby since 2005 but never used.

⁸⁶ Council of the European Union, 'Council conclusions on progress in implementing the EU Global Strategy in the area of Security and Defence' Press Release 110/17 (6 March 2017) 15.

⁸⁷ Council of the European Union, 'Council conclusions on Security and Defence in the context of the EU Global Strategy' (n 80).

⁸⁸ *ibid.*, 11.

⁸⁹ European Council, 'European Council conclusions on security and defence' Press Release 403/17 (22 June 2017).

⁹⁰ *ibid.*

In order to be workable, PESCO will have to have stability in the form of either permanent or long-term arrangements and it will have to be linked to capability commitments including joint development and procurement, which, as we have seen, is the Commission's preference. Aside from these important practical stipulations, some additional issues will need to be answered if PESCO is to fulfil its potential. Three issues stand out.

First, the incentives for joint procurement, pooling and sharing are probably highest among the main defence industrial powers in the EU but any commitments via PESCO would inevitably create the expectation of returns in the defence industrial sector. The question arises whether PESCO participants would be expected to assume the main burden when it comes to RPAS, air-to-air refuelling, strategic surveillance and satellite imagery, as common assets that could feasibly be called upon by not only PESCO countries, but also those with lower capabilities. If so, the idea of some kind of return on investment, quite aside from the security provided, would be bound to surface.⁹¹ It could of course be argued that CSDP missions and operations have tended to be heavily influenced by the interests of the larger Member States and that PESCO would merely formalize what is already evident. But it is unclear whether a club of those who fulfil 'higher criteria' might not discourage those who do not meet the criteria for participation. It may even encourage free-rider behaviour and the eruption of intra-EU burden-sharing debates, which have been a feature of transatlantic security relations for almost five decades.

Second, PESCO would have to be linked with existing initiatives and EU institutions. Fortunately, there is ample scope for the EDA to take a leading role in the capabilities dimensions of PESCO and other plans mentioned above, such as CARDS, EDAP, the CDP and the EDF, and the envisaged European Defence Research Programme could also be incorporated. The necessary linkages between PESCO, the High Representative, the EUMC and EU Military Staff would also have to be developed. Similar links would have to be established with NATO's NDPP as well as between the respective military staffs. PESCO is, however, more ambiguous when it comes to civilian capabilities since it was conceptually designed with military missions in mind. It is therefore unclear how PESCO relates to civilian capabilities and, if included, whether the 'higher criteria' would be applied to different types of capabilities (this may be especially relevant if a Member State might qualify on the grounds of civilian criteria but not the military ones).

Finally, PESCO mentions 'defence' at frequent intervals although, in line with the preceding section, there is a tendency to use security and defence as interchangeable terms. Protocol 10 on PESCO, attached to the Final Act of the Lisbon Treaty, clearly has in mind the Petersberg tasks (reference is made to Article 43 TEU) and not those of collective defence. If the current debates take the EU towards a common defence policy and common defence it is not entirely clear if PESCO reinforces or detracts from the 'three musketeers' principle that underpins any common defence (to paraphrase, 'Some

⁹¹ A Marrone, N Pirozzi and P Sartori, *PESCO: An Ace in the Hand for European Defence* (Istituto Affari Internazionali 2017).

for one, and one for some' is counter to the original spirit). Certainly, potential resentment of free riders on the Petersberg tasks could sour the notion of a common EU defence.

7. CSDP CAPABILITIES AND BREXIT

Little is known about the implications of Brexit for the ongoing CSDP capability discussions. One analyst has argued that Brexit will make little difference since the UK has not been particularly involved in CSDP for the last decade or so, with the important exception of the ongoing anti-piracy operations in the Indian Ocean and Gulf of Aden. He also observed that CSDP was not even mentioned in the UK's 2015 Strategic Defence and Security Review.⁹²

At the time of writing the nature of any agreement between the EU and the UK on security and defence cooperation is difficult to determine, beyond its presence as a potential bargaining chip (which logically implies that UK cooperation in security and defence could be used for potentially important concessions, but it also implies that the denial of such cooperation could be used punitively). Paradoxically, the departure of one of the EU's most capable security and defence partners has not led to despondency or death knells. The UK and France account for around 40 per cent of public defence investments in the EU and the UK's military expenditure is (just) above the 2 per cent of GDP threshold established by NATO in 2014 (in 2017 Estonia, Greece and Poland also met this basic target). The UK, alongside France, has the largest range of combat means, including high-intensity capabilities.⁹³ Serious discussion about CSDP without the UK has been overshadowed by the charges from the Trump administration that Germany, Italy, Spain and other allies do not meet the basic GDP target, although such claims are often countered by the observation that the 2 per cent target is largely fictitious, that defence expenditure is actually rising and that the European allies contribute substantially to peace and security in other ways. More damagingly, it has sparked a debate about the reliability of American security guarantees and their apparently transactional nature at the same time as one of the EU's most capable military powers prepares to leave.⁹⁴

