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European Defence Agency

Report with Evidence

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ABSTRACT

In July 2004 the EU established a European Defence Agency (EDA). The Agency's role is to help improve European military capabilities. To do this the EDA has a remit to promote armaments co-operation in the EU, improve the defence industrial and technological base and to promote collaborative defence research across the Union.

The establishment of the EDA follows many decades of European collaborative armaments projects of limited success. This report considers whether the EDA is more likely to succeed in improving European military capabilities. It also analyses what the EDA's priorities for action should be.

We conclude that the EDA is well placed through its Steering Board to keep the pressure on Member States to take action. We recommend that the EDA should concentrate, initially, on making ESDP operations work more effectively rather than attempt to approach the big strategic issues confronting European Defence.

European Defence Agency

CHAPTER 1: INTRODUCTION

1. The European Defence Agency (EDA) was established by a Council Joint Action on 12 July 2004.¹ The Agency's purpose is:
'To support the Member States in their effort to improve European defence capabilities in the field of crisis management, and to sustain the ESDP as it stands now and develops in the future.'²
2. To this end the Brussels based Agency was tasked by the Council to help:
 - Develop European defence capabilities;
 - Promote armaments co-operation in the EU;
 - Improve the European defence industrial and technological base; and
 - Promote collaborative defence research across the Union.
3. The Council's ambitions for the EDA are high. At this early stage of the EDA's work the Committee has taken the opportunity to consider what, realistically, the EDA can and cannot achieve. More specifically, the Committee has considered the following questions in relation to the EDA:
 - What will happen to the legal base of the Agency if the Constitutional Treaty is adopted? (Chapter Two)
 - How will the EDA work? (Chapter Two)
 - Can the EDA help improve European defence capabilities? (Chapter Three)
 - What should be the EDA's priority for action? (Chapter Four)
4. We are indebted to our main witness, the Defence Agency's chief executive, Mr Nick Witney, for his time and advice. We have also heard from the Ministry of Defence (MoD) on two occasions. In June 2004 we took evidence from Dr Sarah Beaver and Mr Stuart Fraser as part of our scrutiny of the Joint Action that established the EDA. In November 2004 we heard from Lord Bach, the Procurement Minister, on the Commission's Green Paper on European defence procurement. We also travelled to Brussels in the summer of 2004 to speak to the Head of the Agency, Mr Javier Solana.³ We are grateful for their advice.

¹ Council Joint Action, n.2004/551/CFSP, 12 July 2004, (O.J L 245 17.07.2004)

² Council Joint Action, n.2004/551/CFSP, 12 July 2004, (O.J L 245 17.07.2004)

³ Javier Solana is also the Secretary General of the Council and High Representative for the CFSP.

CHAPTER 2: THE EDA

2.0 Background to the establishment of the EDA

5. The idea of a European armaments agency has been around for a long time. Historically, the United Kingdom Government has opposed an armaments agency on the grounds that it could all too easily have become ‘a sort of benefit to industry without regard to proper defence needs.’⁴
6. The idea resurfaced in the autumn of 2002 in the context of the Convention on the Future of Europe. The Chair of the Convention’s Defence Working Group, Mr Barnier,⁵ asked the Group to consider whether an EU armaments and research agency should be established.
7. Since the inception of the ESDP in 1999, the EU has made headway in identifying what capabilities the Union needs in order to carry out crisis management.⁶ However, the concrete delivery of more usable capabilities is yet to be fully achieved. The Government, it would appear, chose to capitalise on the momentum generated by the defence discussions in the Convention to propose an agency which could provide ‘a sustained, steady focus on the improvement of defence capabilities.’⁷
8. The United Kingdom proposal for an agency, the primary focus of which would be the improvement of defence capabilities rather than armaments collaboration, gained support in the Convention. The final text put forward by the Convention proposed a ‘European Armaments, Research and Military Capabilities Agency’.⁸
9. The Government chose to take the Defence Agency idea forward outside of the Constitutional Treaty framework by putting the idea on the agenda for the Franco-British defence summit at Le Touquet in February 2003. At the summit France and the United Kingdom were able to agree that an EU capabilities agency to co-ordinate arms procurement should be established. Mr Solana credited the United Kingdom with ‘a brilliant idea that will give good results.’⁹
10. Mr Witney summarised this joining of French and British thinking: ‘[W]hat we have come out with is this sort of amalgam of capabilities-led agency which nonetheless has a very clear licence to interest itself in the health of the technological and industrial base.’¹⁰
11. The other Member States agreed with the Franco-British formulation. By December 2003 an Agency Establishment Team had begun work. In June

⁴ Q189.

⁵ Mr Michel Barnier is the current Foreign Minister of France. At the time of the Convention Mr Barnier was the European Commissioner responsible for Regional Policy.

⁶ As expressed first in the Helsinki Headline Goals (agreed in 1999) and later in the 2010 Headline Goals (agreed in 2004). The Battle groups initiative is the latest policy to identify what the EU needs to be able to carry out the full range of Petersberg tasks.

⁷ Q49.

⁸ Draft Treaty Establishing a Constitution for Europe, Article 40 (3), Adopted by consensus by the European Convention on 13 June and 10 July 2003

⁹ Q 73.

¹⁰ Q189.

2004 the General Affairs and External Relations Council (GAERC) agreed the Joint Action which provides the legal base for the agency.

12. A few weeks later, at the June 2004 European Council, Member States were able to agree the final text of the Constitutional Treaty which in Articles I–41 and III–311 provide for the establishment of a defence agency.
13. **We recognise the instrumental role the Government has played in the establishment of the EDA. In order for the Agency to be successful, the Government must now ensure that all relevant parties understand its role.**

2.1 The EDA's legal base

14. Negotiations on the Constitutional Treaty and the establishment of the EDA proceeded in parallel. This does not affect the legal base of the EDA. There is no requirement for a treaty change to establish an EU agency, where the EU has competence to act.¹¹ The present Joint Action is therefore the legal base for the EDA, regardless of whether the Constitutional Treaty comes into force.
15. The Constitutional Treaty provides for the current Joint Action which establishes the EDA to remain in force until replaced by an instrument under the new treaty.¹²
16. **We note that the ratification, or otherwise, of the Constitutional Treaty by all Member States has no immediate effect on the legal base of the European Defence Agency.**

2.2. How the Agency works: Steering Board and Council

17. 24 Member States have decided to participate in the work of the EDA. Denmark, which has an opt-out from the Treaties on defence related matters, will not participate.
18. The Agency is answerable to both the Council¹³ and a Steering Board. The Council gives guidelines on the Agency's work programme and sets a budgetary framework.¹⁴ The Steering Board, in turn, agrees the specific work programme and the annual budget allocations.¹⁵ It is unclear how the Steering Board reports to the Council, which raises the issue of how parliamentary scrutiny will be carried out in relation to Council decisions on the EDA.
19. The Steering Board will meet twice a year at the level of Defence Ministers. The Steering Board is also expected to meet regularly at representatives level, addressing agendas focussed variously on the competences of national armaments directors, of national research directors, and of national capability planners.

¹¹ Q10.

¹² Constitutional Treaty, Article IV/438.

¹³ In this case the relevant Council is the General Affairs and External Relations Council (GAERC) attended by Foreign Ministers.

¹⁴ Q149.

¹⁵ Q149.

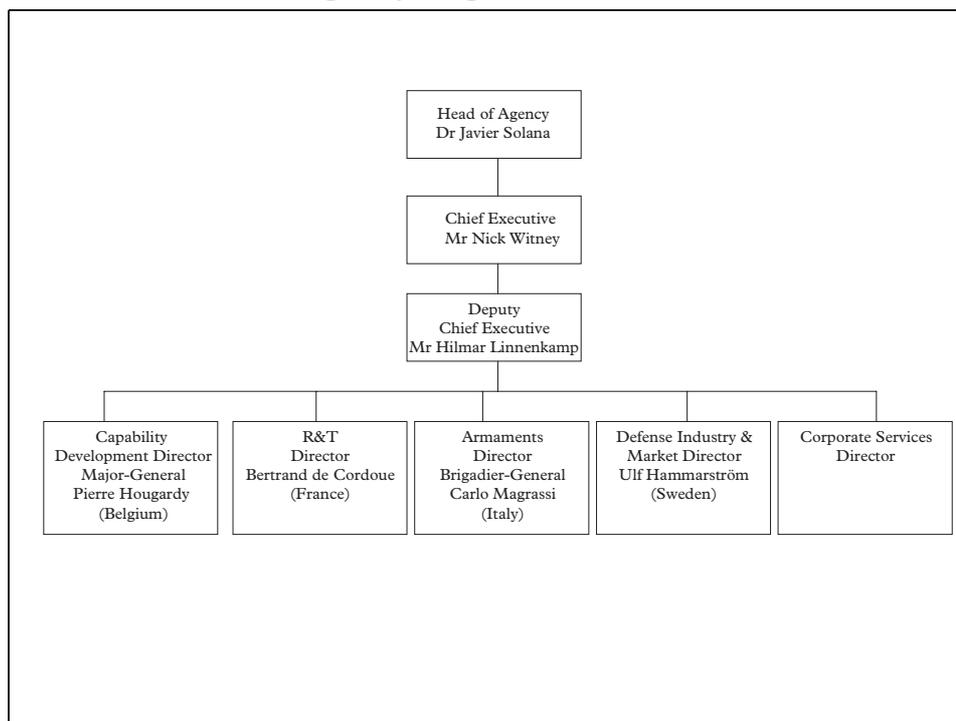
20. The EDA must seek the formal approval of the Steering Board for any new project. The Steering Board would decide by qualified majority voting (QMV) if a matter were put to a vote.¹⁶
21. This arrangement is bridged by High Representative Javier Solana. In a typical case of EU double-hatting Mr Solana is both Head of the Agency and chair of the Steering Board. As such, Mr Solana is expected to bring ‘political clout to the process.’¹⁷
22. **We are concerned that procedures for parliamentary scrutiny of the ESDP in general are inadequate. The Government should therefore explain how it will ensure adequate parliamentary scrutiny of Council and Steering Board decisions relating to the EDA. The Government should agree with Parliament the types of EDA documents that will be deposited for parliamentary scrutiny.**

2.3 How the Agency Works: Staffing and Budget

23. The GAERC agreed in November 2004 that the Agency should, initially, have a staff of 77. The November 2004 GAERC also agreed, exceptionally, a budget of €20 million for 2005. At the end of this calendar year, Council will agree a three year budgetary framework. Yearly budget allocations will then be agreed by the Steering Board.¹⁸

BOX 1

Agency Organisation Chart



24. The €20 million core budget for 2005 includes €3 million as seed corn money for research or buying in operational analysis according to the EDA’s needs. The Joint Action for the EDA also provides for the possibility of ad

¹⁶ Q192.

¹⁷ Q147.

¹⁸ Q149.

hoc budgets, entrusted to the Agency by groups of Member States. A case in point during 2005 is a project to pursue demonstrations of technology on 'inhabited vehicles on roads', which Mr Witney expects Member States to pay for separately.¹⁹

25. The core budget is paid on a standard percentage of the GNI of the 24 Member States that have chosen to participate. In 2004 the United Kingdom contribution to the running of the EDA was €250,000. The bulk of the set-up costs will be incurred in 2005 of which the United Kingdom will pay €2.5 million. From 2006 onwards the United Kingdom is expected to contribute €1.5 million per annum. The money is paid out of the MoD's budget.²⁰
26. The EDA's small staff and budget elicited a damning reaction, certainly initially, from the defence industry giant EADS (European Aeronautic Defence & Space Company).²¹ There are two factors behind the small scale of the Agency. First, as Mr Solana put it, the EDA's job is to 'add value to the word that we can put with a capital letter "Coordination"'.²² The Agency is intended to co-ordinate, rather than control, budgets for large scale research projects. Second, these are early days. The Government emphasised that on the question of the size and scale of the agency 'this agency needs to prove its worth.'²³
27. **The Council has set the EDA highly ambitious tasks. We are concerned that the EDA should not be burdened with expectations which it has not been given the resources to fulfil. We urge the EDA to be very transparent in reporting on its activities and spending.**
28. **We will return to the issue of the EDA's funding at the time the Council is due to determine the three year budgetary framework for the Agency. We recommend that the Government deposits in Parliament for scrutiny a detailed analysis of the EDA's programme and resource needs at that time.**

2.4 How the Agency works: the EDA's main interlocutors

29. The EDA's main interlocutors within the EU institutional structure are the EU Military Committee (EUMC) and the EU Military Staff (EUMS) within the Council, and various directorates in the Commission.²⁴ It is the EU Military Committee that is tasked with defining the capabilities the EU needs to be able to carry out crisis management. Ideally, this should result in a clear division of duties between the Council bodies and the EDA where, in Mr Witney's words, 'They do the requirements and we do the solutions.'²⁵
30. The institutional structure of the EU can easily lead to turf wars between bodies with overlapping responsibilities. In an effort to avoid such a situation, Mr Witney has tasked his staff to carry out a joint study with the EUMS on one of the EDA's flagship programmes: C3 (command, control and

¹⁹ Q147.

²⁰ Q19.

²¹ Q165.

²² Q73.

²³ Q14.

²⁴ Q168.

²⁵ Q168.

communication).²⁶ Beyond this joint study Mr Witney has resisted setting up administrative arrangements between the Council bodies and the EDA, preferring first to work out what the EDA is going to be doing.²⁷ **We commend Mr Witney for this.**

31. The Commission, in turn, has taken the initiative on a number of important defence agendas, including specifically issuing a Green Paper on a European Defence Equipment Market (EDEM) and proposing that Security Research be funded under the 7th Framework Research Programme. In the EDA's work programme for 2005 the Council tasked the Agency to engage on these issues.²⁸ The EDA's links with the Commission are discussed in more detail in Chapter 4.
32. Outside of the EU framework the EDA's main interlocutors will be the armaments bodies OCCAR and WEAG, in addition to NATO. We discuss NATO in more detail in the next chapter. The EDA will also need to liaise with Member States on activities undertaken under the Letter of Intent (LoI) Framework Agreement.

BOX 2

European Armaments Co-operation Initiatives Since 1990

- The **Western European Armaments Group (WEAG)** formerly known as the Independent European Programme Group (IEPG), constitutes the largest, pan-European framework for armament co-operation, comprising all the European NATO members and EU Member States except Ireland and Iceland. Its principle objectives are:
 1. More efficient use of resources through, inter alia, increased harmonisation of requirements;
 2. the opening up of national defence markets to cross-border competition;
 3. the strengthening of the European defence technological and industrial base; and
 4. co-operation in research and development.

WEAG organises its work into three Panels, dealing with harmonisation or requirements (Panel I), Research and Technology (Panel II) and defence economics (Panel III).

Recognising the difficulty of setting up a European Armaments Agency responsible for the full range of procurement activities on behalf of WEAG countries, a WEAG Ad Hoc Study Group proposed in the mid 1990s the creation of the **Western European Armament Organisation (WEAO)** to deepen individual areas of armament co-operation. Established in 1996, WEAO shares the international legal personality of the WEU, and the WEAO Charter provides for a broad range of potential activities. However, up until now, WEAO has operated only as a Research Cell, providing Member States with

²⁶ Q170.

²⁷ Q191.

²⁸ Council document 14856/04 (Presse 324).

administrative and contractual assistance for co-operative R&T projects.

- In early 2001, the **Organisation for Joint Armaments Cooperation (OCCAR)** became a legal entity with France, Germany, Italy and the United Kingdom as the initial Member States (Belgium and Spain have joined since). Contrasting with the broad, pan-European approach of the WEAG/WEAO arrangement, OCCAR reflects the interests of a group of countries seeking progress through smaller multilateral initiatives. Like WEAO, OCCAR has the legal potential to become a fully-fledged armaments agency. According to Article 8 of the Convention, OCCAR could cover a whole range of activities. However, up until now, OCCAR is purely a management agency, aiming at greater efficiency in the management of collaborative defence equipment programmes. Its most important programmes are the *Tiger* attack helicopter, the Future Surface-to-Air missile family and the A400M transport aircraft.
- In 1998, defence ministers of the six major arms producing countries in Europe (France, Germany, Italy, Spain, Sweden and the United Kingdom) signed a **Letter of Intent (LoI)** designed to facilitate defence industry restructuring in Europe. By 2000, these countries concluded a **Framework Agreement** representing a first step towards creating a political and legal framework for cross-border industrial restructuring. The agreement covers the following areas:
 1. *security of supply;*
 2. *export procedures;*
 3. *security and classified information;*
 4. *treatment of technical information;*
 5. *research and technology; and*
 6. *harmonisation of military equipment.*

33. The EDA will take over WEAG's role in accordance with the EU's general decision to merge the WEU with EU structures.²⁹ This is going to be one of the EDA's key tasks in 2005. Mr Witney is hopeful that the EDA can be more successful in improving European capabilities than the WEAG has been since the EDA can 'relate consideration of possible armaments collaborations to wider issues of capability need, which has been what has handicapped WEAG activities to date.'³⁰
34. However, the EDA will co-exist with OCCAR. Both the Ministry of Defence and Mr Witney were at pains to emphasize the complementary nature of these two bodies. Mr Fraser of the MoD explained that 'OCCAR is essentially an agency to manage co-operative programmes once they have

²⁹ The 15 EU States, which included the 10 full members of the WEU, decided in June 1999 that the WEU should cede all its operational functions to the EU and that the organisation should be preserved only as a skeleton structure for the unlikely event of activation of the 1954 Modified Brussels Treaty.

³⁰ Q157.

gone beyond the R&T arena.³¹ This means, as Mr Witney stated, that 'where we finish is roughly where OCCAR starts in terms of procurement.'³²

35. There may be a neat division on paper between the activities of the EDA and OCCAR but there is no denying the general point that over the years there have been a number of initiatives, coming from various constellations of European countries, to try to address the state of European military capabilities and the state of the European defence industrial and technological base. The next chapter deals with the question of whether the EDA can succeed where so many initiatives have failed before.
36. **Consideration should be given to a rationalisation of the different bodies and, if the EDA is proving to be successful, the possibility for mergers should be encouraged.**

³¹ Q12. R&T refers to Research and Technology.

³² Q157.

CHAPTER 3: CAN THE EDA HELP IMPROVE EUROPEAN MILITARY CAPABILITIES?

3.0 Does the EDA have a comparative advantage?

37. Mr Witney summarised why the time has come for yet another attempt to improve European capabilities.³³
- The EU is becoming more ambitious on ESDP. There is an increasing realisation that as Europe's ambitions for external action are becoming more clearly articulated, particularly through the European Security Strategy, capabilities are needed to back up ambition.
 - Europe is underperforming. This is a familiar reflection in the transatlantic burden-sharing context. Europe has a shortage of capabilities and, according to Mr Witney, no-one can feel comfortable about the state and profitability of the European defence technological and industrial base.
 - Spending is fragmented across the Member States. Mr Witney is less concerned about the total European spend on defence, €160 billion per annum, 'still a huge amount of money',³⁴ than about its fragmentation. '[W]e are simply doing too much on a national basis whereas increasingly, to be effective, you need to work on a more continental scale, both on the demand and on the supply side.'³⁵

³³ Q147.

³⁴ Q147.

³⁵ Q147.

BOX 3

Defence Spending in The EU

The 25 EU Member States spend a total of about €160 billion per annum on defence. However, the total figure hides the fact that defence spending is spread very unevenly across the Member States. The six most important arms producing countries (the so called LoI countries: France, Germany, Italy, Spain, Sweden and the United Kingdom) cover more than 80 per cent of total EU defence spending and about 98 per cent of military R&D (research and development) expenditure, as illustrated by Figures 1 and 2.

European defence spending trails far behind that of the United States, as illustrated by Figures 2 and 3. In 2004, the US spent more than twice as much on defence as the 25 EU Member States combined. Moreover, due to the fragmented EU defence markets and disparate procurement policies, the EU as a whole receives much less value in exchange for its military spending than the US.