Brexit may imply that the EU will lose access to capabilities but it could also mean that the considerable experience of UK civilian and defence personnel would be missed. Operation Atalanta's headquarters at Northwood will have to be relocated. Recent UK investments in big-ticket items (including two aircraft carriers and fighters) could also have been useful for more distance missions or operations and would have decreased over-reliance on the US. In the event that some kind of association between the EU and the UK is forthcoming, perhaps along the lines of the Framework

⁹² R Whitman, 'Defence on the Brexit frontline' *The UK in a Changing Europe* (26 February 2016) at <<http://ukandeu.ac.uk/defence-on-the-brexit-frontline/>>.

⁹³ G Faleg, 'The Implications of Brexit for the EU's Common Security and Defence Policy' *CEPS Commentary* (26 July 2016).

⁹⁴ A Rettman, 'Merkel urges EU to take care of own security' *EU Observer* (13 January 2017).

Participation Agreements that currently exist with over 15 non-EU states, the dilemmas for CSDP capacities will not be as sharp as they might be. If there is no such accommodation, much of the capacity burden will fall upon the larger EU members, notably France and Germany. It is unclear whether either is willing to shoulder the responsibilities for the new Level of Ambition outlined in the EUGS at the very time when a major military power and co-founder of CSDP is leaving. The UK also has extensive bilateral military ties with, for example, France and the Netherlands, and these too may have to be reassessed. The UK could conceivably contribute to missions or operations as a third party on an ad hoc basis and join industrial defence cooperation programmes. Intelligence cooperation may pose greater hurdles but would presumably be on a reciprocal basis. President Emmanuel Macron's suggestions for a European Intervention Initiative (EII) made in September 2017 may be one way of involving the UK through the Anglo-French Combined Joint Expeditionary Force. But EEI lacks specificity and it is unclear whether it is designed as an alternative to PESCO (based on the French belief that PESCO concentrates on capabilities to the detriment of important issues of common strategic outlook and culture). If EII is extended to other critical allies, such as Germany, Italy and Spain, as well as non-EU European NATO members such as Norway, it may provide a useful way of involving the UK in European security post Brexit.

Fears that Brexit might heighten sensitivities about duplication of NATO assets with a UK in the Alliance, but out of the EU, can be ameliorated by the enhancement of cooperation between the organizations, as was suggested at the July 2016 Declaration on EU–NATO Cooperation. This argued for closer cooperation on hybrid threats, early detection, information sharing and strategic communication. It also advocated broadened maritime cooperation, including on migration. Cyber security is also likely to be another area of growing cooperation.⁹⁵ In so far as capabilities are concerned, pledges were made to increase interoperability and complementarity with, wherever possible, multilateral projects.

8. CONCLUSIONS

Capability issues have generated a modest but specialized literature, much of it stemming from official sources or policy-oriented think tanks. It has not generally penetrated the mainstream academic literature other than at a rather superficial level.⁹⁶ But it is likely to become an area of more academic scrutiny as the high-level political pressure to address CSDP shortfalls escalates. Recent initiatives stemming from the EUGS and Brexit suggest, at least *prima facie*, renewed political determination to provide for Europe's security and defence in an uncertain world. A flurry of national initiatives has ensured that the issue has remained at the top of the agenda. The IPSP is the first of its kind and more will follow to implement other aspects of the EUGS.

There are, of course, risks associated with the presence of security and defence at the forefront of efforts to reinvigorate the European project. The most obvious is that it is

⁹⁵ NATO Declaration (n 60).

⁹⁶ For an exception, see Shepherd (n 26).

up to the Member States to deliver the capabilities to underpin the new Level of Ambition contained in the strategy. If the 27, without the UK's sizeable military capabilities and know-how, fail to do so it will not only impact on Europe's security and defence, but perhaps also upon the progression of European integration in other areas.

It is also striking how little has actually changed since the first 'headline goals' were adopted. With a few exceptions, Member States have *not* spent more on defence and most calls for more pooling, sharing and joint development have gone unheeded. Like diplomacy, issues of national security and defence are often at the heart of notions of sovereignty and, in many cases, national pride. The necessary changes of mindset are not evident yet, unless of course an external shock nudges the collective consciousness of the Member States in an appropriate direction (which may be prompted by ongoing concerns about US defence guarantees to its allies or further acts of Russian military aggression) or perhaps by internal inducements (such as the EDF) that change the nature and content of national defence planning and expenditure. In any event, the first concrete attempt to implement the EUGS happens to be in the area of security and defence. It is for this reason that capabilities have become a (or even *the*) critical issue, not just for Europe's security and defence, but for the future of the European project itself.