Figure 1

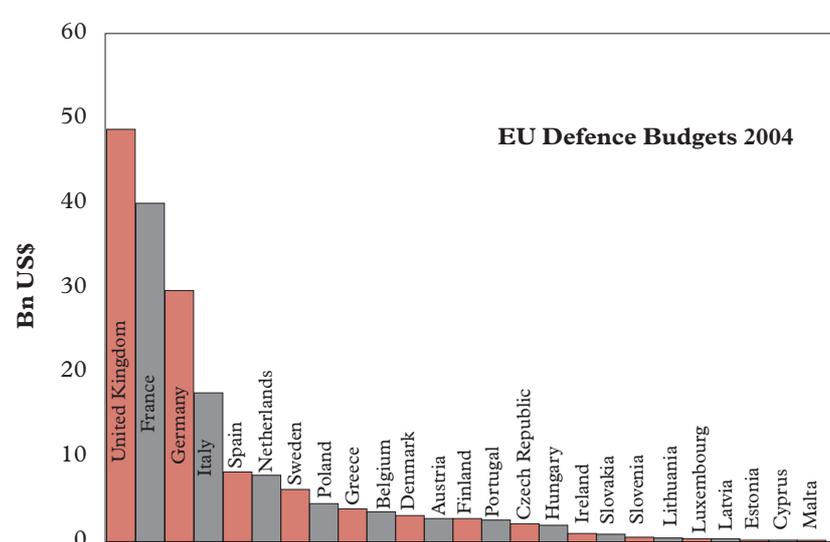
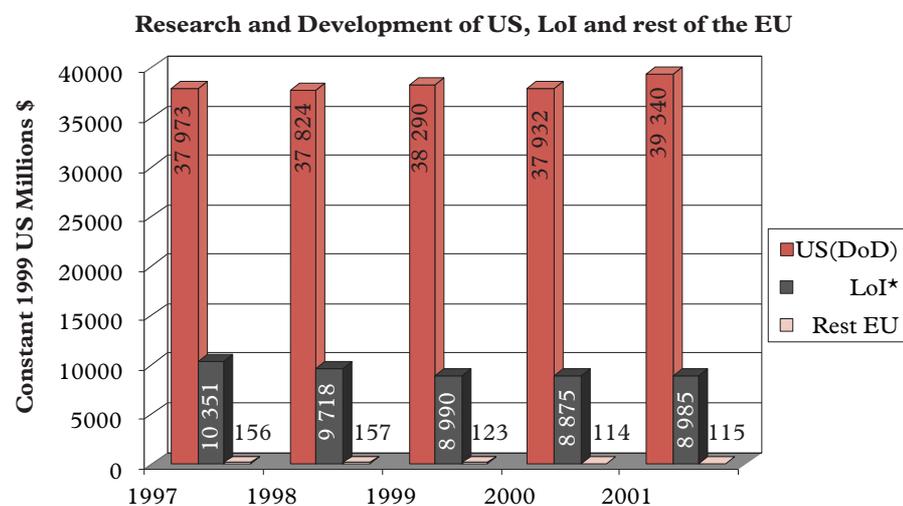


Figure 2



* France, Germany, Italy, Spain, Sweden and UK

Defence Spending in The EU (Continued)

Figure 3

EU Country	Defence Budget (bn of current US\$)			Defence Expenditure (percentage of GDP)		
	2001	2002	2003	2001	2002	2003
United Kingdom	33.60	36.60	42.00	2.5	2.4	2.4
France	25.80	30.70	35.30	2.5	2.5	2.6
Germany	21.50	25.10	27.70	1.5	1.5	1.5
Italy	15.90	14.50	15.70	2.0	1.9	1.9
Spain	7.10	6.70	7.10	1.2	1.2	1.2
Netherlands	5.70	6.90	7.20	1.6	1.6	1.6
Sweden	4.10	4.60	5.50	2.1	1.9	1.8
Greece	3.40	3.60	3.60	4.6	4.3	4.1
Poland	3.40	3.50	3.90	2.0	1.9	2.0
Belgium	2.30	2.80	3.00	1.3	1.3	1.3
Denmark	2.10	2.20	2.60	1.6	1.6	1.6
Austria	1.50	1.80	2.50	0.8	0.8	1.0
Finland	1.40	2.10	2.30	1.2	1.4	1.4
Czech Republic	1.20	1.50	1.90	2.1	2.0	2.2
Portugal	1.60	1.70	1.90	2.1	2.3	2.1
Hungary	0.82	1.10	1.40	1.8	1.8	1.9
Ireland	0.79	0.78	0.80	0.5	0.6	0.5
Slovakia	0.35	0.46	0.62	1.7	1.9	1.9
Slovenia	0.28	0.27	0.38	1.4	1.2	1.4
Cyprus	0.35	0.26	0.29	2.6	2.4	2.3
Lithuania	0.17	0.27	0.27	1.8	1.8	1.8
Luxembourg	0.15	0.20	0.23	0.8	0.9	0.9
Latvia	0.08	0.11	0.19	1.0	1.3	1.9
Estonia	0.07	0.10	0.16	1.2	1.5	2.0
Malta	0.03	0.07	0.09	1.8	1.9	2.1
EU-25 Total	133.67	147.94	166.64	1.9	1.9	1.9
United States	329.00	362.10	456.20	3.0	3.3	3.7

Source of Data: The Military Balance 2003/2004, 2004/05 IISS London

38. Mr Witney concluded his summary by saying that: ‘None of that is terribly original analysis.’³⁶ Indeed, the problems of European defence capabilities are well understood. Mr Witney and Dr Sarah Beaver of the MoD offered five reasons why the EDA may make a difference.

Member State Commitment (1)

39. The EDA’s institutional set up is intended to achieve Member State commitment to the improvement of military capabilities. The EDA reports directly, twice a year, to Defence Ministers. The Government emphasized that one of the key issues was ‘that Ministers, not their officials, have to engage in confronting this capability issue seriously.’³⁷

³⁶ Q147.

³⁷ Q33.

40. Moreover, the Government's view was that the EDA needed a 'heavy weight political figure heading the agency.'³⁸ In this respect the Government has been keen to mirror in the EU what has been successful in NATO. Mr Javier Solana, like the Secretary General of NATO, needs to be in a 'position where he could cajole or bully, if you like, Member States to improve their contribution.'³⁹

Peer pressure (2)

41. The Government called attention to the EDA's role in evaluating Member States' capabilities. According to Dr Beaver: 'One of the functions of the agency, which we were very careful to draft into the joint action, is that of scrutinising and evaluating members' commitments. ... [B]y presenting objective analysis, we will be able to see the agency and its Steering Board of ministers applying considerable peer pressure to their fellows to address gaps.'⁴⁰

A comprehensive approach (3)

42. Mr Witney's view is that previous efforts to co-operate and improve European capabilities have failed because they have been too fragmented. Previous 'efforts have tended to be conducted in small corners by people who are effectively invisible to their defence ministers and who lack the impulse of having their efforts tied to the requirement needs of the military staff working for future defence capabilities.'⁴¹ By contrast, Mr Witney is hopeful that the EDA can deliver 'because we do have such a broad range of activity and can interrelate activities the one to the other.'⁴²
43. The Government shares this hope. 'Unlike the idea that was originally mooted of an armaments agency, [the EDA] takes all aspects of the capability process, from helping develop the next headline goal, defining what it is that Europe needs, monitoring the process, focusing on that capability ... right the way through to armaments and procurement policy.'⁴³

A 'big tent' approach (4)

44. The EDA will not need all 24 Member States to commit to every project. Under the umbrella of the Agency, groups of Member States can collaborate on specific projects. This should avoid the problem of the Agency having to proceed at the pace of the 'slowest' Member State.

A permanent administration (5)

45. Hitherto, the EU has addressed military capabilities questions through ad hoc committees. Member State experts have returned home to find that they cannot take work forward because they have their own national

³⁸ Q30.

³⁹ Q30.

⁴⁰ Q12. Mr Witney admitted that the Agency's initial efforts to compile statistics on Member States' defence procurement had revealed many problems in getting spending statistics onto a uniform basis—Witney Q154.

⁴¹ Q147.

⁴² Q147.

⁴³ Q26.

commitments and priorities to address.⁴⁴ The Government considered that having a permanent staff would provide ‘focus and direction’ to what is a ‘considerable momentum and wish among European Defence Ministers to take this forward and to build on that work that is going on at the moment to establish the 2010 Headline Goal.’⁴⁵

3.1 What can the EDA do that could not have been done through NATO?

46. Many of the suggested strengths of the EDA could apply equally to NATO. The Government admits that ‘it would be wrong to say that there is no duplication between the agency and work that is done in NATO’ but maintains that the EDA ‘will have a different focus.’⁴⁶ This is a valid point in so far as the EDA’s specific role is to help equip the EU to perform ESDP crisis management operations rather than fulfil the needs of NATO’s much broader mandate. In any event NATO has not made significant progress in the areas of the EDA’s tasks.
47. Moreover, our witnesses stressed that the EU’s and NATO’s somewhat different membership can be an advantage.⁴⁷ In the EDA framework, European countries cannot hide behind or blame lack of progress on the US, ‘a very predominant partner in NATO.’⁴⁸ What is more, the traditional neutrals in Europe – Sweden, Finland and Austria, but perhaps Sweden in particular – may have something to bring to the table in the EU context. In the words of Mr Witney: ‘we do tap into different political impulses in some of the Member States.’⁴⁹
48. Additionally, an EU agency, the Government suggests, has the advantage of the momentum of the EU process. The EDA’s advantage may be ‘the pressure that the EU can exert if something is required to meet the headline goal. In many countries in Europe that is a considerable pressure.’⁵⁰

3.2 Can the EDA deliver?

49. Mr Witney summarised his position by saying, ‘yes’, the EDA can succeed, but, ‘it will work, or not work, depending upon the decisions that individual participating Member States take.’⁵¹ As for the EDA as an organisation, Mr Witney said the Agency can only succeed if the culture is right. The agency will only survive if ‘it is very open, very outward facing, and there is constant dialogue with its shareholders, the participating Member States.’⁵²
50. The Government also strikes a note of caution. In response to a question on how the EDA can make a difference when previous initiatives over the years have not, Dr Beaver answered: ‘That is indeed a challenge, and there is, I have to say, an element of faith in this.’⁵³

⁴⁴ Q26.

⁴⁵ Q9.

⁴⁶ Q30.

⁴⁷ 19 EU Member States are also NATO members.

⁴⁸ Q30.

⁴⁹ Q153.

⁵⁰ Q18.

⁵¹ Q147.

⁵² Q147.

⁵³ Q12.

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51. **The improvement of European military capabilities depends on the willingness of the Member States to take action. Nonetheless, we have concluded that the EDA is well placed to help in this process. The EDA's strength is the Steering Board. The Agency might make a difference by:**
- **facilitating co-operation between the Member States;**
 - **suggesting workable solutions; and**
 - **identifying problems, included naming and shaming Member States.**
52. **We accept that the EDA may in this instance have some advantages over the NATO framework. The EU framework may prove more effective in mobilizing political commitment and providing impetus for action. Communication and co-operation with NATO will still be paramount to avoid duplication of effort. We urge the Government to press this point in Council.**

CHAPTER 4: PRIORITIES FOR ACTION FOR THE EDA

4.0 Enabling ESDP missions to operate more effectively

53. The EDA's institutional organisation may provide it with some advantages as compared with other bodies set up by European countries to improve their defence capabilities. However, the ultimate responsibility remains with the Member States to take action, and here the EDA will come up against familiar problems that have plagued previous initiatives.
54. These problems are what Mr Witney referred to as 'two or three fairly hard fundamental issues of strategy where you are never going to get consensus between participating Member States.'⁵⁴ Mr Witney's approach is to leave the hard points to one side and concentrate on 'those several hundred issues where there does actually seem to be a sense of readiness to adopt a common approach.'⁵⁵
55. The EDA has identified four areas, four so called flagship programmes, where there would appear to be scope for achieving a 'common approach' in the short term.⁵⁶ These are:
- (i) Command, Control and Communication (C3);
 - (ii) Uninhabited air vehicles (UAVs)—R&T directorate;
 - (iii) Armoured fighting vehicles (AFV)—Armament directorate; and,
 - (iv) European Defence Equipment Market (EDEM).
56. Mr Witney explained that the first of the flagship programmes, the C3 programme, will be launched by a Joint Study between the EU Military Staff and the EDA. Mr Witney's hope is that by the summer of 2005 the study would have identified 'two, three or four axes of effort that we could usefully pursue.'⁵⁷
57. Specifically, Mr Witney said that the EDA would aim to solve any specific C3 problems, as identified by the study, in the ongoing Operation Althea in Bosnia⁵⁸ and for the longer term, the Joint Study may identify projects to meet the C3 needs of the Battlegroups.⁵⁹ The study may also find that 'software-defined radio', a concept that appeals to many Member State governments and that industry is 'intensely interested in', is worth pursuing.⁶⁰ Finally, the study may conclude that the EDA should look into more 'intelligent ways' in which to procure satellite bandwidth for future ESDP operations.⁶¹
58. The EDA has limited resources and very considerable goals to fulfil. **We strongly believe that the EDA needs to concentrate, initially, on a few**

⁵⁴ Q162.

⁵⁵ Q162.

⁵⁶ As mentioned in the EDA's work programme for 2005, Council document 14856/04.

⁵⁷ Q170.

⁵⁸ Q170. The biggest ESDP operation, operation Althea, was launched in Bosnia in December 2004.

⁵⁹ Q170. The first Battlegroups, groups of 1,500 crisis management troops, are expected to become operational in 2007.

⁶⁰ Q170.

⁶¹ Q170.

achievable tasks. The EDA will gain Member States' confidence by enabling an ESDP mission to operate more effectively. Once trust in the Agency's capacity to deliver has been built up, more strategic issues such as relative defence spending or specialisation of forces can be approached.

4.1 A European Defence Equipment Market (EDEM)

59. During 2004 the Commission took the initiative on a number of agendas with defence implications. The Council tasked the EDA to engage with the Commission on these agendas: the space agenda, security research and proposals for a European Defence Equipment Market (EDEM).⁶²
60. The Commission launched a Green Paper consultation on defence procurement in September 2004. In the Green Paper the Commission identified two possible options for making defence procurement practice more transparent across the EU. The first option would involve a Commission communication clarifying the existing legal framework. The second option would introduce new rules on defence procurement through a directive.⁶³
61. In October 2004 the Government brought forward a non-paper in response to the Commission's Green Paper in which it proposed a further option.⁶⁴ The Government maintains that agreeing EU legislation on defence procurement would be a cumbersome process that could take years. In the meanwhile, to achieve more transparency, the Government suggests that a voluntary code of conduct on defence procurement should be considered. The Government suggested that the EDA would be ideally placed to monitor the application of such a voluntary code of conduct.
62. In this context, we were interested to hear from Lord Bach, Under Secretary of State and Minister for Defence Procurement, on the EDA's role in the Government's proposals. Lord Bach suggested that one of the key features of the voluntary code of conduct would be a 'rigorous reporting system' by the participating Member States.⁶⁵ Each Member State would need to explain how individual procurement decisions observe the agreed criteria, or, indeed, explain why there may be derogations.
63. The Minister continued: 'Scrutiny of the reports by EU Member States collectively should, and we hope would, create some peer pressure to persuade nations that to deviate from the code would be something that would be very much frowned upon.'⁶⁶
64. For the Government the vital point about the EDA in the EDEM context is that the Agency is controlled by the Defence Ministers who sit on the Steering Board. There are two elements to this argument. First, ministers will be able to apply peer pressure; and, second, a voluntary code of conduct, monitored by the Member State controlled EDA, 'avoids the potential for

⁶² EDA work programme for 2005, Council Document 14856/04.

⁶³ Green Paper on Defence Procurement, COM(2004) 608 final.

⁶⁴ MoD written evidence.

⁶⁵ Q134.

⁶⁶ Q134.

confrontation over Commission competence in the area of defence procurement.⁶⁷

65. Since then the Council has welcomed the thrust of the Commission proposal on defence procurement and asked the EDA to do two things: to produce an Agency input to the Commission consultation; and to consider whether there was anything that EDA could do on a parallel track as a complementary activity.⁶⁸ The EDA will bring those two remits back to the Steering Board when it meets in National Armaments Directors formation on 2 March 2005.
66. Mr Witney told us that the EDA was likely to conclude that, while there is much to be said for a legally enforceable defence market, 'it will be a long slog to get there.'⁶⁹ In the meanwhile, 'as a complement to this I think we would be interested in working on the idea of a code of conduct approach to increasing competition'.⁷⁰
67. One thing is clear: the issue of whether European countries should be prepared to buy more defence equipment from the Americans is unlikely to lead to fruitful discussions within the EDA. Mr Witney concluded by saying: 'I think you can make progress on a more competitive, genuine defence market where European countries are more prepared to buy from each other and leave this external dimension to one side as something too tough and not agreed.'⁷¹
68. **We believe that the United Kingdom currently has the most open defence procurement market in Europe. We are broadly in favour of the voluntary code of conduct approach suggested by the Government to achieve greater transparency across the Union. However, we recognise that this approach has disadvantages as there is a great deal of uncertainty whether other Member States will open their defence markets. Rigorous monitoring and peer pressure will be key to this approach. If the voluntary approach is not successful the Commission's proposals will have to receive further consideration.**
69. **We are of the opinion that the EDA's priority should be the EDEM: an area in which the EDA may come to play a prominent part. We ask the Government to deposit in Parliament the EDA's 2 March 2005 report to the Steering Board on how the EDA can best be involved in the EDEM.**

4.2 Commission proposals on Security Research

70. Security research is a broad term used by the Commission when referring to research activities undertaken to improve the security of European citizens. During 2004 the Commission put forward two communications developing the idea that security research could be funded under the 7th Framework Research Programme to be presented in April 2005.
71. The Commission maintains that it has become increasingly difficult to make a distinction between research for civilian security and defence purposes. The

⁶⁷ Government non-paper (MoD written evidence), paragraph 10 and Q107.

⁶⁸ Q148.

⁶⁹ Q148.

⁷⁰ Q148.

⁷¹ Q149.

Commission suggests that as a result of this difficulty, the Commission should be able to fund defence related research. This would raise issues not only of overlap with the mandate of the EDA but also of questions of legality since Defence matters are not within the competence of the Commission.

72. The Government has a number of concerns about the security research agenda, and will publish a non-paper sometime before April 2005.
73. The Committee will look at the Commission's proposals and the Government's paper carefully when they are published. In the meanwhile, we were interested to hear Mr Witney's views on how the EDA can respond to the security research agenda.
74. Mr Witney acknowledged the difficulty of making a distinction in practice between civilian and defence research. Mr Witney mentioned as an example technology that will enable the Swedish Fire Service to speak to the Swedish Police.⁷² This 'is actually the same as the technology which would enable contingents in Bosnia to speak to each other.'⁷³
75. Equally, Mr Witney recognized the reality of this distinction in policy terms and government responsibilities. Mr Witney said that, 'The trick then must be to work across that somewhat artificial boundary in practical terms.'⁷⁴ If the Commission is able to identify useful projects with substantial defence implications, it may choose to 'give us chunks of money to do particular bits of research on their behalf.'⁷⁵ This option was foreseen in the Joint Action that established the EDA.
76. Mr Witney acknowledged that this hopeful vision of the Commission and the EDA interacting on security research will only work if there is 'a great deal of transparency between whatever may happen under this security research banner and between what we get up to.'⁷⁶ While the EDA hasn't yet had time to make contact with the relevant Commission staff, Mr Witney maintained that the security research agenda is not 'shaping up to be a turf war.'⁷⁷
77. **We accept that in some cases the distinction between research for civilian and military security purposes may be artificial. The security research concept will need to be handled carefully to ensure that opportunities for useful research are not lost because of institutional jealousies and arguments about competence. Mr Witney offered a possible solution whereby the Commission could allocate money for the EDA to manage, even though the projects would have clear defence as well as civilian implications. We hope that this pragmatic solution will be found acceptable.**

⁷² Q166.

⁷³ Q166.

⁷⁴ Q166.

⁷⁵ Q166.

⁷⁶ Q166.

⁷⁷ Q167.

CHAPTER 5: CONCLUSIONS

78. We recognise the instrumental role the Government has played in the establishment of the EDA. In order for the Agency to be successful, the Government must now ensure that all relevant parties understand its role. Para 13.
79. We note that the ratification, or otherwise, of the Constitutional Treaty by all Member States has no immediate effect on the legal base of the European Defence Agency. Para 16.
80. We are concerned that procedures for parliamentary scrutiny of the ESDP in general are inadequate. The Government should therefore explain how it will ensure adequate parliamentary scrutiny of Council and Steering Board decisions relating to the EDA. The Government should agree with Parliament the types of documents that will be deposited for parliamentary scrutiny. Para 22.
81. The Council has set the EDA highly ambitious tasks. We are concerned that the EDA should not be burdened with expectations which it has not been given the resources to fulfil. We urge the EDA to be very transparent in reporting on its activities and spending. Para 27.
82. We will return to the issue of the EDA's funding at the time the Council is due to determine the three year budgetary framework for the Agency. We recommend that the Government deposits in Parliament for scrutiny a detailed analysis of the EDA's programme and resource needs at that time. Para 28.
83. Consideration should be given to a rationalisation of the different bodies and, if the EDA is proving to be successful, the possibility for mergers should be encouraged. Para 36.
84. The improvement of European military capabilities depends on the willingness of the Member States to take action. Nonetheless, we have concluded that the EDA is well placed to help in this process. The EDA's strength is the Steering Board. The Agency might make a difference by:
 - facilitating co-operation between Member States;
 - suggesting workable solutions; and
 - identifying problems, including naming and shaming Member States. Para 51.
85. We accept that the EDA may in this instance have some advantages over the NATO framework. The EU framework may prove more effective in mobilizing political commitment and providing impetus for action. Communication and co-operation with NATO will still be paramount to avoid duplication of effort. We urge the Government to press this point in Council. Para 52.
86. We strongly believe that the EDA needs to concentrate, initially, on a few achievable tasks. The EDA will gain Member States' confidence by enabling an ESDP mission to operate more effectively. Once trust in the Agency's capacity to deliver has been built up, more strategic issues such as relative defence spending or specialisation of forces can be approached. Para 58.

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87. We believe that the United Kingdom currently has the most open defence procurement market in Europe. We are broadly in favour of the voluntary code of conduct approach suggested by the Government to achieve greater transparency across the Union. However, we recognise that this approach has disadvantages as there is a great deal of uncertainty whether other Member States will open their defence markets. Rigorous monitoring and peer pressure will be key to this approach. If the voluntary approach is not successful the Commission's proposals will have to receive further consideration. Para 68.
 88. We are of the opinion that the EDA's priority should be the EDEM: an area in which the EDA may come to play a prominent part. We ask the Government to deposit in Parliament the EDA's 2 March 2005 report to the Steering Board on how the EDA can best be involved in the EDEM. Para 69.
 89. We accept that in some cases the distinction between research for civilian and military security purposes may be artificial. The security research concept will need to be handled carefully to ensure that opportunities for useful research are not lost because of institutional jealousies and arguments about competence. Mr Witney offered a possible solution whereby the Commission could allocate money for the EDA to manage, even though the projects would have clear defence as well as civilian implications. We hope that this pragmatic solution will be found acceptable. Para 77.
 90. We make this Report to the House for information.

APPENDIX 1: SUB-COMMITTEE C (FOREIGN AFFAIRS, DEFENCE AND DEVELOPMENT POLICY)

Sub-Committee C

The members of the Sub-Committee which conducted this inquiry were:

- Lord Bowness (Chairman)
- § Lord Boyce
- § Lord Dykes
- * Lord Freeman
- § Lord Hannay of Chiswick
- † Lord Inge
- Lord Lea of Crondall
- Lord King of Bridgwater
- Lord Maclennan of Rogart
- Lord Morris of Aberavon
- † Baroness Northover
- † Baroness Park of Monmouth
- † Lord Powell of Bayswater
- Lord Tomlinson

† Member of the Sub-Committee until November 2004.

§ Member of the Sub-Committee from November 2004.

* Member of the Sub-Committee from January 2005.

Declarations of Interest

Please also see the Register of Members Interests.

Lord Boyce

- Director, VT Group plc*
- Director, WS Atkins*
- Adviser CSG*
- Adviser Colebrand Ltd*

Lord Freeman

- Chairman, Thales UK plc*
- Director, Thales SA*
- President, UK Council of Reserve Forces' and Cadets' Associations*

Lord Powell of Bayswater

- UK Advisory Board, Thales plc*
- Consultant BAe Systems (Asia)*

APPENDIX 2: LIST OF WITNESSES

The following witnesses gave evidence.

Lord Bach, a Member of the House, Parliamentary Under-Secretary of State, Ministry of Defence

Dr Sarah Beaver, Director General, International Security Policy, Ministry of Defence

Mr Stuart Fraser, Head of the Defence Procurements Agency's International Relations Group, Ministry of Defence

Mr Javier Solana, Secretary-General of the Council of the EU, High Representative for the Common Foreign and Security Policy

Mr Nick Witney, Chief Executive, European Defence Agency, Brussels

APPENDIX 3: GLOSSARY OF ACRONYMS AND TECHNICAL TERMS

AFV	Armoured Fighting Vehicles
C3	Command, Control and Communication
CFSP	Common Foreign and Security Policy
EADS	European Aeronautic Defence and Space Company
EC	European Community
EDA	European Defence Agency
EDEM	European Defence Equipment Market
ESDP	European Security and Defence Policy
EU	European Union
EUMC	European Union Military Committee
EUMS	European Union Military Staff
GAERC	General Affairs and External Relations Council
GNI	Gross National Income
IEPG	Independent European Programme Group
LoI	Letter of Intent
MoD	Ministry of Defence
NATO	North Atlantic Treaty Organisation
OCCAR	Organisation Conjointe de Co-opération en Matière d'Armement
QMV	Qualified Majority Voting
R&T	Research and Technology
UAV	Uninhabited Air Vehicles
WEAG	Western European Armaments Group
WEAO	Western European Armament Organisation
WEU	Western European Union

APPENDIX 4: REPORTS

Recent Reports from the Select Committee

Review of Scrutiny of European Legislation (1st Report session 2002–03, HL Paper 15)

Annual Report 2004 (32nd Report session 2003–04, HL Paper 186)

The Draft Constitutional Treaty (41st Report session 2002–03, HL Paper 169)

Session 2004–2005 Reports prepared by Sub-Committee C

Current Developments in European Foreign Policy (2nd Report session 2004–05, HL Paper 44)

Session 2003–2004 Reports prepared by Sub-Committee C

Current Developments in European Foreign Policy (4th Report session 2003–04, HL Paper 28)

EU Development Aid in Transition (12th Report session 2003–04, HL Paper 75)

Current Developments in European Foreign Policy (19th Report session 2003–04, HL Paper 118)

EU Security Strategy (31st Report session 2003–04, HL Paper 180)

Session 2002–2003 Reports prepared by Sub-Committee C

EU Russia Relations (3rd Report session 2002–03, HL Paper 29)

EU—Effective in a Crisis? (7th Report session 2002–03, HL Paper 53)

The Future of Europe: Convention Working Group—Reports on Defence and External Action (15th Report session 2002–03, HL Paper 80)

Evidence by the Minister for Europe, Foreign and Commonwealth Office on European Security and Defence Policy Scrutiny, the General Affairs and External Relations Council of 18–19 March 2003 and the Current State of Common Foreign and Security Policy (19th Report session 2002–03, HL Paper 94)

The Future of Europe: Constitutional Treaty—Draft Articles on External Action (23rd Report session 2002–03, HL Paper 107)

A Fractured Partnership? Relations Between the European Union and the United States of America (30th Report session 2002–03, HL Paper 134)

Current Developments in European Foreign Policy (37th Report session 2002–03, HL Paper 152)

Minutes of Evidence

TAKEN BEFORE THE SELECT COMMITTEE ON THE EUROPEAN UNION
(SUB-COMMITTEE C)

THURSDAY 10 JUNE 2004

Present	Bowness, L (Chairman) King of Bridgwater, L Lea of Crondall, L	Park of Monmouth, B Morris of Aberavon, L Tomlinson, L
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Examination of Witnesses

Witnesses: DR SARAH BEAVER, Director General, International Security Policy, and MR STUART FRASER, Head of the Defence Procurements Agency's International Relations Group, Ministry of Defence, examined.

Q1 Good morning, Dr Beaver and Mr Fraser. Thank you very much for coming to give evidence to the Committee. I do not know whether there is anything that you would like to say before we move to questions on the agency, and where we are on this: would you like to make an opening statement or would you like to just go to the questions?

Dr Beaver: If you like, I will perhaps explain a little bit of the background to the agency, if you would find that helpful.

Q2 Chairman: I am sure. Thank you.

Dr Beaver: You may be aware that over a period of years there have been a number of initiatives towards, in Europe, establishing an armaments agency. One of the questions that Mnsr Barnier, as the Chair of the Convention's Defence Working Group, posed to its members on the Convention, was whether or not an armaments and research agency should be established. In the United Kingdom we have always in the past opposed such initiatives but the Government did decide in this particular instance that if we could establish a capabilities-focused agency with the motivation, drive and intention of driving up European defence capabilities, then this was indeed a proposal that was worth exploring. That was reflected in the United Kingdom's input into the Defence Working Group in November last year and at their summit declaration in February 2003 France and the United Kingdom jointly put forward proposals as to how an agency could be established. We elaborated on them to our partners in Brussels, and following up a remit that was then passed down by the Thessaloniki European Council the Italian Presidency took forward very energetically the work on defining the key outline principles of an agency. You will be aware that we submitted an explanatory memorandum on 13 November last year, covering the proposed decision, which was at that stage simply in principle to establish an agency, in the field of defence capabilities development and research and armaments. Then

following that decision in December, an Agency Establishment Team was set up to take forward that work. Nick Witney from the Ministry of Defence was selected by Javier Solana to head that team and his remit, set by the Council, was to establish a comprehensive plan by the end of April 2004 for the establishment of an agency and the elements of a joint draft action. The AET's remit runs until the end of December, or until the establishment of the agency, whichever is the earliest. I could say a little bit more about the intention of the agency, but that is just the historical background. It is a fast-moving negotiation in Brussels. We have a new text, I am afraid, since the one that we sent to you last week. We got another text yesterday. I have had this morning further details of textual changes, so we may at some stages need to update you on particular issues as we go along.

Q3 Chairman: Am I to understand that we do not really need to give an answer to the paper that you have just submitted to us, if it is going to be replaced?

Dr Beaver: There is a further paper because the text is constantly being negotiated. It was in COREPER (Committee of Permanent Representatives) yesterday. Whether that is the final text, I am not sure. The aim is to get something to the Council next week. My understanding is that at that stage, because the Commons Committee have suggested they want a debate on it, the Government will have to place a scrutiny reserve on its decision.¹

Q4 Chairman: Can I just ask you, because I think it will be of interest and concern to the members around the room: how does all this relate to the provisions in the Draft Constitution?

¹ The Secretary of State for Defence wrote to the House of Lords and House of Commons Committees on 10 June advising his intention to exercise a scrutiny override to enable the foreign ministers to agree the Joint Action at their meeting on 14 June.

10 June 2004

Dr Sarah Beaver and Mr Stuart Fraser

Dr Beaver: In some ways it is quite close, but they are proceeding in parallel. The actual remit of the agency set out in the draft joint action is very similar in most respects to what is in the constitution. What I would expect to happen when the draft constitution is agreed is that I assume the Council secretariat will undertake some work to align the treaty text with whatever is finally agreed in the joint action—for example on the title of the agency, which is very long and clumsy in the draft treaty text, but it is being proposed in the draft joint action that it should be called the European Defence Agency.

Q5 Chairman: Surely the treaty would take priority over the joint action, would it not?

Dr Beaver: We are not quite clear yet how the Presidency will decide to handle that, but there is nothing in the joint draft action which is opposed or in conflict with what is in the draft joint action.

Q6 Lord Tomlinson: Dr Beaver, I must say I am totally confused. I spent 18 good months of my life in the Convention, drawing up a constitution. Now it appears that we are spawning documents at a rate of knots, which are changing in between them arriving, so that we are wasting our time really even considering at the present time. I want to know quite precisely what is the relationship between document and draft treaty, and if we are any nearer to having any basis on which we are improving our defence capacity other than by producing bits of paper. Are we producing any increase in capacity with anything like the same velocity that we are circulating paper?

Dr Beaver: Do you mean defence capacity?

Q7 Lord Tomlinson: That is what it is about, is it not?

Dr Beaver: I think that one of the reasons why the Italian Presidency decided to run with this because in the context of the Convention there was never any detailed discussion at ministerial level on the sections on the agency proposals. The detailed work has therefore been undertaken in parallel over several months.

Q8 Lord Tomlinson: I am sorry to interrupt you, but you say there was no ministerial discussion. Ministers were represented throughout the Convention just as parliaments were represented throughout the Convention, and if they had anything to say, either positively or negatively, they had exactly the same opportunity of saying it as I did, as a parliamentarian.

Dr Beaver: There were some helpful amendments put in through official channels, which were reflected in the draft treaty text that was considered in December. The joint action here goes into considerably more detail about how the agency is expected to function.

Q9 Lord Tomlinson: But it changes regularly, and we do not have a definitive text: that is my worry. I do not want to spend a lot of my time in discussing and deliberating upon a text which I am then told has changed again next week and the week after, and the week after that. What I really want to know is when we are going to have some definitive statement about how using a definitive agency we are going to get concrete decisions that relate to our capacity.

Dr Beaver: The question of translating the work of an agency into concrete improvements in capacity will inevitably take some time. What you have in the agency is a mechanism by which you are bringing together a number of disparate threads in the European and NATO landscape, but in the European landscape, for providing a concerted drive and push towards the improvement of European capabilities. I think there is a considerable momentum and wish among European defence ministers to take this forward and to build on that work that is going on at the moment towards establishing the 2010 Headline Goal, and to give it focus and direction, with a permanent staff. At the moment, everything is dependent on *ad hoc* committees of people volunteering to come in from capitals, so it is everybody's second job rather than their first job. Giving what we would see as a relatively small group of people in Brussels, focus of supporting countries in their efforts to improve capabilities, helping them work together co-operatively and encouraging them to do so, and maintaining attention on where there are deficiencies, would be helpful.

Q10 Lord Lea of Crondall: As a supplementary to that, I found the answer reasonably helpful, and I wondered if I would be correct in thinking that the relationship, to pursue Lord Tomlinson's question, in our domestic legislative approach would be that if you have, let us say, an animal welfare bill proposing an animal welfare agency, that people will be developing their thinking about the agency and even setting up the structure of the agency—but the question would then arise, if somehow, hypothetically, this was not agreed for the constitution, whether this thing would just sail along irrespective? That, I think, is the burden of Lord Tomlinson's question, and I would like to know the answer as well.

Dr Beaver: Once a joint action has been agreed, it would be established legally. There is no requirement for a treaty change to establish a new European institution. The joint action to establish this agency will have an effect, regardless of the outcome is of the treaty negotiations.

10 June 2004

Dr Sarah Beaver and Mr Stuart Fraser

Q11 Chairman: Forgive me—and we should not pursue this too long—that must be true; that the joint action, when it is agreed—you can proceed. Perhaps I am leaping ahead, but if this constitution is agreed and came into force, and was different from the joint action, surely the treaty would then prevail over the joint action? If it does not, it would be a nonsense.

Dr Beaver: The substantive point of difference there—because the draft treaty text provides for how decisions will be made on setting up the agency—would be the inconsistency on the title. The joint draft action uses the longer title, but also proposes a shorter title. There are some very minor adjustments on the wording between the objectives of the agency there and what is spelled out in the Draft Action.

Mr Fraser: The reason why perhaps it is difficult to understand why we are proceeding with this joint action in parallel with the considerations of the draft constitution is simply the fact that there is a determination in the Member States to establish the agency as soon as possible and get it working, and a joint action achieves that and gives the legal effect to that quickly, whereas for a full new treaty it may take some years for ratification by all the Member States. It is as simple as that. There will need to be consistency, as you have rightly mentioned, between what is in the joint action and the eventual treaty.

Q12 Baroness Park of Monmouth: I have a short question, not on that issue but I hope it is relevant. I seem to remember that this Committee heard evidence on what was called “the toolbox” from the MoD, which was all about capabilities, and what capabilities there were. Reviews of capabilities were produced both by the committees in Brussels and by NATO in parallel. All those capabilities fell very far short of most of what was wanted. I just wonder what is the point of starting another organisation to deliver capabilities when six years hardly produced anything the last time. I take your point that this time they would have people focused on the job, but even so, the other problem was, as far as I remember, that very many countries were unwilling to declare their incapacities. I would just like to know how this is going to help that; and also on the research side, it seems to be that it will also be subsuming a lot of the work of OCCAR.

Dr Beaver: I will hand over to Stuart Fraser to answer the point about OCCAR. How will it make a difference when all these committees have not over all these years? That is indeed a challenge, and there is, I have to say, an element of faith in this. One of the very important principles from the United Kingdom point of view and that of many of our fellow Member States is that decisions over spending on defence are for national governments to take. Unless you were going to surrender authority over your defence budgets to some Brussels institutional agency, you

will always have that caveat on the effectiveness of what is going on. There is a climate of reducing defence budgets in many European countries. One of the functions of the agency, which we were very careful to draft into the joint action, is that of scrutinising and evaluating members’ commitments. At one stage we were trying to get the word “auditing” in, but that was difficult for some countries. I think we are hoping that by presenting objective analysis, we will be able to see the agency and its steering board of ministers applying considerable peer pressure to their fellows to address gaps. When we are looking at the next headline goal, it is not just a question of the quantity of capability offered and the number of troops—that was never a shortfall in the original Helsinki Headline Goal—it is about the readiness, availability and deployability of those troops. What we would like to see the agency doing is benchmarking practice and encouraging countries to work together more effectively; but it will be quite an uncomfortable mirror that is held up to them.

Mr Fraser: OCCAR is essentially an agency to manage co-operative programmes once they have gone beyond the R&T arena. R&T is separately looked after within the NATO context, with its own R&T organisation, the Western European Armaments Group 19 nations informal grouping, and in the Letter of Intent Framework Agreement. Each of them have focuses for R&T, and of course the R&T arrangements for the agency are proposed to bring together certainly the latter two of those, the Western European Armaments Group R&T activity and that in the LOI Framework Agreements, so that there is complete coherence.

Q13 Baroness Park of Monmouth: They will co-exist.
Mr Fraser: Yes.

Q14 Lord King of Bridgwater: I see the point of saying that you do not want this to depend on the treaty, and wait and hang around for ratification, which might take a considerable period of time to process it. On the other hand, there is some argument to say that at least it would be sensible if what comes forward appears consistent with what is in the treaty that is put around for ratification, and it is very difficult to quite understand why there is a headlong rush to achieve this ahead when you are running in parallel. With the greatest respect to Dr Beaver, as she knows, holding up mirrors is something that has been going on in NATO since time began, to try and get countries to do more. It is a bit ironic that if this is under the Irish presidency, we will not be involved in this at all, or perhaps there are one or two countries that on principle may have some reservation; but for every other country, I do not think there is any principled objection to increasing their defence

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expenditure; they happen to all have finance ministers who are prepared to give them the money. This has got to be a matter for national determination, and that will continue to be the case. If it really is necessary to have a further agency of this kind, which is pretty duplicating in a significant way—not exactly the same coverage but more or less the same, and with all the new members of NATO coming in anyway, it seemed to me that it ought to be kept on the smallest possible scale to see if we could just discover if actually there is a job to do. I am very dubious that there is.

Dr Beaver: On the question of the size and scale of the agency, I think that is the view that the Government takes; that this agency needs to prove its worth. There is a range of different ambitions, I would say, for the agency in Europe as to its scale and size. The agency establishment team has proposed that there should be an initial steady state agency of about 80 staff and, having set out the quite wide range of functions that the agency is remitted to cover, there is quite a good case, one might argue, for that. The Government's view is that that is still too big to start off with, until we can see that the agency is really providing added value. The arrangements are that it will be set up with a body of 26 staff in the course of the current year. The agency steering board will need to approve the agency's budget for 2005 onwards, and at that point decisions will need to be made about the size. However, there are a number of countries in Europe that share our view that 80 is rather large for the initial steady state of the agency staffing size.

Q15 Lord Morris of Aberavon: Looking back at the figures of the original paper, we are to contribute a little under a quarter of a million in 2004, 2.5 million in 2005, and 1.5 million *per annum* thereafter. Those figures appear to be a bit bumpy: why?

Dr Beaver: Because there are some setting-up costs involved in establishing the agency. The European Union has a calendar year, so by the time people are appointed in the first year, it will be very small, and probably be two months' salary; but the next year there will be the fitting-out costs of accommodation, making the necessary security arrangements, and so on. I have not got the detailed budget of the breakdown for next year, but we were very keen to get illustrative figures, and we have, even since we pushed this explanatory memorandum out, had quite vigorous debates in Brussels about the staffing arrangements for this year because the United Kingdom's view was that we should have an arrangement similar to that which has been applied within the EU Military Staff where the seconding nation pays the salaries of the staff. Legally, to do anything in Brussels you need to be an employee of the agency, so for the accounting officer function and placing contracts, you have to be in agency, ie in EU employ.

Q16 Lord Tomlinson: Why?

Dr Beaver: Those are the current arrangements. They are investigating the scope for whether or not you would be able to take executive action without being an EU employee; but seconded national experts to the EU do not have the same powers as EU full employees.

Q17 Lord King of Bridgwater: This point about how much it is going to cost—it is ironic to take evidence from you on a day that a freeze in front-line recruitment has just been announced, as I understand it, by the Ministry of Defence, to stay within their budget requirements. If that is the United Kingdom's position, I know without question there will be a number of other countries in the European Union who will be under even more pressures not to increase—or they will not be able to increase their defence expenditures. Is that right?

Dr Beaver: There are a number of countries in Europe with similar defence budget pressures. The objective in the long term is that there will be some leverage in Europe in terms of encouraging them to increase their expenditure. One of the issues that the defence working group considered was whether or not to be in a structured co-operation—this is slightly beside the point—there should be a percentage of GNP spent on defence. In fact, when you look at it a lot of this is about the question of how the money is spent on defence, so even with budgetary constraints, if you move to having more deployable capabilities and more of a focus on that, even within a budget constraint I think we can still make progress towards improving useful capability for NATO or for the EU.

Q18 Lord King of Bridgwater: Can you clarify what you meant by leverage?

Dr Beaver: I think it is the pressure that the EU can exert if something is required to meet the headline goal. In many countries in Europe that is a considerable pressure and is an incentive for many countries. If something is done on a European basis, and you see that in the draft clauses, referring to *ad hoc* projects in relation to which the presumption is that most countries will participate unless they choose to exercise their opt-out right, I understand that for countries like Austria that would be an incentive for them to apply pressure on their finance ministries to get more money for defence. That might not be the case in the United Kingdom, where the Treasury has rather a different role. It may be that the European idea or label, pressure, exerted through the agency, could help.

Q19 Lord Morris of Aberavon: Is this money coming from the defence budget, and how is it calculated? Is it on the usual proportion of contribution to the EU,

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or is there any relevance to the defence expenditure of each country?

Dr Beaver: The money will be coming from the Ministry of Defence. The costs will be paid on the GNI key of those countries that choose to participate in the agency.

Q20 Lord Morris of Aberavon: A voluntary contribution?

Dr Beaver: Yes. If countries choose not to participate—and Denmark we heard yesterday has decided not to participate; (they have an opt-out on defence matters)—then our share will be proportionately greater, and some of the other countries in Europe may have to decide whether or not they wish to participate. Bearing in mind that we will certainly hope to keep the costs of the core budget relatively low, and other things as opt-in extras, we would expect and hope that most countries choose to participate.

Q21 Lord Tomlinson: I must say that the longer the discussion goes on, Lord Chairman, the more confused I am becoming. Here we are, with the contribution being based on the GNI key. It will involve increased expenditure at a time when I understand the thrust not of the Treasury but of Her Majesty's Government as a whole—because I understood it to be joined-up government—is to say that the European Union budget should be capped at 1 per cent of GNI compared with its present 1.24 per cent of GNI. That is a very substantial cut in the proposed limit of the budget, at a time when the competing thrusts for expenditure will be more money for social policy in the accession countries, more money for regional development policy in the new accession countries, and a determination by countries like Spain, Greece and Portugal, not to give up any share of their current income from the European budget; so where is this money actually going to be? I want to link it with words that you yourself uttered, Dr Beaver, which I welcomed hearing, when you were talking about added value. What I want to know, and what I am at a loss to see is where, with this agency, is the added value. Where do we get added value for our limited expenditure that cannot be provided at least as effectively within existing structures? That is what I would particularly like to hear, because at the end of it I want to look five years down the line and be able to say that the European Union, by this policy, has for example improved its heavy lift capacity so that when it talks about independent action it has actually got a capacity to get its troops and its assets to the place where it needs them.

Dr Beaver: On the budget question, the funding for this will come from Member States directly. This agency is under the Council, not under the

Commission. It will not be funded from the general EU budget; so this is an additional contribution that the Ministry of Defence will be making, over and above that contribution that is made on behalf of the Government as a whole.

Q22 Lord Tomlinson: I am sorry, but I thought the whole point of the new treaty was to get away from the pillared structure of the European Union, where some things were done by foreign ministers, defence ministers in co-operation. I thought we had got away from the pillared structure. I am not quite sure how this is going to happen.

Dr Beaver: The intention is that certainly the agency will need to work in very close co-operation with the Commission, but the money that the agency is using for its operating costs budget, and most of the other *ad hoc* project budgets that will be set up to take forward particular projects, will come directly from the capitals of participating nations.

Q23 Lord Tomlinson: So it is not really an EU defence agency; it is an inter-governmental defence agency! That is what it strikes me that you are saying. You call it an EU defence agency, but you are telling me that it is going to be inter-governmentally financed. Is it not an abuse of language to call it an EU defence agency?

Dr Beaver: European Defence Agency. Originally, it was described as Inter-governmental Defence Agency, but I understand that that presents a legal difficulty, and it is not used in these texts.

Q24 Baroness Park of Monmouth: Was that because of the requirement for a legal entity?

Dr Beaver: It was advice we were given from the Council secretariat people in Brussels, who, I am afraid, are more versed in this matter than I am. Although we had always talked about an inter-governmental agency, that would not satisfy the EU lawyers, and that it is under the authority of the Council was seen to be an important point. As its budget is funded by capitals, it will not have to be approved by the European Parliament.

Q25 Lord Morris of Aberavon: I know that the amounts are small so far, but I presume that, because they are additional, they would in effect be in breach of any capping agreement as regards contributions. We would be paying over the odds for something which was not hitherto envisaged, by way of setting up this agency in addition to any contribution which we had agreed and the Commission had agreed regarding Europe itself.

Dr Beaver: Yes, it is over and above the general EU budget. This is separate, and in most countries, like ourselves, it will be funded by defence ministries directly.

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Q26 Lord Tomlinson: I do not want you to lose the added-value question. We went round the Wrekin on the budget.

Dr Beaver: I made the point before that it has to prove its worth, but we are going to have a permanent staff in Brussels, focused solely on this. At the moment, all the working groups that take place in Europe—it is up to countries to send people; they come back and they have not necessarily got the time to take the work forward because they have their own national commitments and priorities to address. Having that together in Brussels and a permanent staff will be helpful. Unlike the idea that was originally mooted of an armaments agency, takes all aspects of the capability process, from helping develop the next headline goal, defining what it is that Europe needs, monitoring the progress, focusing on that capability—and it will not always be new equipment; sometimes it is new ways of working and co-operating together—right the way through to armaments and procurement policy.

Q27 Lord Tomlinson: Just take that one example of heavy lift capacity. When can I look to this making a contribution to it, and why can it do it here rather than in the other fora that we are dealing with here?

Dr Beaver: The work on the heavy lift capacity is already fairly well advanced; there have been useful groups, both in the NATO context and in the EU context, often chaired by the same country. Germany, for example, chairs the heavy airlift group. That work has advanced steadily. NATO is at the stage where it can sign a contract on this. One of the things we are hoping that the agency will help for is identifying common requirements quite early on. It will take some years before you see common projects coming together on this. There are certainly things that are happening in the short-term and have been happening within Europe. The United Kingdom, for example, has led a very successful project group on how you could make an operational headquarters work together. They have identified a number of training needs, and how people can work together co-operatively. This is not always about a lot of extra investment money; it is about looking at different ways of organising oneself to produce required capability.

Q28 Baroness Park of Monmouth: Somewhere in the EM it is said that a proportion, I think a third, of the agency, is going to be recruited directly for the job. Is that still true?

Dr Beaver: That number has been suggested.

Baroness Park of Monmouth: I simply wonder what leverage they would have with their national countries, which brings me back to what Lord Tomlinson said: why are we replacing something that ought to work well with something that seems to me

to be adding greatly to expense, and absorbing a lot of time; and yet it is very difficult to see what it is going to do that could not have been done and should not have been done already. Forgive me, but I do not believe in the leverage argument; it has not worked for the last six years.

Q29 Lord King of Bridgwater: We are trying to check how many European countries are now in NATO. Do you know off the top of your head?

Dr Beaver: Nineteen.

Lord King of Bridgwater: We have just come to a period of a very energetic Secretary General, in the shape of our colleague Lord Robertson, who has been committed to exactly this cause as energetically as he could be for the whole of his time on it, and people who are committed to this, leaving aside the European countries involved that are not members of NATO. The suggestion that Mr Witney, who is an excellent man, is going to go over there and assemble the staff and suddenly transform the situation, I find not very credible. The business about practising forming headquarters and so on—NATO has the headquarters organisation. It is a classic question of duplication, overlap, of the EU and NATO at the present time. I have to say that I am singularly unpersuaded that this agency is anything other than a sop to certain gentlemen who want to believe that they can create a European identity. However, in terms of practical reality, I think it is rather an expensive hope that will not achieve anything.

Q30 Lord Morris of Aberavon: What will this body do that NATO could not do?

Dr Beaver: There are quite a number of questions to handle there. Certainly, Lord Robertson was very energetic and recognised as being a very energetic Secretary General for NATO. In many ways, the question of what the EU can do differently and whether it should be doing things differently is a question that a lot of countries have been asking. That said, obviously the US is a very predominant partner in NATO, and not all European countries that are in the EU are in NATO. Therefore, a focus on the rather different needs, many of them overlapping needs, of the EU, in terms of how the EU can organise and equip itself effectively to discharge the Petersberg tasks, is quite a useful and important focus. The fact that NATO works top-down in its planning, and the EU tends to work bottoms-up on a voluntary basis, is important for some countries like Sweden, for example—and we do have some different countries. In terms of what we saw happening with Lord Robertson, in setting up the organisation of the agency we were very keen to have a heavyweight political figure heading the agency. That was something that the United Kingdom was very keen to see. The Solana figure (the High Representative

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Foreign Minister)—the head of the agency has to be in a position where he could cajole or bully, if you like, Member States to improve their contribution, in the way that Lord Robertson did for NATO, where he had some impact. There is a sense in which we have been trying to mirror as what we see working as effectively in NATO within the EU arena. In terms of the headquarters, which you mentioned in response to my comment, under the Berlin Plus arrangements, the EU will be able to draw successfully on SHAPE, the planning arrangements at NATO, and the NATO command arrangements. That is very important. However, it was also recognised at St Malo in 1998 that the EU needed a capacity to do things autonomously, so national headquarters can be used where appropriate. There are the national headquarters that France, Germany, Italy, the United Kingdom and Greece have offered for that purpose. As you will know, there is another question about whether or not there should be a European capability, but one of the key principles for us in the United Kingdom has been to try and minimise any duplication. It would be wrong to say there is no duplication between the agency and work that is done in NATO, but it will have a different focus.

Q31 Lord Morris of Aberavon: You emphasised the EU countries not in NATO. Are they expected to make a significant contribution?

Dr Beaver: One of the countries, Sweden for example, is a very active player in some of the procurement fields. Stuart might wish to comment on this.

Mr Fraser: Certainly Sweden has, as you know, one of the six largest indigenous defence industrial bases in Europe and has heavyweight capabilities right across the board in all the different environments. Certainly, in the Letter of Intent Framework Agreement, they have been very active players. The extent to which they will contribute, in terms of capability determination for the future headline goal requirements, and then how far they choose to join in joint co-operative programmes, will of course be a decision for them, as it will be for each Member State.

Q32 Lord King of Bridgwater: The final question is, how many countries actually are likely to be covered by this that are not covered by NATO, allowing for the countries that may choose to opt out? I was trying to guess them, and you said “for example, Sweden”. Is it “for example Sweden” full-stop, and that the only difference would be Sweden? Is that right?

Dr Beaver: It is for countries themselves to decide whether or not, but certainly Finland we would expect to be engaged; Austria certainly intends to be fully involved. It is a question as to whether or not Cyprus and Malta will wish to be involved because of the status of their not having armed forces, or not having significant armed forces in the case of Malta.

Those are decisions for those countries themselves to make. Ireland may be involved. It is not all about armaments.

Q33 Chairman: Before moving on to the second question on the scope of the Defence Agency, we have talked about the structure, the staff and the budget, but can you tell us how it is envisaged that the whole thing will be supervised? Who is ultimately accountable for it? I do not mean in terms of the chief executive of the board, but where is the political accountability at the end of the day?

Dr Beaver: The steering board—it is prescribed in the joint action—will comprise representatives from the participating Member States, and it is envisaged that at least twice a year it will meet in defence ministers formation. That is one of the key issues that we thought was very important; that ministers, not their officials, have to engage in confronting this capability issue seriously. There are some decisions that some countries have had sensitivities about whether or not it would be appropriate for the agency to take in the steering board, but it will be under the authority of the Council, and it envisaged that the GAERC will meet in defence ministers formation to supervise its work. It is going to give it broad direction, to ensure that its activities are coherent with the wider Common Foreign Security Policy.

Q34 Chairman: For the record, it is the Council that has the ultimate responsibility.

Dr Beaver: Yes.

Lord Tomlinson: Lord Chairman, I have asked the question as far as I intended to in relation to the current scope of the EDA, so I am quite content with that, but while I was listening to this interesting dialogue, I re-read Geoffrey Hoon’s letter, accompanying the document that had been sent to us, the Draft Council joint action on the Establishment of a European Defence Agency. I must say that as I read through this, I find it harder and harder to get the impression about a document that is somehow independent of European Union structures. If we look at Geoff Hoon’s letter: “The Government hopes the text can be agreed in time for the General Affairs External Relations Council next Monday.” They are going to be the people who make the decision. It will be a Council meeting. When you look a little further through the documentation, you find that the actual document on which we have had the explanatory memorandum is not headed anything to do with inter-governmentalism; it is formally headed “Council of the European Union”, and the revised note is from the Presidency of the Council, which is a European Union institution; and it is sent to permanent representatives, and they are permanent representatives of the Council. When we look at the draft decision, it starts off: “The Council

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of the European Union, having regard to the Treaty on European Union, and in particular Article 14 thereof . . .” I am still at a loss to understand precisely what you have said about the organisational structure of this agency. It strikes me, in every respect, as being something which is being agreed in a European Union format by the Council meeting in European Union format, on the basis of a proposal that is in European Union format, and referring to Article 14 of the Treaty. I cannot therefore understand the point that you were making earlier—and this, I am sure, is my lack of understanding about how this is somehow inter-governmental—although you cannot use the words “inter-governmental” because the lawyers will not allow you.

Q35 Chairman: Dr Beaver, is there anything to say to that?

Dr Beaver: The Council comprises the representatives of the ministers of the governments.

Q36 Lord Tomlinson: No, it is not. The Council is a European Union institution. The main European institutions are the Council of Ministers, the European Parliament and the Commission. The Council of Ministers is a formal institution of the European Union. It happens to be made up of ministers, but if they want to meet inter-governmentally, they do not meet as the Council. If they are meeting as the Council, they are a European Union institution. The matter is fundamentally important to me, and it might not be to other members, but I would ask you to reflect on this with the legal advice inside the Ministry of Defence and perhaps send us a note so that we can understand that, because at the moment I do not. Rather than pursue it now, I think that would be helpful, if that is agreeable to you, Doctor.

Dr Beaver: I am happy to do that.

Q37 Chairman: Other initiatives taken under CFSP, operations for example, are funded by the participants, are they not?

Dr Beaver: They are.

Q38 Chairman: Outside the actual budget. It is still a European Union initiative.

Dr Beaver: Yes.

Q39 Chairman: Perhaps it would help the Committee if, in answering Lord Tomlinson’s question, you could indicate how it relates to CFSP and matters of that kind as well, because I suspect that that is the thinking behind it.

Dr Beaver: It is. It is a very similar arrangement. We fund directly, apart from a small core budget for the administrative costs of the common foreign and security policy. We fund directly additional

expenditure on the common costs of operations directly from capitals.

Q40 Lord Morris of Aberavon: Looking back historically, joint procurement, if that is the right word these days, has a very chequered history. My recollections go back more than thirty years, and since that time, as I am sure Lord King will bear out, there have been some wins and some no-wins at all. Can you tell me precisely what is seen by Her Majesty’s Government are the prospects of the agency being involved in common EU defence procurement policies in the near future, and in what areas is it envisaged, given the expenditure we are putting in, although it is so far modest—what exactly in the next five years do you expect to get out of it?

Mr Fraser: You have picked on two separate aspects there, Lord Morris. You alluded to the chequered history of the collaborative programmes we have had in the past. Some of those are well presented in the media as having had their chequered histories. Others have seen successful operational experience, such as Tornado, EH101, Jaguar, the Anglo-French family of helicopter programmes, and of course we have great prospects for the A400M heavy airlift programme, and the Meteor missile, the new missile that would go on the Eurofighter Typhoon, the French Rafale and the Swedish Gripen. Perhaps it goes back to Lord Tomlinson’s added value question, but through this increased focus on capabilities, which will be the opportunity presented by this permanent staff and by the determination of the defence ministers, the governments of the Member States, to provide a better basis through a more rigorous disciplined examination of future capability needs, and how those capability needs will then translate themselves into equipment outputs, therefore providing a better basis to judge whether there is sufficient common ground for that military requirement to go ahead with the co-operative programme with a number of nations, or whether it is something that would best be developed designed individually or bought off the shelf from somewhere, if it is available off the shelf. The point I am trying to make is that against that background of a better look at capabilities, you will provide a better basis that there should be improved judgments made over some of those that have been made in the past where nations have thought they had a joint requirement, but once the programme began they found, “what we meant by that is different to what you meant by that”; and then we end up with having non-common arrangements on programmes and the difficulties start to mount. We have high hopes that the Agency will provide that focus. Then we do have the OCCAR organisation in Bonn, which is still a fledgling organisation because it only gained legal status in January 2001. It is managing a modest array of six

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programmes at the moment, but it does include the very important A400M, and that is really its flagship programme, and its success will be judged on the delivery of those aircraft and other programmes in the appropriate timescales. You used the term “common procurement”. We hope that the focus that there will be on trying to address the somewhat fragmented European defence equipment market that exists now, with nations essentially going their own way, is to try and recognise that the very good and effective work that has gone on in industry over the last ten years or more to restructure to take out a lot of the duplication in nations that existed—to try and mirror-image that in the Government’s approach to its procurement policies. One of the early aims of the agency is to try and get the Member States to agree to a more coherent, transparent, competitive market place—I would say consistent with the way we conduct that procurement in the defence sector in this country, where we do believe we have an open, transparent and competitive market place, as is evidenced by the amount of business that is placed in various countries in the world, the companies in those countries.

Q41 Lord Morris of Aberavon: Is there anything new in this?

Mr Fraser: The new bit is in the focus of having, as Dr Beaver said earlier, a permanent staff.

Q42 Lord Morris of Aberavon: I got that, yes.

Mr Fraser: That will focus on this—

Q43 Lord Morris of Aberavon: It will be new machinery, but anything new in the aims and objects and the hoped-for practice?

Mr Fraser: The increased effectiveness of OCCAR, I hope, as the years go on; the fact that we are learning lessons from previous collaborative programmes; and we realise that in addition to the point that I made about needing to benefit from better definition of the capability, the equipment requirement, that we might also develop our thoughts collectively in avoiding inefficiencies such as *juste retour* in terms of work share, where, as I know Lord King will remember from his days as Secretary of State for Defence, that was one of the issues that affected the Eurofighter programme at the time, where we had a slavish adherence to work share, where everybody had to have their work share down to the decimal point, and that created inefficiencies and problems and delays in those equipment contracts being placed. Another area is the recognition that we do need to press for real defence companies managing these very important collaborative programmes because in the past we have agreed the set-up for companies which effectively did not have sufficient authority and autonomy; they always had to revert

back to the parent companies in the Member nations of the particular programme. We need to get away from that and recognise that we need proper companies. I think we have achieved that in the two I have mentioned earlier with the A400M and the Meteor missile with AMSL for the A400M programme and MBDA for the Meteor programme.

Q44 Lord King of Bridgwater: That is what you are doing now. The lessons have been learnt and it is a continual learning process on these joint procurements. In each one of them different problems have arisen and you have tackled them. I am not sure that we can see the Agency necessarily as being the way in which problems that were insolvable before are suddenly going to be solvable now because that is what you do now.

Mr Fraser: You might well be right. I think the only point, if I can go back to this, is the very first point I made in answer to Lord Morris’s question, that there is a renewed determination I think, a fresh determination, with that focus of a permanent staff to ensure better capability definition that will provide the basis for better judgments to be made about the equipment solutions to meet those capability needs.

Q45 Lord Morris of Aberavon: When you have different countries with different military philosophies, it is very difficult to reconcile them, like with the Chieftain tank and the Leopard, where the strategies were completely different and for me as a layman they were difficult to understand. Have we got over those problems within Europe of different military philosophies?

Dr Beaver: I do not think we will ever get over those entirely. What I think has happened a lot in recent years is that we have had far more deployment of troops on operations on a multinational basis in a way that we did not during the Cold War period, and so with the habits of working together in the Balkans, in Afghanistan, in Iraq, we are seeing a lot more the importance of countries working together. I think some of this does feed back into a more common understanding of what it is that we are trying to do.

Lord Morris of Aberavon: That is very valuable. If I can look back for a moment and remember we had had four or five different types of bread supplied to the UN troops in Cyprus. That is a long time ago and I hope we have moved on from then.

Baroness Park of Monmouth: So far, you and we have been concentrating perhaps on capabilities and on getting people to cough up for defence when they will not, but there is also the element of research. Defence research seems to me to be a very delicate area in which it is extremely doubtful, I would have said, whether the main players will be very prepared to exchange their information. I would have thought that ministries like the DTI might be quite interested

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in the outcome of all this. Are we really happy that there will be any value to us as a country in moving into an area where we might be involved in a considerable amount of pressure for common research and access, which will be just as sensitive for the French and the Germans as for us? The small countries, relatively speaking, will not have an interest either way. I cannot quite see how it is going to work.

Q46 Chairman: Perhaps, in answering Lady Park's question, you could comment on whether it is relevant and what we are going to learn from the reported co-operation between ourselves and the French over the aircraft carriers.

Dr Beaver: There are a number of issues on this. I will answer some and I think Stuart Fraser will handle some of the other points. I understand your concern about this sharing of information. In our discussions about the Agency proposal, we have been very keen to allow there to be flexibility in how this works. It is not always going to be all nations; there are provisions for *ad hoc* project groups where you opt in; there are groups in which two or three countries will work together and will set down a framework for participation. Those of us who are already signatories of the LOI (letter of intent) framework agreement do have confidence and have signed the necessary arrangements.

Q47 Lord King of Bridgewater: So there is a letter of intent framework agreement. Is that what you are saying?

Dr Beaver: Yes. I understand your concern. We certainly want to build, and felt for ourselves that it would be more sensible for the most part, things on this voluntary basis of two or three countries gathering together and looking at a research issue together with a specific end in mind. That said, there are some areas where it might be helpful for there to be some common research across the piece in Europe that we would all, those of us who have defence forces, get something out of. There is also provision for that in the joint action, but there is also provision for countries to opt out because certainly with our science budget, our research budget, we will need to be very careful as to how it is used. We will not wish to be forced to co-operate in programmes unless that is going to represent something that is needed for United Kingdom purposes and looks like good value for money.

Mr Fraser: I was going to add a couple of points in answer to Baroness Park's question on defence R&T if I may and really to say that there has been a significant history of defence R&T in Europe associated with the Western European Armaments Group, the strangely named MOUs like Euclid and Socrates and latterly the Europa MOU, which is

aimed to produce a sort of fledgling replacement for those older MOUs. There has been a lot of successful R&T undertaken in Europe under the Western European Armaments Group over many years now. I think what we are hoping to get from the translation to the European Defence Agency is a greater coherence amongst the work that is undertaken there, the work that is undertaken in the LOI Framework Agreement under the Group of Research Directors, such that there is a better focus on relating a lot of that R&T to the identified capability needs for future European military requirements, a better focus than perhaps some of the R&T has been targeted on in the past and therefore provide better value for money. I suppose it would be only fair to say that in bringing R&T as a central feature to the European Defence Agency, I am sure there will be a determination by the Head of the Agency and the Member States to try and cajole and encourage a number of states, which perhaps do not make as great a proportion of financial contribution to R&T as perhaps they might, to make that larger contribution.

Q48 Lord Tomlinson: Can I ask you a question that has been puzzling me from the start? I thought it might become clear during the answers. At the beginning, Dr Beaver, you explained to us how historically Her Majesty's Government had been opposed to the idea of the establishment of a European Defence Agency. Now I have heard fairly substantial discussion that leaves me still reasonably confused as to what the perceived benefits are going to be in practice, what I would like to know is: what was the great flash of light on the road to Damascus that made people change their mind and say, "This which we have historically opposed we are now very enthusiastic about, we are committed to, we are going to be proselytisers for". What was the event that persuaded us that this was no longer a bad idea but a good one?

Dr Beaver: To answer that, this change of mind came in the context of the discussion of the Defence Working Group about the new Treaty.

Q49 Lord Tomlinson: The Defence Working Group in the Convention?

Dr Beaver: Yes. What had originally been proposed was an armaments and research agency. It was thinking in government by ministers that said, "We have not supported this. We do not want an armaments-driven agency in Europe, but what we do need in Europe is a sustained, steady focus on the improvement of defence capabilities". If we could harness that as the primary focus of the Agency—and if you look at the mission statement, that is what it is—then that might be, or would be, a worthwhile enterprise. That is where the United Kingdom effort has gone, to try and be sure that this thing is

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capability-focused rather than armaments and research focused, which had been the objective of previous endeavours.

Q50 Lord Tomlinson: You see, I chaired the meetings of the British participants in the Convention on the Future of Europe with all parties from both Houses, including the Government, including the Members of the European Parliament. I must say, as a chairman of those monthly meetings of all our participants, I never had that same sense of importance of conversion about the idea of the European Defence Agency. I just wondered where its genesis was. Did it emerge in the Ministry of Defence? I did not notice it in my discussions with the Prime Minister particularly; I did not notice it in my discussions with my colleagues in the Convention. I just really want to know where the impetus for it was.
Dr Beaver: I think the decisions were made in government as a whole. There were certainly discussions within government. I do not think it is my position to disclose the details of all of those discussions. It was certainly in the context of looking at the work of the Defence Working Group.

Q51 Lord Tomlinson: Was it seen as some sort of concession that might help us to make progress or was it seen as a positive advantage? Was it seen as something where it was felt that if we are going to have some red line areas, we had better get off this one because we do not want to have too many red line areas? I never got quite that sense as to where it was.
Dr Beaver: It was not a red line area. I think this was an example of the Prime Minister's wish that we should take a constructive lead in Europe by shaping proposals to something that would actually mean something and be acceptable, indeed beneficial perhaps, from a United Kingdom perspective. We contributed our proposals for a capability-driven, focused agency in November 2002. That was reflected in the final Defence Working Group report that came out in December where it was recognised that you could have a capabilities-driven agency and that this had been suggested.

Q52 Chairman: Can I perhaps just ask you this? On a previous occasion we have seen proposals from the Commission about their desire to be involved in security research. Do you see that proposal and those desires as having any potential conflict with the functions of the Agency?
Dr Beaver: I have to say that there are some potentially awkward boundary issues between these two and the responsibility for the security and research is really primarily a Trade and Industry function. Some of the Member States have been very anxious to ensure that the Agency does not exclude the possibility of the Agency working alongside with

the Commission and its money on some joint project, and so that is not excluded altogether. The United Kingdom will obviously wish to look at any proposals for this very carefully.

Q53 Baroness Park of Monmouth: I have a brief minor point. Under policy implications, I read that decisions will be by qualified majority voting but that we have negotiated an emergency brake mechanism, which appeared in Article 9.3 and in Article 24 and 24(b). Supposing that the Treaty is not ratified, is not finally agreed, what will the position be then?
Dr Beaver: The decision-making arrangements prescribed within this joint action will be the arrangements that will prevail.

Q54 Baroness Park of Monmouth: Even though it is related to Articles in the Treaty?
Dr Beaver: This is the current Treaty.

Q55 Baroness Park of Monmouth: I see. Thank you.
Dr Beaver: Presumably if voting weights were changed under the new Treaty, when that is ratified, then the joint action will need to be amended accordingly.

Chairman: Is it not included in the Article? Article 9 is the Article in the draft proposal, is it not?
Baroness Park of Monmouth: That is what I thought, in the draft Treaty.

Q56 Chairman: I think you are right. It perpetuates it, surely? On page 12, as I read it: "If a representative of a Participating Member State in the Steering Board declares that, for important and stated reasons of national policy . . . a vote shall not be taken." It may be referred on to the Council. I think it is actually in your draft joint action and not just in the Treaty.
Dr Beaver: Yes. The emergency brake arrangement (in the joint action) is slightly different because any Member State can refer it to the Council.

Q57 Chairman: Perhaps we will look at that. I think it is in Article 9 and it is "of a Participating Member State" the "national policy". If we are wrong about that, perhaps you could let us know. Baroness Park's question was: what happens to that safeguard if the Treaty was not ratified? I understood you to say that this is dealt with because it is in the existing Treaty. I, however, suggested that perhaps the Article 9, which is referred to in the explanatory memorandum, is in fact the Article 9 of the Draft Council joint action, which seems to repeat it, so we are relying actually on the draft action plan, not on the existing Treaty. Is that correct?
Dr Beaver: The QMV that will be applied within the Agency is as specified within this joint action, but there is a reference to the voting weights set out.

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Baroness Park of Monmouth: That is a different issue

Chairman: I am sorry. I think Lady Park was merely referring to the principle of qualified majority voting and not what made up the weighting of qualified majority voting. Is that correct?

Baroness Park of Monmouth: I was.

Chairman: I think there is nothing between us in that case. May I ask if there are any other questions? Dr Beaver and Mr Fraser, thank you very much indeed for coming. Thank you for responding so fully to what I think has been a somewhat robust questioning session. We are very grateful to you for giving us so much time.

TUESDAY 6 JULY 2004

Present	Bowness, L (Chairman) Lea of Crondall, L	Maclennan of Rogart, L
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Examination of Witnesses

Witness: DR JAVIER SOLANA, Secretary-General of the Council of the EU, High Representative for the Common Foreign and Security Policy, examined.

Q58 Chairman: We are currently carrying out a number of different inquiries, European Union in the United Nations, the European Defence Agency, the European African Union and also are about to embark on an inquiry into the EU policies against the proliferation of weapons of mass destruction. Can I just say that we are very, very grateful that you have been able to see us this afternoon. Clearly, all those inquiries have a direct impact on your personal responsibilities and we are most grateful that you have agreed to give evidence.

Dr Solana: I hope that my English will be understood.

Q59 Chairman: I think it will be understood very well indeed and that we shall get on much quicker than if we tried to do it in Spanish, Dr Solana! I think that our Clerk has already let you have the questions and perhaps because your time is limited—

Dr Solana: Please do not be controlled by the time.

Q60 Chairman: That is very kind, thank you. Can I perhaps ask you what you would like to tell us in response to the inquiries we have already raised about the United Nations, the Defence Agency, the African Union and the weapons of mass destruction and I put it that way rather than posing individual questions in the interests of time although what you have just said about time is much appreciated.

Dr Solana: Thank you very much for your interest in my response to those fundamental questions. As you know, I was at the heart of the European Security strategy that was finished not long ago. I will respond one by one because some of them are interrelated, in particular the first one which covers several. The relationship between the European Union and the UN has always been good. Of the countries that are members of the European Union, two are permanent members of the Security Council and another two are non-permanent members and therefore we have a very profound relationship with the United Nations now. I will concentrate on what is new and what can be brought to an even more positive and profound relationship. I think what is new is that, at the moment, the European Union has taken the decision to become more engaged and more involved in crisis management not only from

a civil point of view with all the elements of the civil crisis management but even with a military point of view. That has created of course an interest in the United Nations that goes beyond the interest it had before, but we were already a group of countries that were giving aid whenever conflicts appeared. We have a very good relationship with the DPKO¹ and with the Secretary General personally. I talk to him regularly and he has shared with us a good number of thoughts that he has in particular in the field of crisis management. As you know, an example of the cooperation we have had—and I think the examples are the best explanation of what our relationship is—is that we are now assuming responsibility, taking over from the United Nations, for Bosnia and the police trainers are there on behalf of the United Nations in a United Nation led operation and we have already had that responsibility for a year. In Bosnia, we are going to take at the end of December the military responsibility from NATO but in an operation which is United Nations led. I can tell you that the level of trust and the level of relationship is such that, when we had a problem in Ituri in Africa, the Secretary General called me one night and said, “What can you do? There are problems here that may develop into a catastrophe” and we did it and we did it in a constructive manner rapidly and well. The same can be said about the cooperation we are having now in the Congo. We are exploring the country with them as far as the Congo is controlled, the DRC, and, if the stability of the Kabila reform process fails, it will be a catastrophe. We have tried to do our utmost on the border between the DRC in Rwanda, trying to talk to both parties and trying to talk and help the parties to meet. They met finally, Kabila under the office of the UN but with a lot of help from us. On Sunday, we are going to have here in Brussels the Ministers from the DRC, from Rwanda, from Burundi also in relationship with the DPKO and with the Secretary General. For the Secretary General to have a group of countries like the European Union which have the capabilities and the political will to act is quite positive news for them. As you know, the difficulty of the operations that are running in the United Nations at times is (a) that they are not rapidly deployed and (b) that

¹ Department of Peace Keeping Operations of the UN.

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the countries that participate do not have the capabilities to do the job, at the beginning at least, in a positive manner. We have capabilities now due to the Member States because we have offered, thanks to the generosity of the different Member States, the possibility of helping the United Nations in the number of problems that unfortunately they still have. As you know, in the scheme that we have now, we are trying to work on what we call the battle groups which will be small units of 1,500 people who are rapidly deployable for stopping the beginning of a crisis or opening the possibility for others to come afterwards under the umbrella of the United Nations or the European Union when we think there is need to do it. I would like to say that the relationship with the United Nations is very, very close now; they are very, very happy to have found a group of countries that have the capability, the political sense and are engaged with the United States profoundly enough so that the relationship is practically on a daily call or almost a daily call to see how things are going and the different theatres of crisis management, which is not necessarily only military but politically and also, on the police, post-conflict help, the judiciary etc. All these things we must have. We have constructed the civilian and military capabilities for crisis management with the idea of being rapidly deployed and in use. I think that, on crisis management, the lesson that we have learned is that you can waste efforts and money if you do not act in time. In life, a catastrophe, if you are able to act rapidly and to deploy rapidly, you can prevent and you can avoid catastrophes that we have seen very often. If you were to ask me where we have the possibility geographically of cooperation, no doubt all countries are in place where we have responsibilities and the interlink between the European Union and the UN is total. We have in Bosnia the representative you know very well, a citizen from your country, Paddy Ashdown or Lord Ashdown, who at the same time represents us, the EU, and represents the UN Secretary General, so he is "double hatted". So, you see the level of intermingling that we have between the European Union and the UN in this theatre of the Balkans as a whole: Bosnia, Kosovo, Macedonia, etc. We would like also to help in the Mediterranean region and, as you know, we have been doing quite a bit in Africa. I have come from a meeting about Darfur. As you know, we have now, with the United Nations, the vice-presidency of the ceasefire meeting in Darfur, and we have deployed more economic aid together with some 12 Member States. We have deployed six observers there now and all that is being done, I would like to underline, as rapidly as possible, and insist that rapidity of the deployment and rapidity of facing the problems should be one of the objectives. If you wait and do the things in

three months after the catastrophe has taken place, it is a dramatic situation, you do not save lives and you spend more money than is necessary and you have a problem in a very short period of time. Going back to the first question, our relationship with the United Nations is growing and in particular in the new chapter which is crisis management, but there has always been a good relationship between the European Union and the United Nations.

Q61 Lord Maclennan of Rogart: The basic document which I suppose is our point of departure is your strategy document, *A Secure Europe and Better World*, the text of which sets out objectives which I think all of us would sign up to and there would be no point in quibbling about terminology, but the big question that it raises in my mind is resources, priorities and structures to deliver all these many goals. When we talked in an earlier inquiry with your colleague Mr Cooper, he told us how exiguous the resources were of your own office and how you had to shop around almost with a begging bowl to have enough to send anybody anywhere. We are conscious of the very grand rhetoric but how is it to be backed up? Can you say something about the translation of the rhetoric into solid prioritisation by the Member Governments to enable you to do some of the many things you are seeking to do?

Dr Solana: As you know, I am a professor of physics and have nothing to do with rhetoric! Whatever is said here is reality! I have never used any word to describe how good we are or—

Q62 Lord Maclennan of Rogart: It is not your rhetoric but the governments' rhetoric.

Dr Solana: I do not want to be misrepresented. I know when you say you want to solve the cosmological problem, it is the best excuse because you do not want to solve anything. I go step by step solving part and part. Every problem can be subdivided into elements and trying to solve the elements is the best approach to solve the problem and that has always been my approach and will continue to be my approach. We are not in misery, we have not reached that stage from the point of view of resources, but we depend on the resources of the Member States. We are not an institution that has come from Heaven, we come from the Member States and whatever the Member States want to give us we can use. Remember that all these parcels of crisis management started in the year 2001, so about three years ago. By that time, the budgets of the European Union were already finished; they are a five-year budget. We are going to have now the budget and we will see how the lines of distribution of the budget is controlled. What we will have to do fundamentally from the European Union will not be

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extremely expensive for what we do through the institution of the European Union. We will not retain soldiers, but there are many things that the Member States have to do: they have to sacrifice with the generosity of the Member States of the taxpayers of the different countries. What we want to do is to get added value to that and to pull it together with x number of countries and, if you are intelligent, you can do it better and you can do it cheaper and you can do it faster but, at the end of the day, it is something that does not appear in this building and you might have to create very much in your own country because, in some of the issues I have mentioned before, the role of your country has been fundamental. In Bosnia, we are going to take over the responsibility: the chain of command is going to be from your country and Lord Ashdown has been charged with putting the country right and we are very grateful to your country for the commitment you have given to all these aspects. Again, our relationship, going back to the first question, is very good. We provide if I may say, oxygen for the United Nations and this is how the Secretary General sees it. At least for the initial part of the crisis management operation, for him to find the forces which are prepared and ready etc is not an easy task. It is the responsibility of the United Nations to do that and we know how much they have to suffer. In the end, they may find somebody needed or somebody in power who is not what you need in some of the operations because they are not up to the job and we blame the United Nations but it is the only thing they used to have. Now, thanks to the generosity of the European Union, we have more possibilities of mobilising other countries, Canada and other countries, which come much more comfortably with the European Union.

Q63 Lord Lea of Crondall: We have been at a preliminary stage looking at the document to which the Chairman and Lord Maclennan referred. I was particularly impressed by the analysis of failed states or failing states' relationship between security policy and development policy. We have just produced a report which was pretty positive about the role of EU aid. The report was called *EU Aid in Transition* and it described the preconditions for development which your document sets out very, very clearly: governance and corruption questions and so on. However, some people—and we would be very interested in your comments—are making the critique that security is now taking over from development as if poverty reduction strategies are now being, as it were, put in second place relative to security whereas your analysis, I assume, is that the security situation in the failing states analysis is an absolute precondition for Africa, for example, having only one per cent of the world's capital flows,

private FDI with 10 per cent of the world's population. Have I understood how you made these connections in your paper because they do then lead on to a further answer to the previous question which is that the EU of course cannot write off world debt and so on, but I would be very interested to see whether you think I have the correct assumption about what you are trying to say?

Dr Solana: I think you have put your finger not on a new problem because the problem has been there for a long time but a new approach to this problem. It is true that the identifying of a failed state is not merely a triviality because we have had that for a longer period of time. I do not think we have to postpone the development aid as you call it or to diminish it—that would be, to my mind, a mistake—but it is true that sometimes the usefulness of that humanitarian aid is diminishing because the security situation does not allow that to be distributed and used in an intelligent manner. Therefore, I think this equilibrium between conditions on the ground, security then the development, is fundamental. This is a moment of profound crisis and, to get out of the crisis, the security element is cheaper, is not as dramatic as we have seen now for instance in Bosnia and the reconstruction of the country and society building becomes much more important. This is the aim; the aim is a society building in the reconstruction of those countries. However, in order to do the reconstruction of those countries, you have to guarantee the security success and sometimes it is better to have an operation rapid to clear etc and the guarantees that the elements of security will be with us for a longer period of time and then you have the possibility of every penny being put there and going to where it should go to make the life of the people better. We have several examples of how by not creating the conditions of security lots of money has not arrived to where it should arrive and has not been used in the best manner. It does not mean that you have to bring to zero the economic help but it is a question of phases. When do you deploy all the economic aid for reconstruction? It has to be when the conditions are objectively cleared to use the reconstruction money properly. We do not want to put money into reconstruction which is going to be destroyed the following day. That has happened. So, it is better to make the effort to guarantee that there is stabilisation not 100 per cent but enough so that the investment you make is enough in reconstruction, building, etc.

Q64 Lord Lea of Crondall: Could I ask one supplementary which concerns the Continent of Africa and My Lord Chairman has mentioned Africa as one of the four areas. We are very interested in the aspirations of the African Union to

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develop its own competencies. Would it be that, in the dialogue, on which we are writing a short report, between the European Union and the Africa Union, your strategy is to try and put some weight on the developing competence of the African Union, so that questions of governance, questions of corruption, questions which are preconditions to development aid and ensuring that you get out of the cycle of violence and corruption in many countries is seen as more acceptable if it is owned by the African Union and it is not neo-colonialism or imperialism which may be true of Britain or France or an ex-colonial power trying to say these things as if we were, as it were, doing the country strategy paper like the European Union would be doing in Macedonia, that we cannot do them direct for countries in Africa but you might put more weight—do you think too much weight or enough weight?—on the developing competencies of the African Union?

Dr Solana: The African Union, as you know, is a rather young institution but it has been formed with much more clout, if I may say, than the previous organisation with a different name. I have met with President Mbeki who has been at the heart of the creation many, many times. I think that the decision we have taken to help them with some of the economic help to be used on the peacekeeping operation, led by them with help from us on training or whatever is necessary but not the main engagement or the main involvement, I think has three very important consequences. One is that sometimes it is impossible for us to do it and they have the human factor that they do not have money there. Secondly, we can help them also to train, so they can have not only the human factor but also the fact to train that is helpful. Thirdly, there is no doubt that they know how to handle their own problems better than those coming from outside. So, I see benefits on taking that direction. This is what they want. They want to assume their own responsibilities, they need a bit of help and I think that we should give them this help because otherwise we have to assume that responsibility at a more expensive level and, politically in a less attractive atmosphere. I will give you the example of Sudan now and the leadership. The African Union is taking the leadership there under a political process and we are helping them very much. We have a common approach and we are part of the ceasefire committee together with them. For the moment, no forces have been deployed but, in other places, there will be an eventual need for the Sudan to deploy forces or not and we would like to see the African Union leading—there is no doubt about that—as the action is taking place now in parts of the Congo. MONUC is basically African Union involved. I think this is I cannot say a brilliant idea but an

almost brilliant idea in that, once you find a partner in Africa that is willing to take over the responsibility, to help them and to make part of our help to those countries and also to prepare the elements and to solve the crisis that unfortunately they have to face every day. I think it is a good approach. They are pleased with it. For us, it is a relief from some of the responsibilities. They still have to continue engaging in some observations but, step by step, they will take on their own responsibilities and I think that is a better way of handling the future than for assuming for longer periods of time the responsibilities themselves.

Q65 Chairman: That really leads us to one question we asked you about the peace facility for Africa.

Dr Solana: I think I precipitated and have answered that question. I like this idea that we probably have to tune in and see how best to implement it. We have to polish and we have to see how to go forward. The last meeting that I had with the African Union was about a month-and-a-half ago, something like that, and they were very pleased with the idea. We have only a small difference which is still not completely solved, which is the regional organisations in Africa. The African Union has a vocation of being the representative of Africa, which is quite an ambitious idea, and not let the regional organisations in Africa receive the money directly from us. They would like the African Union to receive the help and then they will be the distributors. So, they really want to be the representation of Africa. We have a slight problem there in that we still have the impression that some of the regional organisations in Africa, even for peacekeeping, may still be of use without having to go through the whole mechanism of the African Union.

Q66 Chairman: Dr Solana, before we leave the UN and go on to the European Defence Agency, I think I ought to ask you, because not all the Committee are here as you can see, an item of some controversy in the United Kingdom is what the role of the Foreign Minister would be *vis-à-vis* if the Treaty goes through and that comes to pass.

Dr Solana: I hope it will.

Q67 Chairman: Indeed and personally so do I, but I make no commitment for anybody else or any parties in making that remark. How different do you see the role the Foreign Minister would be from the role which you currently play in the UN and in Security Council?

Dr Solana: From the Security Council point of view there would be no change whatsoever. There are two things which are absolutely fundamental to remember. We have to explain to our fellow citizens at this point in time that the European Union does

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not have a single foreign policy. It has a common foreign policy, which is different. So, we first have to get the Member States to accept that this is a policy that we want to do together. Once we decide that, of course we have to make an effort to do that. The Member States have their own foreign policy and the United Nations are a representative of the Member States of the European Union. Having said that, I would like to say humbly that I think I have contributed to a better understanding of some aspects of the European Union by talking and by giving a demonstration on the Security Council of topics in which we are very much engaged. For instance, to explain what we are doing in the Balkans, which I think is worth mentioning. We did a session about Africa; we had an involvement that spoke of everything we have done. This is absolutely compatible and secondary to the important things the Member States do in an organisation that is by definition inter-governmental. The United Nations is the most inter-governmental of all organisations. So, I do not see any change on that aspect.

Q68 Lord MacLennan of Rogart: Some contributions to the Convention which drafted the Constitution which I heard expressed the hope that Europe would be able to speak with a single voice. To some extent, they personalised that into the double-hatted role of the future Foreign Secretary. Behind my earlier question about resources was the hope that new arrangements might make it more possible for the Union not only to explain the difficulties about the areas in which it had directly intervened such as the Balkans but that, where it had a common view, that view might be expressed in common. Do you think the resources are such that that would not be ...? I am not saying that the Foreign Minister should always be the spokesman but it seems to me that the habit of coordinating and expressing shared views is valuable.

Dr Solana: Let me say what I have said already and which I am not going to repeat the whole philosophy of what we are trying to do but of course the more we can coordinate and the more we have common policy the better, it will be more efficient etc, etc and there is no doubt that it will be cheaper. As far as the budget is concerned, you know that the line that is the common foreign policy is in the budget which is a line which is very minimal, it used to be very minimal, because we did not have responsibilities practically but were right in conclusions expressing what we thought about the different situations that would work. Now we want to go a step forward and not only express our sentiments about how much people suffer but try to avoid their suffering and that requires engagement and therefore I hope that that line which is in the budget will be increased. Let us not forget that the

level of increase will not be an increase that will take the cost of mobilising soldiers, for instance. That is something that belongs to the nation, here in NATO and everywhere in all the institutions. So it would be for instance for the command communications or some of the shortcomings that still we have civilian or military or peacekeeping operations. Let us not get out of our mind that basically the bulk of the controls would be national. We would have the added value of the things that you put in common but the basic elements will be national. For instance, the soldiers that we put in Bosnia, I do not see in the foreseeable future changing that. In any case, what I would like to see, which I hope you share, is that we will be able to do more, naturally the world needs more, and we Europeans have the responsibility to do and, secondly, we can do it faster. I am very obsessed with the rhythm in which deployments out there can arrive because I have seen this experience. I was Secretary General of NATO when we deployed in late 1995/early 1996 the first troops to Bosnia and I had to take a decision collectively—it was not mine, I had to share, it was the culmination of that decision—when to begin to deploy. If we had waited to have all the elements until the last letter of the document for the first time that NATO was going on to do a peacekeeping operation resolved and understood, it probably would be still without finish or without a start. We had to say, “Let’s go, let’s do it, we will be able to do it, we have the spirit” and, if we had not gone then, by the time we arrived, the catastrophe that we claimed we wanted to stop would have been more difficult to stop or would have been unnecessary to stop because they had killed each other and the reconstruction would have been more difficult, etc, etc. So, to be right in time is very difficult but to be as close as possible right in time for any elements of the crisis management, be it money, be it diplomacy, be it civilian aspects or be it military aspects, in my mind is fundamental and really it makes all the difference.

Q69 Lord MacLennan of Rogart: Crisis management is one thing that you have taken a lot of very powerful initiatives in, but the security requires continuance of effort in areas like weapons of mass destruction, the quartets operation—

Dr Solana: We have not started speaking about that!

Q70 Lord MacLennan of Rogart: But the UN is not dealing with—

Dr Solana: Sure but we have started talking about this.

Q71 Lord MacLennan of Rogart: I just wanted to be quite clear that you were not viewing these crises matters as the only matters—

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Dr Solana: No, not the only thing about the United Nations of course—

Q72 Chairman: Perhaps we should move on, Dr Solana, to the—

Dr Solana: The weapons of mass destruction.

Q73 Chairman: . . . European Defence Agency and what benefits you see that is going to bring and what its role is going to be given that it will not replace any existing institutions and we can go on to weapons of mass destruction at the same time.

Dr Solana: I think that the Agency goes with the same rationale as I have been saying all along from the very beginning. The Agency will allow us to coordinate better the four elements, which will be capabilities. We have had in the last three years mechanisms as to how to fill the capabilities that we do not have, the armed forces in different countries that we do not have and to do that in a manner through these mechanisms of the Agency which will allow us to do it not only bottom up but also top down with the responsibility of engagement of the Minister of Defence and the Ministries of Defence which I think is very important to really not to stop analysing what is needed but to fill what is needed, the gaps which are there. That is the first thing I would like to say. To coordinate what we might call all the procurement in general terms and there is no doubt that a lot can be done if there is a coordination of countries in the European Union. Thirdly, I think a level of coordination on security development is also possible which will be very important to make things more efficient and cheaper. I have read the speeches of many of the members of your Government and important leaders of your country comparing how we spend with the United States and the outcome we obtain. Of course, if you do it as a single country, you can save a lot. We are not going to do it singly because we are not a single country—we are not and we will not be—but the more we can coordinate the better and this is a step in the right direction. Let me say that I have discussed this very much with your Government and with the French Government. This is an initiative that was born in your country and we appreciate and I appreciate very much because I think it is a brilliant idea that will give good results. The person who has done all the work, the primary work, on the established regime, which has just finished, is someone from your own country and I am very, very pleased at how things have been done on that. So, it is trying to add value to the word that we can put with a capital letter, “Coordination”.

Q74 Lord Lea of Crondall: A number of people in the British debate about Europe are worried about Europe taking on too much. Some people say that we have to be careful that Europe does not fail to recognise the importance of the primary role of NATO but it comes into the more general question of why Europe specifically needs a policy *vis-à-vis* weapons of mass destruction, for example. I would be very, very interested as to how you would set out the current state of play in answer to those people who say that we are on an agenda which is if not undermining NATO nevertheless could all be done much more effectively if we kept the real primacy of NATO. Is it that we are not seeing the main primacy of NATO or is it that there is some new factor which means that the architecture that we have had for the last 50 years is different?

Dr Solana: You touched on NATO and the weapons of mass destruction and I will touch on both. I think I have a certain authority to talk about NATO and the European Union because I have been Secretary of NATO at a very complicated moment. I would not be here if it were to undermine NATO. I do not see any reason why NATO should be undermined. On the contrary, I think that cooperation between the European Union and NATO is fundamental. The arrangement that the European Union has with NATO is very important. Remember that we are in crisis management and NATO is not in crisis management but is fundamental in collective defence. We have an arrangement whereby NATO, for operations which are of a certain dimension, NATO will be, the lead organisation. Of the countries of the European Union, the majority now are NATO members, with the exception of only four EU members. The second level of operation is where NATO as a whole does not want to get engaged in—either because of the dimension of the operation, or because of the place. In Africa, for example, where NATO is not interested in going, we have the possibility through the Berlin plus arrangements to have a European Union led operation with NATO assets. Then the third case, we have an operation in which, again, NATO as a whole does not want to be involved and where recourse to NATO assets is not needed because of the lower part of the spectrum which we will do alone. The relationship is so profound that we have all these schemes of cooperation. Duplication by NATO is part of the vocabulary I would not use. On the question of weapons of mass destruction, I think it is very important what the European Union has done in the last period of time. It was important that a particular number of Member States had control. Yours is one, but you can imagine the majority of the Member States were not involved and they did not conceive of weapons of mass destruction as a fundamental risk. Today,

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the fight against weapons of mass destruction is a collective effort also of the European Union on top of what you do. The European Union has a plan, in cooperation with the United States, with like-minded countries to do it, to work with that. So, it is at the top of the agenda of the European Union collectively, something that a couple of years ago you would never find but now you find it and that document is one example. I think that is a very, very important asset to the European Union with 25 Members, they have begun to analyse and to challenge the world with a wider angle than they used to have. Some years ago, you had that control and other countries ... Today, it is not only there but we have plans to concentrate our efforts, through the PSI² etc. With the United States we have a very good cooperation and we had a meeting two Saturdays ago. We were absolutely on the same wavelength and you could say we were all flattering each other. It was very difficult to find a difference of opinion on the need to fight against the proliferation of weapons of mass destruction. That is international terrorism and that involves a big problem of a strategic nature and we have a common position.

Q75 Chairman: Do you think North Korea and Iran are outside the ambit of the EU?

Dr Solana: I think that North Korea ... I have come from Jakarta; I was there with Colin Powell, the Chinese and with the Koreans, North and South, and the Japanese and we have been talking. For instance, what is our role in the North Korean six party talks? It is not to destroy. We would be stupid if we say that we want to be the seventh. It has been difficult enough to get six that it would be stupid to be the seventh. It is much better if we say that we support the six and we have said publicly and I said it yesterday and the day before yesterday publicly to South Korea, Japan, China and Russia. We applaud the success of this but we do not want to be part of the problem only part of the solution. Some Member States say, "Why are you not at the same table?" but it is because we do not need to be. We are well represented at the table and it was difficult enough, as I said—and I know very well how difficult it was—to go from two to six that it would be stupid to be seven. We have to solve problems, not complicate problems, and to help. Iran is a much more difficult topic but we are determined to prevent Iran from being a nuclear-armed state. As you know, three Member States have worked on that. Those Member States have the support of the rest. They have my support; I have been with them in Iran on several occasions. We have the reports that come from the IAEA in Vienna. We have very good relationships with them, not only with Mr El

Baradei but with other countries on the board of governors of the Agency and we are putting all the pressure that we can in order to prevent that they use what they do have as far as a process of enrichment and not to use it for military processes. They are trying to do it in an intelligent manner. We do not want to put Iran—and I am sure that the Americans now agree with us—in a position of abandoning the NPT. We know the consequence of that in Korea. So, we are trying to do things in a manner by preventing them going further and at the same time trying to see how we can maintain with them the scheme of the rules of the game because that allows us to continue having discussions.

Q76 Lord Lea of Crondall: Can I just develop the question about weapons of mass destruction as to how it relates to more traditional conventional defence and security policy because, right across the Middle East—and you could say the same about India and Pakistan—there needs to be obviously a security envelope which would replace weapons of mass destruction as the security envelope. So, if you are in Syria, you say, "Well, Israel has weapons of mass destruction." Does this not, in a sense, perhaps link up with your neighbourhood policy? What is the thinking about the way in which security can be developed and what is the role of the EU in security being developed because this is pretty much in your document agreed in December when we have no real security envelope to replace the supposition that I need weapons of mass destruction to defend myself?

Dr Solana: This is a very important question but is difficult to answer because it is not enough to say words on this issue. I am coming from the only security organisation that exists in Asia which is the Asian Regional Forum. It was born as a very loose type of security organisation, nothing to do with NATO of course. It still is kilometres away from where NATO is, but there is no doubt that it is beginning to adapt itself more towards security organisation. For instance, India and Pakistan for the first time were there—they attended for the first time; it was the first year they were present; they were invited and they are members of that organisation now. You have all the North Korean elements. I would like to help them. Let us talk about Asia; it is a problematic place with a lot of nuclear potential there. To try to organise a system of security inside Korea, in the region of India, Pakistan etc and the Middle East, you will organise mechanisms of security institutions and organisations etc, that they begin to contract among themselves and then one day, when time passes and you look at the global picture, you have enough security. We started like that of course. NATO was a much more important guarantee on our continent compared to that existing in a place like China and

² Proliferation Security Initiative.

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Taiwan, North and South Korea which is much more difficult or India and Pakistan. It is more important to have them there because they are countries which are not potentially likeminded and, if they come to a conflict, it might be a catastrophic thing. You talked about the Middle East. This is a very serious problem. The de-nuclearisation of the Middle East is going to be a very complicated thing. For the first time in these days, Mr Baradei has been in Israel and has spent the last three or four days there. We are beginning to see how the potential engagement of an agency could be there. Nothing very dramatic has come out of this trip but we have to be hopeful that we may in the future have enough security written-in that it will not be necessary to have, as you have said, the deterrence of that. To have China and India now in the same organisation sitting one by the other and talking is not bad news in any case, but still we have a lot of thinking to do because Kashmir is there and still the Government is trying to talk about Kashmir, but at they are talking and they are discussing and they are accepting to participate in a multilateral forum to talk about the nuclear issue and, for India, it was impossible to be accepted before.

Q77 Lord MacLennan of Rogart: In speaking about weapons of mass destruction in the strategy document, you identified as the most frightening scenario that in which terrorist groups acquired weapons—

Dr Solana: I am not the only one; everyone considers that at the moment.

Q78 Lord MacLennan of Rogart: What I wanted to know is, what is the institutional response to that identification by the European Union? Is this an area on which work is being done by the Union as opposed to individual countries?

Dr Solana: The Union is beginning now—the ESS is a year old—and, as I said, I have a relationship with the Member States which are members of the board of governance on top of that. I think what is important about the strategy of the European Union is not to substitute countries that do have by history, by experience and by the fact that they are nuclear—and we have in the European Union some, a few but some—they can play a role that is not equal to the role that other countries can play, but the fact that all the 25 countries support that is also a good guarantee for those countries to have more responsibilities on the domain of nuclear. For instance, on Libya. Libya is a good example of how particular countries have been engaging on that. They have been immediately embraced by the rest who say, “We feel represented there, we support that, we will help with that, we will do our utmost on that.” Whenever something has to be done that

has consequences for Libya for instance and, on terrorism, money laundering etc, that does not necessarily happen on the country that has been on the lead of dealing with the nuclear aspects. It is done; you have to guarantee that you have another 25 countries willing to help with that. I think it is an added value. Of course, the 25 cannot substitute on some issues. In nuclear, for instance, let me give an example of Iran. There are few countries that could guarantee, for instance, to Iran that they decided to stop the enrichment process. We will guarantee them enriched material. The European Union cannot grant that; certain countries can guarantee that but not the European Union.

Q79 Lord MacLennan of Rogart: Striking attitudes of support may be useful, enlarging the backing, but also questions like the pooling of intelligence, greater cross-border police cooperation, these sorts of things—

Dr Solana: Can I enter into that. For the first time, we are now a year and a half, in the European Union, that has changed the intelligence produced. Again, I have to say that in the 25 countries, not all 25 countries are equal in developing some of the things that you are bringing up.

Q80 Lord MacLennan of Rogart: Perhaps “pooling” is the wrong word, maybe it should be “exchanging”.

Dr Solana: Pooling also. We try to pool; one puts in that and the other puts that in, it is pooling. The analysis and assessment that we do collectively now are of advantage and they are here on the external security and we are beginning to do it also on the internal security because we think that the fight against terrorism has developed with MI6 and MI5 help and we try to “construct” something of that nature also not only for assessment and not for operations because we do not have agents in the countries, so we depend on what the different countries do offer and pool it together and I think that gets a project which is richer by the fact that it has many sources. For instance, the new Member States have some valuable information and intelligence from certain parts of the world from their own history.

Q81 Lord Lea of Crondall: Could I move to the Balkans briefly. In a report that the European Union Select Committee did about a year ago on the reconstruction of the West Balkans and the role of EU aid, my recollection is that, in the next five years, the military, broadly speaking, around Europe is spending five billion euros per annum on the military in the West Balkans and one billion on the aid development. Some people have said—and this almost goes back to where we began—“Would it not

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be nice if the figures were the other way round?" Of course, the British generals in Sarajevo and Banja Luka said, "It would be nice, wouldn't it? However, you would be stupid if you start off from any such premise." Is it not a concept here that you may wish to develop that we need a very close understanding of the strategy with these countries as to how fast paradoxically they have to move on governance and corruption before they get private investment. If they are going to be in a position with local government and civil society to get into a position where in the next five years, and I do not mean years one to five, I mean perhaps years six to ten, indeed they could be in a position where instead of five billion euros a year being in the military and it is at the moment very difficult to see that being reduced very rapidly but you could see more transfer and this means beefing up the leverage on the security side of the stabilisation, association agreements and indeed country strategy papers in Macedonia, in Albania, in Kosovo and so on.

Dr Solana: You have several examples which are different. All of them have something in common. Let me mention Kosovo and Macedonia because I want to forget a little about Bosnia. In Macedonia, we had responsibility from the very beginning. I practically lived in Macedonia when the original Ohrid agreement was done between myself and Colin Powell at that time and we could do it lightly and very rapidly but we were prevented. Some conflict was remembered and we had to deploy in the end the police and a little bit of military. Macedonia is a country now with political leaders that used to be in the mountains and Macedonia is an example about what I wanted to say, that we deployed rapidly and intelligently. Things may move fast. With Kosovo, in March of this year, we had in Kosovo something that nobody expected, almost a revolt, two days of crisis with about, at that time, 12,000 soldiers on the ground—it is a very tiny place—and a lot of policemen from the international community. In the square meter, it was very difficult not to find a couple of international people but, with all that, by surprise, we had two days of terrible violence. In Macedonia, we put in money and the money was well used and properly used because the security was done faster. In Kosovo, we still have the situation that the security is necessary and we have now almost 20,000 troops there which is very expensive, that is NATO has, they are Europeans, 90 per cent Europeans. It is very expensive and we would like very much to have that money and spend it on a society where the demography is such that everybody—not everyone but a lot of people are unemployed and there is no possibility of developing anything, no economic capabilities there because there is no security and there is still

no security. Yes, this is the reality. It is very difficult to produce miracles in these societies but, if they do have the will to overcome their problems, it is very difficult to do that from the outside. We have tried to put in all the conditions for them to move but it is very, very difficult. It happened positively in Macedonia in a very short period of time. It is more difficult in Kosovo. You can say that as soon as the government by resolution of the UN Security Council, they have to know what the future will be, etc, etc. Given those constraints, I think the situation in Kosovo will be better.

Q82 Chairman: Can I, Dr Solana, sadly I think perhaps lastly because, looking at our clerk, I think we may have to go fairly shortly.

Dr Solana: No, no, you have come all this way.

Q83 Chairman: It is extremely kind but may I just ask you this because we have had some discussion in our Committee about the European neighbourhood policy and questions have been raised as to whether we are spreading ourselves too widely, whether one neighbourhood policy really is appropriate. I know there are different strategies for different countries but essentially one policy for very different countries, some of which, like the Balkans, presumably would be on a priority for accession, some are way ahead if ever and some appear to be not eligible even if it is only on geographic grounds. Perhaps you can comment on whether we have one policy or whether we should simplify or whether we should make priorities.

Dr Solana: I can comment on that and say that I do not agree 100 per cent with what has come out, so I can be very frank with you. I think that the new neighbourhood policy was born out of the fact of enlargement and we could not leave the Ukraine, Moldova and Belarus hanging out of their own hole. That was a starting point and I think it was our obligation to do it. It is a fundamental change and you cannot abandon the Ukraine. They are not going to be in the institution but you cannot abandon them; we have had to protect them; Ukraine is an important country, etc, etc. Then there came the question of the southern part of the Mediterranean where we had already a neighbourhood policy that dated from 1995, so we incorporated that into the first. That policy is not new; it is the same with a new name. In the Balkans, we have a story which is different which is the Stabilisation and Association Process of the EU. Imagine that you have a country that is on the borders of the new European Union; they are important; with the Mediterranean we had already a policy and we just changed the name and then the Balkans. I do not think it is a mistake to have a common envelope but at the same time we need,

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country to country, a specific plan for the different countries. It is not the same to deal with Moldova than to deal with the Ukraine. You apply the same recipe for the Ukraine to do the job. Of course, it is something that is common. It is not the same to deal with Morocco than to do with Libya. I think that a little bit of focus on the specific problems of the country—economically, civil society, governance, etc—is not a bad idea. In the same manner that we did in the last enlargement process; we dealt with Poland in the very same manner that we are going to deal with Bulgaria. It is not the same country; they have differences in economic structure and in the development of their own law etc. I think that having an umbrella which is the name of the policy and to have specific action for specific countries is not a bad idea.

Q84 Chairman: Dr Solana, may I, on behalf of the Committee, thank you very much indeed for being so generous with your time.

Dr Solana: It has been a pleasure to receive you.

Q85 Chairman: This is a discussion that I know could continue well into the afternoon if you did not have to go somewhere and we have to go.

Dr Solana: Honestly, I would love to continue because I think it is very important. The moments we are living now are so important and to change views and to clarify in our minds and in our hearts is fundamental at this moment. I am at your disposal.

Chairman: I am sure there are many issues that we would like to discuss with you in the future and we shall watch your diary with interest to know when you are in London, Dr Solana, in order that we may avail ourselves of a spare half an hour. Thank you very much indeed.

THURSDAY 4 NOVEMBER 2004

Present	Bowness, L (Chairman) King of Bridgwater, L Lea of Crodall, L Maclennan of Rogart, L Morris of Aberavon, L	Northover, B Park of Monmouth, B Powell of Bayswater, L Tomlinson, L
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Examination of Witnesses

Witnesses: LORD BACH, a Member of the House, Parliamentary Under-Secretary of State and Minister for Defence Procurement, DR SARAH BEAVER, Director General, International Security Policy, and MR STUART FRASER, Head of the Defence Procurements Agency's International Relations Group, Ministry of Defence, examined.

Q86 Chairman: Lord Bach, good morning, and may I welcome Dr Beaver and Mr Fraser and your other colleagues. Thank you very much for coming to give evidence to us. As you know, the Green Paper on Defence Procurement has been sifted to this sub-committee for comment. We would very much like to hear your comments and the Government's position on this paper, and indeed then ask you some questions of which you have had notice. I understand you would like to make an opening statement.

Lord Bach: Thank you for the invitation to appear before the sub-committee. I am grateful for the chance briefly to put the Government's initial view as far as the Green Paper is concerned. We welcome the publication of the European Commission's Green Paper on Defence Procurement. I think we provided advice to the Committee on 28 October. We see the paper as an important lever in opening up the very necessary debate on improving defence procurement in the EU and promoting the global competitiveness of the European defence industry because, we believe, there is a significant need to improve the defence capability of EU Member States. Improving the transparency and openness of defence procurement across Europe will be an important step towards this, providing potentially United Kingdom industry with improved access to EU defence markets and better value for United Kingdom and EU taxpayers. I want to stress right from the start that the Green Paper, in our view, does not present formal proposals nor advocate a particular solution. It examines and summarises procurement processes currently undertaken by EU Member States and by other European international bodies such as (OCCAR). It acknowledges that the defence market has many unique characteristics that continue to justify dispensations to general EU market rules. In addition, the Commission recognises that defence and security issues fall under the remit of the Member States, and that defence policy will continue to be taken forward by them. However, it suggests there is a range of defence and dual use products and

technologies which could be more widely and readily shared within Europe by means of co-ordinated procurement procedures without impacting on national security. It is becoming increasingly more important for Member States to co-ordinate their efforts to facilitate trade in these products. What the Green Paper does is provide an opportunity to discuss these issues, important issues we think, in more depth, and we welcome this. The Commission identified two possible options for improving defence procurement practice and in taking this initiative forward: one, a clarification of the EU's existing legal framework, and the Commission suggests that this might be best achieved through the use of an Interpretative Communication; and, secondly, the possible introduction of specific rules through a directive to co-ordinate the defence procurement procedures of Member States. However, the Commission has noted, and this is of great importance, that such a directive would not be aimed at procurements that are currently exempted from EC public procurement regulations under the provisions of Article 296. As explained in our memorandum, the United Kingdom, in the form of both the Government and industry, has been considering other ways of creating a more open and transparent European defence equipment market. We have developed our ideas, which centre around the use of a code of conduct into a non-paper, a copy of which was included with the memorandum. We are in the process of sharing these ideas with European and other colleagues. Perhaps it is too early to give a precise statement on the views of others on the paper but initial feedback on our proposals has been encouraging. The next stage for us will be to respond to the Commission, which has given Member States and other respondents four months, up to the end of January 2005, in which to reply. We will develop our response in the light of our subsequent discussions with colleagues from within government, industry and Europe. We understand that the Commission will then issue a conclusive

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summary, which will take account of the comments received. This may eventually lead to proposals by the Commission, which Member States will consider before any further action by the Commission is taken. If I can just sum up our view: the issue of the Green Paper we think offers an opportunity to bring to the fore the much needed debate on creating a European defence equipment market. We are taking a leading role in this process, not least through the non-paper and through our dialogue with European colleagues. We are well attuned to the potential difficulties ahead, but, with the recent creation of the European Defence Agency and with the United Kingdom's influence as a leading industrial player, we believe there is scope to improve the openness and transparency of the European defence market and with this the ability of our companies, United Kingdom companies, to compete in Europe.

Q87 Lord King of Bridgwater: Can I ask a question for clarification on that? You have here in your paper the statement that the European defence procurement market amounts to some £20 billion. That is in the first paragraph of your paper. Have we got the national breakdown of that, which I think it would be very helpful to see so we know what we are talking about and where we are now. You say here, "The Commission seeks to obtain better value in the £20 billion plus European defence procurement market..." Have we got the figures here? Can somebody provide them? What is our figure now? It used to be £9 billion in my day.

Mr Fraser: We have not got the figures here, Lord King. We could certainly provide that.

Q88 Chairman: This is the £20 billion referred to in the Commission's explanatory memorandum.

Lord Bach: I thought we were referring to the non-paper, I am sorry. You are referring to the memorandum.

Q89 Lord King of Bridgwater: It is said to be a £20 billion European defence procurement market. Our contribution used to be about £9 billion. I do not know the current figure. What are the other countries at, so that we know what we are talking about?

Lord Bach: We do not have the exact figures, Chairman, but Lord King is right in that ours is a very high proportion of it. When you take our proportion along with that of France and one or two other countries, they make up to 80 or 90 per cent of that £20 billion. There is a small number of countries that make up, and it will be no surprise to the Committee I am sure, a very large proportion indeed of that £20 billion. Many countries of course are consumers really rather more than involved in procuring.

Mr Fraser: In terms of very broad figures, we are looking at the United Kingdom, France and Germany as about 80 per cent of the total defence procurement in Europe. If you add the other three LoI framework agreement countries—Italy, Spain and Sweden—that increases to about 90 per cent, and then the rest forms the rest of the other Member States.

Q90 Lord King of Bridgwater: I think it would be very helpful for the Committee if we just had the figures, so we actually know what we are talking about.

Lord Bach: I apologise, Chairman. I think that should have been in front of the Committee today. I will make sure that it comes. I think the general picture is clear.

Lord Morris of Aberavon: It is quite clear, my Lord Chairman, that we have a very large interests and a very high proportion. So far as the argument is concerned I think that should be sufficient.

Q91 Lord Tomlinson: Before we get on to the detailed questions, I wanted just to pursue with Lord Bach how the Government proposed to reply to the consultation. Are you going to do it in the form of following the two questions that are in the Commission document on the legal framework and the 11 questions that are in the document in relation to the specific content of a directive? If you are going to do it in the form of answering those two plus 11 questions, will it be possible for you to share your answers with the Committee? There is a specific framework laid down there and that would make it quite helpful for us to be able to follow it.

Lord Bach: We are not today in a position where we would be able to give the Commission our final response. That is hardly surprising as it is three months away.

Q92 Lord Tomlinson: When you do, when you get to the position where you are giving a definitive reply to the consultation, can you share your definitive reply at that stage with the Committee?

Lord Bach: I am sorry to be so cautious. The answer is yes.

Q93 Chairman: Thank you very much. I want to get on to our main questions. Bearing in mind there is a time for consultation, presumably you propose to reply within that consultation period. Are we likely to see it sufficiently far in advance towards the end of the consultation period to make it really useless?

Lord Bach: I do understand why you ask that question, my Lord Chairman, given events earlier this year. We will do our best to make sure. I would have thought the reality is that we probably have got to get it back to the Commission before we do

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anything else. It is our duty to do that, to do what we are asked to do, but we will try and make sure that your Committee gets the details of it as quickly as we possibly can after that.

Dr Beaver: Perhaps I could also add that I know the European Defence Agency also intends to put in a collective response through its steering board, so we will have two opportunities to make an input nationally and in the contribution that we will be making to the European Defence Agency's response.

Q94 Lord Maclellan of Rogart: My Lord Chairman, I am sorry but I did not understand Lord Bach's last answer. Was he saying that the Government would be obliged to reply to the questions to the Commission before we could see the answers?

Lord Bach: Yes, I think I was saying that. I think we will be obliged to do that before this Committee and Parliament receives the answers. I think we have to do that. That is the order of events. If I am wrong about that, I hope my officials will correct me straight away.

Mr Fraser: I am not sure of the process. I think we should probably check on the process.

Q95 Chairman: Perhaps, Minister, we could clarify this because, in a sense, it is only consultation; there is not a scrutiny. It is not a question of clearing it. If we are going to make intelligent comments, it might be useful to know what the Government had said in response. If we are, equally, going to be making our response within the consultation period, we do actually need some time, maybe not a lot, between receiving it and the expiry of the consultation period.

Lord Bach: Of course I take that point. Today we are not in a position to have a response. I am sure it will come up against the deadline. I am trying to answer in a practical way. We will help as much as we possibly can, understanding its importance to this Committee.

Q96 Lord Tomlinson: I am sorry to pursue it, my Lord Chairman. I think that reply is quite satisfactory, certainly to me. I am more concerned with the form in which we get it than exactly the speed. I hope we can have it in exactly the form in which it is given to them. I say quite openly why I am concerned. We have already got the beginnings of a concern in this Committee about some European Commission proposals for research and development to be extended into defence and armaments. I would certainly want to be making quite sure that in whatever we say about procurement, we are not getting ourselves partly confused down the road about what we would, I think on our first examination, regard as an unlawful incursion of R&D framework funds into the area of defence. I

make it quite clear that that is why I am looking for it in the specific form in which you reply.

Lord Bach: May I attempt to answer that? I understand exactly what Lord Tomlinson is saying. We, too, if it is of comfort to the Committee, have exactly the same sentiment about interference as far as research and development is concerned. That is a real concern of ours and one we will be dealing with.

Q97 Lord Lea of Crondall: Chairman, I think it might be useful, as we get going on the list of questions here, to ask the Minister to paint the overall picture with a somewhat broader brush. We are going to cover *inter alia* what is called the liberalisation of the market, but, secondly, we have the provenance of the Defence Agency. They do not always come to exactly the same thing. I was wondering if Lord Bach could say what the relationship is between what goes back to 1996–97, the concept of liberalising the market and the Agency, leading up to the question of a directive, and how this relates to what goes on in the nation states, and indeed what goes on into people submitting bids from around the world.

Lord Bach: Our starting point, if I can attempt to reply, is this. There has been recognition for some years now, not least across the Atlantic as well, that there is a need to improve the defence capability of EU Member States. We believe that improving the transparency and openness of defence procurement across Europe will be an important step towards this aim. The Bangermann proposals, which were the last attempt made by the European Commission in this field, are now some years old. Their view is that the Commission rather laid down the law and there was not enough consultation. Members of your Committee, my Lord Chairman, will remember this much better than I will. Here we do believe that the Commission is approaching this in a much more reasonable way. I think it is important to realise that the Commission is not advocating a more liberal market *per se*. It is against the background of what is a very fragmented and relatively inefficient European defence equipment market that the Commission is endeavouring to open up the debate on improving defence procurement in the Union and improve the global competitiveness of our industry. As I have said, we welcome the debate. It opens the potential for improved access to European defence markets by all European countries. Everyone who is sitting in this room will know that one of our concerns has been, and remains, that we have an open procurement policy, not entirely but more or less an open procurement policy. Our friends and colleagues both in America and for these purposes in Europe do not have such a policy, so anything that moves towards a more open European procurement policy is something that we see as potentially very much in

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our interests. Our feeling is that there is more appetite this time, as opposed to the Bangermann proposals, to introduce ways of improving the defence equipment market in Europe. Therefore we should be positive, but I want to stress again that we see what the Commission has done so far as just the first stage of the process. No formal proposals are here yet. It is too early to say what the outcome will be, but we are taking a leading role deliberately at an early stage, and we will be promoting the use of our proposed code, which we think is a better way of going down this path than the one which is hinted at in the Commission's Green Paper.

Q98 Lord Powell of Bayswater: I have also a general question arising from the statement. I do not for one moment doubt the Government's good intentions in going through with this exercise, but does not the Minister think there is perhaps a bit of a triumph of hope over experience here? I can think of some European countries who have never opened or who will ever seriously open their market. They might agree to rules, codes of conduct and procedures which we the United Kingdom would, as usual, absolutely follow but they would have no intention of doing so themselves. I do notice in the draft code of conduct phrases like "Member States will be expected to exercise responsible discretion, and this should not be based on political convenience". I just find it impossible to reconcile that with 30 years of experience in this field.

Lord Bach: My Lord Chairman, I know of Lord Powell's great experience in this field. Mine is much more limited, of course, and I have to say that my three years experience is not very different from his 30. The conclusion that so far I reach is that talk is easy and action is more difficult, but we have tried various ways of opening up this market that has remained closed, just as we do across the Atlantic as well, and we think we have to seize every opportunity there is to establish a real open market. We are not naïve, I hope, in our expectations here, but we do feel there is promise here, and there may be promise for United Kingdom industry as well, and, as I say, maybe a real chance that defence capabilities in Europe will improve. We are prepared to go down this road at this stage cautiously with our own proposals. I hope Lord Powell will be satisfied by me saying that we are not going to jump into some action that will just make us even more open and other European countries just as closed as they have been.

Q99 Baroness Park of Monmouth: I am afraid I must follow on rather along the same lines. We have been told that 80 per cent of serious defence sales is between three countries. I presume that one of them, since we are pursuing this, is that we hope we might persuade Europe as a whole to put more money into

defence and therefore produce less of a burden on us, but, when it comes down to it, it is those three countries, us and two other countries, who are the only ones who can make serious spending. The Bulgarians are not there yet and the Poles and others may wish to but they are highly unlikely to do very much because they cannot. I really find difficulty in seeing what is the point of moving further into regulation when bilateral arrangements are the only ones, it seems to me, that will actually hold. One of the papers makes the point that a lot of the decisions are state-oriented, and particularly that is true in France. It is wholly unlikely surely, that the French are ever going to give up their political convenience, and indeed it seems to me wrong that they should. I cannot see the point of binding ourselves in a way which will limit us but not limit others. I also want to know what practical effect it will have on our collaboration with the Americans, because it seems to me that transparency over some of our more secret and worthwhile activities would be far from what they would want or we want.

Lord Bach: If I may say, I agree with Lady Park in terms of regulation, and that is why we are, already at this early stage, right at the start of this debate, making clear that our preference is not for regulation but, if we are to go down this path, it is much more by a voluntary code of conduct which will be looked at carefully. We hope that there will be some peer pressure put on countries that do not follow an agreed voluntary code of conduct. She is right, if I may say so, to make the clear point she does. Of course very few countries make up the vast majority of defence procurement in Europe; that is true. I do not think we should completely forget that some of the newer members of the European Union have niche capabilities in defence fields which may well add real value, if I can use that word, to European defence capabilities as such. We would want to encourage those countries to come forward and help us with procurement, perhaps through the EDA—European Defence Agency. We want to encourage those countries and Europe generally to perhaps give more of their resources, and they are limited resources we are talking about, to defence procurement. We think this may be one of the ways we can do it, but I do want to reassure her, as I have tried to Lord Powell a moment ago: we are not naïve about what some of our friends and rivals do in Europe.

Q100 Baroness Park of Monmouth: If I may take one point further, surely those countries—let us take Poland as an example as that is one of the most likely ones—if they are in the process of negotiating an interesting contract, are the last people who will want to have transparency, which might expose them to competition from other larger predatory countries?

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Lord Bach: I do not know. I think we will have to see. There is a great deal of interest in Europe among the new members particularly in this Commission proposal and the setting up of the European Defence Agency. We will have to see. It may be, as you suggest, that all this will come to nothing, but I think it is incumbent on us as perhaps the senior member of the European Union that does spent a lot of money on defence procurement, to do our best to bring along other countries, whether big or small, to our view of the world, which is that an open market is the only way to conduct yourselves in the 21st century, with the limited resources that there are. I think we would be wrong not to be taking any part in these initial steps.

Mr Fraser: Baroness Park mentioned Poland. I was speaking to the Polish National Armaments Director last week and his initial reaction and that of Polish industry to the non-paper that we circulated previously was very welcoming. He did not say why but he thought it was a very good basis for consideration. I suspect one reason why that is so is not so much the threat from other Member States' industries let us say accessing the Polish market, but it is more that the limited Polish defence industry can get into other markets easier.

Q101 *Lord Morris of Aberavon:* May I follow Lord Powell's remark about hope triumphing over experience. That must be true. Some countries are more difficult than others, and I will not name them now. It would not be right, so far as joint collaboration is concerned, because we have had successes so far as that over the years. Therefore I take it that this paper is through an open foot in the markets substantially and not joint collaboration?

Lord Bach: It is primarily about opening markets in order to lead to better European defence capabilities. We have all had the experience of collaboration or, to a lesser extent, co-operation. Sometimes it has worked better than on other occasions. That has to be said. Whether there is more co-operation as a result of whatever measures are eventually agreed upon, I do not know. I suspect there may be a move for more co-operation. Indeed, the lack of resources that there are in this field really calls for more co-operation, if that is possible, given national security needs. I cannot say that it has nothing to do with co-operation, but its prime purpose is not that.

Q102 *Lord Lea of Crondall:* I have understood that part of all this is that there would be advantages for the European nations in aggregate and to do something, in the same way that opening up public procurement in every other field, whether it is the health service, education and so on, has done. Ever since we re-enacted the Stockholm agreement, we have had open public procurement. It means that

Coventry City Council cannot say, "I want a bus with a step that height" while some of the others want a step of a different height. Is it not part of the Government's philosophy that other people have to answer the *prima facie* question: why is defence different? We are whittling down the areas in which it is difference. On the other side of the track, there is a common need coming up at us, is there not, even on the operational side, that more and more things we are doing together. This doctrine of hope over experience does not quite fit where we are historically. I was wondering if you would comment that things are moving on?

Lord Bach: I am sure things are moving on. I think we need to be cautious, and I think we are, in this particular field. Quite legitimately, it seems to me, countries can argue that in the defence field—and defence *per se* has nothing to do with the Commission, frankly, and is for national governments—it is quite right that national security considerations must play an absolutely crucial part. Indeed Article 296 assumes that. In the procurement field, strictly speaking, the Commission does have the same powers as it does in relation to procurement generally, as I understand it, except for the provisions in Article 296, which means that where the goods are war-like, there is no need to follow European procurement policies. One of the issues that arises here, and it may come up in the next question, is whether Article 296 is too restrictive or not. We certainly would not want to lose Article 296. To do so would be a rash move. It is right to say that we suspect sometimes that Article 296 is too widely used by some of those who want to restrict competition in this field. One of the important things about this whole project is to make sure that we look again at Article 296 and how wide or narrow it should be. That is based, of course, on the 1958 list.

Q103 *Chairman:* The 1958 list is still in business?

Lord Bach: Oh, yes.

Q104 *Chairman:* There should not be any uncertainty about what the article applies to.

Lord Bach: No. The 1958 list exists, but the 1958 list has served us, the United Kingdom, remarkable well over that period of time, so we would be cautious in an approach to reforming it too rapidly.

Q105 *Lord Morris of Aberavon:* How is 296 monitored? There is talk about whether it should be narrower or wider. How do we monitor whether it is working and working properly?

Lord Bach: I will be corrected about this but I think the Commission can, if it wants to, ask us questions about our use of 296 in a particular procurement.

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Q106 Lord Morris of Aberavon: Does it?

Lord Bach: I think, from recent painful memory, it does, yes.

Mr Fraser: What happens in reality, Lord Morris, is that the Commission observes what is happening in the marketplace and whether under Article 298 the exception under Article 296 has been applied correctly and appropriately. Where there are instances where the Commission's staff believe that Article 296 is being abused, then they usually write in some form or other, which gets increasingly stronger depending on how strong they feel that case is, whether it is based on infraction proceedings or reasoned opinion, et cetera.

Chairman: It seems to me, Lord Powell, that some of the questions you were going to ask have been dealt with. I wonder, since we have started on this conversation, if I could go to Lord Morris, who might like to pursue his specific question that touches on the 296 issue of the list?

Q107 Lord Morris of Aberavon: Could I ask, because the matter is canvassed in the documents, what is the specific competence of the Commission in the areas of defence procurement? There are alternatives proposed: first a legal framework, and we hear the time it would take and the difficulties of that I appreciate; and then the voluntary code. That would avoid the potential for confrontation on that very issue. You have also mentioned in the same paragraph some of the issues of the downside of that attempt. Is it delivery, sanctions, observance? Could you flesh out perhaps the downside of the voluntary code? Lastly, the types of equipment which are outside 296 which we are talking about all the time, the 1958 list that was mentioned a few minutes ago: can that be updated? It is on the fifth line of the non-paper: "avoids the potential for confrontation over Commission competence in the area of defence procurement". My question is: what specific competence does the Commission have?

Lord Bach: As far as the legislative competence in the defence and security field is concerned, we do not believe the Commission has, strictly speaking, any competence. This remains within our competence, Member States' competence, and we believe the Commission understands that.

Q108 Lord Morris of Aberavon: I am sorry to interrupt you. There is no such thing as "strictly speaking". Either it is within the competence or it is not.

Lord Bach: I am rightly corrected. It is not within the Commission's competence. I make the point again that the current procurement directives apply to defence procurement save where it is exempt under Article 296. In this regard, the Commission may well focus, as it is doing, on goods that are not intended

specifically for military purposes; in other words, dual use goods. Were the Commission to adopt a regulatory approach, we would wish to ensure that the Commission did not stray beyond its inherent competence, which I think is found in Article 95. As far as a code of conduct approach is concerned, we believe it is one of the benefits of a regulated market; it has the potential to increase transparency, as a regulated market might, open up national markets, and create more efficient defence markets. Its great advantage to us is that it has the advantage of significantly early implementation and avoids what really we ought to seek to avoid: the introduction of further regulatory burdens on Member States and industry. The code of conduct would, of course, cover goods that fall within the scope of 296. Exceptionally for procurements of very high sensitivity, Member States would be permitted to exercise derogation from the code. It seems to us it does have advantages over a regulated approach, and that is why we, at this stage, and I repeat at an early stage in this whole argument, are putting this forward. As Mr Fraser has already said, the indications are that many of our European Union colleagues, partners, seem at this stage to favour our approach but to find it broadly stimulating.

Q109 Baroness Park of Monmouth: If I could take you a bit further on that, Minister, in the EN they talk in paragraph 2 of supplemental EU legal framework for a special instrument, and then set out the great advantages of that. One is that it would allow a European defence industry to participate equally in calls for tender in all Member States. It also says that there would be greater legal certainty. Can the Minister explain how that would work and what the advantage of it would be, if any, to us? It is paragraph 2 on page 9 of the Green Paper and it goes on.

Lord Bach: This is in the Green Paper. I am sorry but we were trying to find where the question was.

Q110 Baroness Park of Monmouth: They are advocating a new specific legal instrument and one of the objectives of that instrument is apparently that a greater openness in the market would allow the European defence industry to participate equally in calls for tender in all Member States. That seems to be fairly cumbersome anyway. Then it talks about the body of rules. I would like to know what, if any, would be the advantage of that, what would our reaction be to it, and would this include contracts outside the EU?

Mr Fraser: I think in many respects this goes to the heart as to why we actually came up with some thoughts to complement the Commission's proposals here or outline thoughts where we are effectively trying to influence the debate. We believe that

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through a voluntary code of conduct you can actually achieve the opening up of the markets without needing strict regulation in such a way that it will have the same effect as strict regulation, but I do acknowledge the fact that that will depend on good behaviour, appropriate behaviour, by a number of Member States. If one or more decide that they are not going to, let us say, play the same game, then we will be in the same position as we are now. We believe that with the complexity and the time that might be taken to introduce a regulation in this very complex and sensitive field, an early step might be to go down the voluntary route, at least for some years, to see how and whether that works and whether we need to think about going one step further towards absolute regulation.

Q111 Lord Powell of Bayswater: Following up those points, Lord Bach has just said, with his characteristic vigour, that defence procurement has nothing to do with the Commission, a sentiment with which I humbly agree. Does he not see some danger that by going down the Commission route here, either of the two routes which the Commission offer, that we are actually helping the Commission get involved in this area? The Commission is a dynamic institution, especially when it comes to extending its own power. Particularly in the example given by Lady Park, it does seem to me one could argue that here is an attempt by the Commission to insert itself a good deal more in defining what is covered by Article 296 and to be saying that because it will have the power to pronounce on categories which are not properly within 296, they have a right to determine its coverage. I think there is real danger there. I wonder what Lord Bach's comments are. In addition, would he just confirm that in his own code of conduct proposal, which I think is a very good one, there is absolutely no role for the Commission whatsoever?

Lord Bach: I hope I had said that the Commission has no legislative competence in the defence and security field. I hope I also made it clear that in the procurement field, including the defence procurement field, under Article 95 already the Commission does have, strictly legally, some competence. The way in which that competence is dealt with by national states is under Article 296, so they do already have competence in the procurement field. Article 296 ensures that that competence is not at the expense of what Member States want.

Q112 Lord Powell of Bayswater: If I may just interrupt there, I do understand exactly the legal position and it is spelt out, but I thought the phrase you actually used, which I wrote down as you said it, was that defence procurement is nothing to do with the Commission. I thought that was an admirable way of putting it: that defence procurement, which is

really what is covered by 296, is nothing to do with the Commission. One should not therefore be trying to extend the Commission into this area further.

Lord Bach: I had thought I said defence was nothing to do with the Commission. I am very glad you have given me the chance to make, I hope, a little more clear what I mean. Defence procurement is strictly legally something to do with the Commission unless Article 296 applies. Article 296 makes it clear that it already is. What I am concerned to do in my role is to make sure that, for the benefit of United Kingdom defence needs, we open up what is a very closed book at the moment, too closed for our purposes. We believe there may be ways in which the Commission's proposals—not their proposals, the Commission's initiative in starting this discussion—may help us do that. I am absolutely aware that in the past very little was given to all this maybe more open market in Europe. If there is an opportunity that that might happen on these occasions, I think we should go along with it.

Q113 Lord Powell of Bayswater: I do have a second point. Lord Bach's own paper does not envisage a role for the Commission: is that right? Your own paper about a code of conduct does not envisage that?

Lord Bach: Lord Powell is absolutely right, no we do not. We talk about a third party that would monitor how the voluntary code of conduct is being conducted. We do suggest that the European Defence Agency might well be a satisfactory third party. I want to make this point early about the European Defence Agency: that will be under the control of defence ministers from the EU countries. We trust it will not be some bureaucratic organisation that has no relevance to politicians in the national states, but the board of that organisation will be under the control of defence ministers.

Q114 Chairman: For the sake of clarity, if the Government's suggestion was accepted and the Commission was not involved, the very fact that it is a voluntary arrangement would not remove the Commission's role as it exists under the Articles you have been referring to. We should not be under any illusions. If everybody said it will be voluntary, the Commission would simply disappear off the scene. I am not commenting one way or the other there. I think it should but, in the interests of clarity, their role would remain.

Lord Bach: Chairman, their role is there already. You are quite right.

Lord Powell of Bayswater: The point of my question, my Lord Chairman, is not that I aspire to roll back the Commission's powers. I know the hopelessness of that task. It is simply to stop extending them, because I think it is positive that the Government's code of

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conduct does not in any way encourage or extend the Commission's powers. I am very glad to have that on the record.

Q115 Baroness Northover: I wondered if you have some information on what the reaction has been in the British defence industry to these proposals and whether they feel that this offers them opportunities or whether, as has been indicated, this might open us up to competition but not in other countries. Also, do you have any reaction, for example, from the French defence industry about these proposals? As this has been discussed, I wondered whether you could give us an indication of what proportion of defence procurement would be affected by this? It sounds as if it is a fairly small proportion.

Lord Bach: I am going to ask Mr Fraser to answer those questions. It is not a question of us being more open to the consequence of these proposals and us being more open to European competition; we are open to competition. For the vast majority of our procurement deliberately we have competition and we allow other countries within Europe and America to bid. That is not an easy policy necessarily always to follow, particularly when other countries do not follow suit. Our industry takes that very well, I think, but we do think it is the right thing to do because we get better prices, we get better value and I think it improves the British defence industry, too. It is not a question of this allowing us or making us have more competition from abroad. It is a question of whether we can prise open European markets, which from our point of view have been too closed for too long.

Mr Fraser: Could I try and answer your three questions? About the consultation with British industry, that has been significant. We have actually drawn up these thoughts in conjunction with British industry. There has been detailed consultation since the beginning of this year. There have then been discussions in the National Defence Industry Council, which is a body involving the Minister, members of Ministry of Defence and very senior members of the defence industry in the United Kingdom. All agree that this is a good basis for having another crack at a problem which Lord Powell described as having been fragmenting markets for many years. So we have a very common position proceeding in parallel with industry. European industry, our industry colleagues and their colleagues in the European major trade association, ASD, have been talking to major companies in some of our more significant European partner nations in the defence equipment field. The impression we have been getting is that there is very strong support to move towards something that is better than we have now. In sum, both in the United Kingdom and in Europe so far the consultation has all been very positive. In your third question I think you suggested

that the impression from our non-paper might be that if this was implemented it might actually be a fairly restrictive amount of the defence procurement that might apply to it. In fact, we are hoping it will be quite the opposite. We are hoping it will be a significant sector of defence procurement and that it would be more so for the limited exceptions, where we would be looking to preserve on very strong national security grounds or in the interests of where we wish to retain defence capability within our indigenous defence industrial base, it would apply.

Q116 Lord Lea of Crondall: Do you mean more than half? You say Baroness Northover is wrong but do you mean it is half and half?

Mr Fraser: I am sorry; I did not mean to be as blunt as that.

Q117 Lord Lea of Crondall: I am being putting it quite bluntly. I too was a bit surprised by your answer.

Mr Fraser: I would hope so. Our aim is to make it as significant as we can manage to secure support from the other Member States.

Q118 Lord King of Bridgwater: May I ask one question for clarification? In talking about your consultation with other countries, can you remind the Committee what percentage of French defence industry is state-owned now? There has been some movement.

Lord Bach: Less than before.

Q119 Lord King of Bridgwater: And actually in other countries as well because obviously we are dealing here with private sector companies which would be competing and the degree to which some of the people who are involved in that are actually state-owned companies?

Lord Bach: The French Government have a share, sometimes quite a considerable share, in a number of French companies. They also own some, of course, outright, and there are also some large, private companies in France—Sagem, for example, which now has no state shareholding at all. There have been moves, as you say.

Q120 Lord King of Bridgwater: I wonder if we could have a note on that just to get the thing into perspective: the countries of Europe that are going to be involved in this project, which ones do have defence industries, what industries they have and which ones are actually state-owned defence industries. The other question is, to the degree to which you are able to do it, the extent to which we are buying from European partners at the moment. I remember we used to buy from Anderson in Greece and I do not think that is a classified subject. People

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found they were very economical in the production of ammunition, small arms ammunition. Other contracts of significance that we have in Europe would, I think, be of interest to this Committee.

Lord Bach: My Lord Chairman, we will certainly do that. May I just say that I bore the European companies I see on a regular basis by telling them on every single occasion I can that our view is, for what it is worth, that the sooner that they are private companies, the better it will be.

Q121 Lord MacLennan of Rogart: The overall objective of these suggestions from the European Commission would appear to be conforming with the British Government's view about the desirability of liberalisation of this defence procurement market, but it does appear that the Government is starting at shadows lying behind the two principal suggestions and that, notwithstanding the evidence and the consensual viewpoint, hitherto the European Union has been notably unsuccessful in liberalising. The most that the Government appears to be prepared to do to overcome this rather appalling history is to suggest some transparent understandings about rules which would have no legal basis, no method of enforcement, be entirely open to the discretion of individuals to withdraw when it seem to them to be in their national interest, and that the whole process, in the words of Mr Stuart Fraser, should be tested out over a period of years. May I suggest this shows no urgency at all?

Lord Bach: My Lord Chairman, I think I reject the suggestion behind that comment. Our record in this field is an excellent one, I would have thought. We have been attempting to open up this market for years and years and years. The alternative to the proposals we have put forward at this preliminary stage—and I want to emphasise that we are not dealing with something that is settled or nearly settled, it is the start of the debate—for a voluntary code of conduct—which would be a tight code of conduct, which would be looked at by a third party, monitored by a third party and in which we hope that our European partners would be shamed to some extent if they did not obey the code of conduct, whether that would happen or not—is better than some regulatory structure which adds bureaucracy to an already fraught business and will regulate our companies even more than they are regulated at the present time. We think this market, not all markets, needs freeing up.

Q122 Lord MacLennan of Rogart: In answer to my question, may I say what your first statement was: we have attempted—"we" the Government, and I was making no criticisms of the Government, none at all about the past record—for years to do this. Does that not suggest that the methods of the past and the

attitudes of other governments have prevented the British Government from making progress and that new approaches would be more appropriate than something which is so transparently fragile as what the Government is advancing?

Lord Bach: I think this is a new proposal, I have to say, and I do not think it is so transparently fragile, with the greatest respect, as Lord MacLennan suggests.

Q123 Lord MacLennan of Rogart: May I then just ask this. If is not transparently fragile, what historical examples has the Government of this sort of system, of attempted liberalisation, working effectively in the European Union?

Lord Bach: An example where a code of conduct appears, and it is early days, to be working well is the control of exports to other countries. There is a voluntary code of conduct that EU countries have signed up to.

Q124 Lord King of Bridgwater: In defence exports?

Lord Bach: Of defence exports, I am sorry. I do not want to make too great claims of it but it appears to be working and working well. If countries do, as they are entitled to do legally, take no notice at all of this, other countries know about it and it is quite serious to breach a voluntary code of conduct in that particular field. I see no reason why it should be any different in this particular field, provided the code of conduct is strict and there is equally strict monitoring of it. I think to rubbish this suggestion at this stage means that we really will not progress at all.

Q125 Lord MacLennan of Rogart: May I just ask about that particular example: (a) how long has it been running; (b) what are the substantive achievements which it is alleged to have delivered to this country on the one hand and to others on the other hand? I think if this is going to be put forward as the basis of the historical evidence, we need to know a good deal more about it.

Lord Bach: My Lord Chairman, Lord MacLennan asked me for an example and I did my best to give an example.

Q126 Lord MacLennan of Rogart: But couched in the most general terms and with the most general asseveration of its usefulness. I think the Committee would be helped greatly to know what its practical outturn has been and how long it has been running and whether it is possible to place upon it the kind of conclusions about it that have been suggested.

Lord Bach: We will certainly send a note on it. I do not want to fall into the trap of saying this is an exact parallel with what we are suggesting—

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Q127 Lord Maclellan of Rogart: If there is not another exact parallel, is there a better one?

Lord Bach: No, there is no better one. As I said, I think in answer to Lord Maclellan, we are looking at a new way of doing things in this particular field. As you have pointed out, it may not work.

Q128 Lord Maclellan of Rogart: There have been other ways in which liberalisation has been achieved throughout the European Union history which have been highly successful. Why is it those parallels, those precedents, are given so little courtesy of consideration and something as fragile or as untested as that which you suggest is advanced?

Lord Bach: I hope we do not give them no courtesy or consideration. I think we are trying to give them as much consideration as is proper. We will continue to do so. We have no fixed, final solution to this at all. We are talking in this context about defence, about defence assets that every country to some extent or another needs to have a sense of security about. We are not talking about selling other items, important though they are. We are talking in the defence field and there has always been a problem as far as defence is concerned as to how open a market you can have and how closed a market you can have. We want to move toward a more open market in European defence.

Lord Maclellan of Rogart: With respect, Lord Bach, there are billions of pounds of taxpayers' money at stake. It is a highly exceptional matter and I wholly accept it. I hope we are not at cross-purposes on that.

Chairman: Lord Morris started this set of questions. I wonder whether, if there are some points to follow up, I might come to you when they have been asked.

Q129 Lord Morris of Aberavon: Unlike Lord Maclellan, I am rather attracted, Lord Bach, by the voluntary approach, properly monitored. It will not have any legal obligations and no sanctions but it seems to me it is the only horse you can run in the foreseeable future. Could we, however, have the categorical assurance that this is not an extension of whatever competence the Commission has? I shade my book in that your earlier robust answer to me regarding what specific competence does the Commission have in the area of defence procurement does seem to be watered down by 296. It might be, for the sake of clarity, if one turns for a moment in the non-paper to paragraph 10 and the fourth and fifth lines I read out earlier, "avoids the potential for confrontation over Commission competence in the area of defence procurement" that perhaps you might feel it right to add the words "save for what is covered by 296".

Lord Bach: I hope I have answered the questions about competence already.

Q130 Lord Morris of Aberavon: We shall study the transcript with some care.

Lord Bach: I hope I have answered the question of where competence lies, but we believe that the proposal that I am delighted Lord Morris at the moment is attracted to is a practical answer to the issue of the competences that the Commission might seek to want to bring on board. We believe that the proposals that we are making, that we are suggesting here, can lead to less confrontation over the issue of what competence the Commission should have and what competence national states should have.

Q131 Lord Tomlinson: I wanted to go back to a phrase that Lord Bach used twice or it was almost the same. He talked about prising open European markets and opening up the market. I fully understand what he is saying. What strikes me as being an imperative of defence procurement is to look at the size of the market. Where in these proposals do we begin to address the adequacy of the size of European defence procurement? Is there not a strong case for those who, on any basis, voluntary or otherwise, are going to participate in discussions on procurement and establish rights, whether voluntary or otherwise, in relation to procurement? Should they not have a minimum level of their own GDP attributed to the market that you are trying to create?

Lord Bach: That is a very difficult question for me to answer. I have enough difficulties in making sure that there is enough United Kingdom GDP put towards our defence needs.

Q132 Lord Tomlinson: You are highly successful by comparison with countries now like Malta, Cyprus, the Baltic States, Luxembourg, Denmark or Austria—or Germany, even the big ones. You are highly successful by comparison.

Lord Bach: Thank you for the compliment. I am delighted by that. I do think that over the years the United Kingdom has done its very best in this particular field and we will continue to do so. I think one has to understand that 25 members of the EU will decide—and nothing will ever stop this—how much they spend on defence and within that how much they spend on defence procurement as such. While we want to encourage in every practical way these countries to add to European capability, I do not think any comment I make about how much they spend or do not spend individually is particularly helpful. In general, we want them to spend more.

Dr Beaver: May I comment that I think this is an area where the European Defence Agency could play quite a useful role in exposing this kind of information amongst Member States.

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Q133 Lord King of Bridgwater: Lord Bach gave the example, in response to Lord MacLennan, about the export system, and of course that is backed up by a major sanction, which is that if there is any transparency and openness, then it is a major political embarrassment if people are seen to be exporting to countries which other Member States, under the common foreign policy, consider to be unacceptable. So there are sanctions behind that, which are rather more powerful, but otherwise I entirely agree with the response that Lord Bach made to Lord MacLennan, for this reason in part. If you actually drew up some system of rules that were going to be rigidly enforced, because of the field you are in which is implicitly recognised by the exemptions, and we talked about Article 296, the necessary exemptions and protection for national security and defence, there would be so many qualifications to the rules that they would be unenforceable. The remedy is that unless you get the goodwill for making this proposal, it will not work because anybody can exploit the rules and they have done so in this field. More widely, the complication arises that nowhere in these papers have I seen any mention of NATO and the NATO collaborative arrangements. To what extent do these interact, because obviously part of the issue underlying this is a determination to build a European defence industry that can more effectively compete with the US defence industry. They are the two big players in this field. There is no mention in here of any of the implications of that.

Lord Bach: I do not think there can be any doubt about the Government's commitment to building up European defence capabilities, both for NATO's purposes and also for the emerging defence purpose of the European Union. We see the two as going side by side; we do not see them as opposed to each other. After all, these would be the same forces that we want to see built up, and the same capabilities built up that can satisfy NATO needs and European defence needs at the same time. This is an EU Commission proposal, and that is why NATO is not specifically mentioned there. From our point of view, and from that of many members of the EU, including I think particularly many of the newer members of the EU, the NATO influence is and remains and will be extremely important. Of course, it is important that there is a European defence industry, in the same way that it is crucial that there is an American defence industry. The one thing that we are absolutely resolved on in all this is not somehow to establish a kind of fortress Europe, which will effectively cut out the prospect of competition from the United States because it is only through competition that national governments can hope to get the proper value for their taxpayers.

Q134 Baroness Park of Monmouth: I am much reassured by the fact that HMG is committed to a voluntary code and not presumably to any kind of

regulation by the Commission. I would like to know what the difference is between what the Government is proposing and what the WEAG (the Western European Armaments Group) has been doing for some time. My other question is: the very existence of this paper makes me wonder whether Mr Solana, wearing his hat as the Defence Minister for the European Council, wanted this paper in order to achieve a greater European control as distinct from national control of the whole defence issue?

Lord Bach: I think I have been fairly brave in front of this Committee today. I am certainly not going to be brave enough to say what Mr Solana wants or does not want from this paper. As far as the first question that Lady Park asked of me, how does it differ?, and I was grateful for some notice of this question, certainly certain elements of our proposed code of conduct are similar to those enshrined in the WEAG initiative. There have been published contracting opportunities as the result of competition but we want to see our code include additional criteria, the creation of a more rigorous reporting system with each Member State reporting to a third party body, which I have already said could well be the EDA; that is, observe the criteria and provide any reasons where it has departed from that. Scrutiny of the reports by EU Member States collectively should, and we hope would, create some peer pressure to persuade nations that to deviate from the code would be something that would be very much frowned upon, in the same way as countries that deviated from the export code. In order for that to have some teeth—and I think this is very important and I repeat a point I have made before—the inclusion of defence ministers in this process as the Agency steering board is crucial. Second, the quality of information of all potential industrial participants with all being treated as being equally eligible and fairly, including subcontractors. Third, disassociating the ownership of a company from the need to ensure security of supply. Lady Park will know, Lord Chairman, that under our defence industrial policy what matters to us more than ownership of a company is whether it provides value in terms of jobs and technology in the United Kingdom. Then more long term, the minimisation of offset as a principle, although that is not going to be effective at all until such a market that we have been talking about is established. Finally, reporting of all instances of state aid that come under the scope of those contracts identified as being exempted under Article 296. In short, extension to the WEAG is what we seek to add to this code. Again, it is early days and we are open to suggestions and recommendations from this Committee.

Q135 Baroness Northover: The Government suggests that the European Defence Agency would be well placed to oversee a voluntary code of conduct. What sort of resources would it need to do this?

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Lord Bach: Here I am going to be fairly cagey, I am afraid. It is a bit early to say what specific resources might be necessary for the EDA to act in a monitoring role. It is something we will need to consider very carefully if we are to do this, and Lady Northover is quite right to ensure that any commonly agreed arrangements were manageable in resource terms. Dr Beaver is the expert on the European Defence Agency. We are hoping that it will start its business by the end of this year or the start of next year. The issue of resources for that Agency I think at the moment is subject to much discussion.

Dr Beaver: The budget is under active consideration and will be put to a meeting of the Steering Board of Defence Ministers on 22 November.

Q136 Lord Lea of Crondall: May I follow that up? As I understand it, there has now been some further elaboration of the board structure of the EDA. It is, arguably, is it not, a very ingenious solution for those people who say the Commission should keep its nose out of it and yet we need a body with some authority reporting to the Council of Ministers? I think that was what was said. I would really like to put the question of how you see the authority of this body in what is always going to be dealing with political hot potatoes. Looking at whether a contract had been awarded for a national contract or for reasons of political convenience: you could not get a hotter political potato than that. You can see that xenophobic newspapers in every country of Europe would make mincemeat of it if you are not careful. Does it not suggest that the three critiques that we have heard of the whole approach—one, that it will never happen; two, that it should never happen because people are getting ideas above their station; and, three, it is not ambitious enough—as to how this thing can run, given the difficulties, may be about right? I am putting the question in that form because clearly there are worries about it such as: is there reciprocation? Will the Americans get an advantage with no reciprocation over there, for example? Does it suggest that there should be more bilateral arrangements there? Would you comment on the picture of how the Agency can help reconcile all these rather incompatible critiques that we have heard around the table?

Lord Bach: That is certainly the intention of this. As you know, Lord Chairman, the United Kingdom Government is a firm advocate of the Agency. The best way we could put it is that we expect the Agency will act as the missing link between the capability and development process on the one hand and the acquisition to actually deliver the capability on the other. As you know, progress has been made in setting up the Agency. The first chief executive will be a very distinguished MoD official, Mr Nick Witney. As Dr Beaver has said, resources and the budget and

staffing are being decided upon as we speak. I think very importantly the two countries that I would claim have been at the forefront of establishing the practicalities of this organisation are the United Kingdom and France. I think given where procurement lies in the United Kingdom is very important. We know that 24 or 25 countries are signing up to become members of the European Defence Agency. That is an encouraging sign as well. We hope this organisation or agency under political control in that the board will be made up of ministers will be able to apply peer pressure in this field.

Q137 Chairman: Is the steering group going to consist of 25 defence ministers?

Lord Bach: The figure is 24.

Q138 Chairman: Who is going to be the secretariat? Is Nick Witney going to be the Secretary of the steering group?

Dr Beaver: Yes, that is the aim, that the Agency will provide secretariat support to the working of the steering board.

Q139 Lord Lea of Crondall: May I ask one supplementary to my question before you leave it? Although it is a non-binding code, this is opening up, is it not, a quasi-judicial role? If the EDA says that this contract has been awarded to a national contractor for reasons of political convenience rather than national security, this is a question of whether it is within or without what we were talking about earlier, am I not right, Article 296? There must be some cross-over between the sorts of judgment it will make in a rather transparent world on whether they are hiding behind the question of national security. How does that tie in with a quasi-judicial role?

Lord Bach: It will form a view presumably on whether a particular procurement has, as you say, fallen within the quite broad parameters of 296 or not. Presumably, if it decides that it has not, for a start it will put some pressure on the country that has done this—whether they are successful or not is another issue—but also no doubt the Commission would be interested in what the EDA has to say on that matter. In the last analysis, presumably it could take proceedings.

Q140 Lord Lea of Crondall: Is that right, Dr Beaver?

Dr Beaver: I think it is also worth pointing out that the Commission itself will, unless the steering board decides otherwise, be represented on the working committees of the Agency. You will not have the Agency working in splendid isolation from the Commission. They have been very involved up to now in meetings. There is a Commission representative and often they can give quite helpful legal advice.

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Mr Fraser: There is a further point that, notwithstanding the existence of 296, and 296 will remain our voluntary code of conduct, if there was sufficient support for that to be introduced among the Member States of the EU, would sit there with Article 296 probably untouched unless there is some decision to change it. What we are hoping to do is, nonetheless, to extend the coverage of the code of conduct to as broad an extent of defence procurement as possible. This perhaps goes back to an aspect of one Lord Maclennan's earlier questions: we would actually be hoping to provide a broader coverage with the voluntary code of conduct than potentially the narrower regulation which the Commission may or may not hope to propose to introduce at some future stage, which they have said would avoid the coverage of items covered under Article 296. So we are actually trying to propose something that is more flexible and more encompassing at this early stage.

Q141 Lord Maclennan of Rogart: My question was really inspired by a desire to clarify some of the answers that had been given earlier. If it is a putative code without any teeth, it would have to be drafted in a way which was not aspirational but with rules which would be of sufficient particularity to bite if they were implemented. *Prima facie* that does not seem very different from the regulatory approach that might be proposed for the Commission's institutions. The main difference would appear to be over the issue of enforcement. So far as drawing up of rules and the observation whether these rules of a putative voluntary code are actually being observed, I cannot see that the resources required would be any less than for those rather dismissively described as bureaucratic resources which would be required for the regulatory approach. Can I take it that resources have very little to do with the preference of the Government for a voluntary code over the regulatory approach?

Lord Bach: The points that Lord Maclennan asks about are covered to some extent in the non-paper. We see some attractions in a regulated approach bringing the transparency that we have talked about already, offering potential to trade on a level playing field, and it might encourage harmonisation of procurement practices in contract terms. The disadvantage that we see to regulation is the negotiation and agreement by 25 Member States of binding rules and procedures. Those negotiations would be extremely complex and contracted and it would take years before they were agreed. We do not think it would take nearly so long for a voluntary set of rules to improve market access and create a level playing field to be agreed.

Q142 Lord Maclennan of Rogart: I have to say that when I read that passage I just found it extremely puzzling because it seems to me that the only explanation for the argument that it would take longer to draw up rules would be not because the drafting of the rules would be a particularly difficult exercise *ex hypothesi*, because they would be the same rules for the voluntary approach or the involuntary approach, to put it that way; the only reason why people would be prepared to sign up to the voluntary approach is because they had a firm intention of simply not implementing when it did not suit them.

Lord Bach: I see the strength of that particular opposition. Of course, if national governments are at risk of being taken to court and receiving some kind of punishment for breaking regulations, they will look with a great deal more care than they will at agreeing to voluntary rules. That is undoubtedly true, but that does not mean to say that a voluntary code of conduct that could be brought into practice within a comparatively short period of time, as opposed to years and years and years, which will have some peer pressure, if I can use that expression again, is worthless. It does not mean that at all, otherwise you would never have voluntary codes of conduct.

Q143 Lord Maclennan of Rogart: They have had voluntary codes under the WEU for 40 years. It is simply inconceivable. I cannot be to understand, after looking at these problems in parliament for nearly 40 years, how there can be a degree of optimism about such a backward-looking approach.

Lord Bach: I will bring Mr Fraser in. I cannot see that this is a backward-looking approach. I believe this is a pragmatic British way of trying to deal with a pretty intractable problem, which is a non-regulatory, voluntary code of conduct with considerable pressure on those who breach it. We are putting it forward and so far it has gained quite a lot of wide support, which is the other reason for doing it. It may be in practice Lord Maclennan is right. I do not think I am being wildly optimistic to expect that he is wrong.

Q144 Chairman: Minister, may I ask you this, because we must bring this session to a close. In the non-paper at paragraph 9 you talk about Member States would open the generality of their procurements above certain thresholds to international competition. Do you see those as being different thresholds for different items for different countries? How do you actually see that working? What does it mean?

Mr Fraser: I think it is too early to give you any indication as to the specificities of whatever threshold may apply. I know it is a rather unusual phrase, "the generality". I think what we are looking at is consistent with the points that have been made before. We are looking for a code of conduct to apply

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to the biggest, widest encompassing range of defence procurements within the EU as possible. That is what we mean by “the generality”.

Q145 Lord Lea of Crondall: I just want to ask whether I did understand Lord Bach earlier to say that there had been close co-operation with our friends in France over all this and if they are going to be singing from the same hymn sheet? Have I got that right? This is relevant to the question of regulation versus a code because clearly having the French on board on something like this would be very valuable in the spirit of the *entente cordiale*, you might say. Did I understand this correctly?

Lord Bach: On the EDA, it is France and Britain who have effectively been the drivers, I would argue, for this. Their interests may be slightly different, I accept that. Of course I accept that, but they have been the drivers for that. You are talking, I think, about the voluntary code.

Mr Fraser: I think what I said was there had been considerable consultation within the industry. We have also initiated consultation with the Member States’ governments. Indeed, we have some further talks in prospect with our French colleagues. We have had a number of discussions with them this year on this. I would say we have a pretty common understanding of the approach that we have got here, which is initially supportive of our code of conduct approach. Of course, the devil is always in the detail. We have not got into the absolute detail yet because we did not want to proceed without too much prescription for fear of frightening people off. We

want to get the broad agreement in principle first and then go down that detailed route.

Q146 Lord Powell of Bayswater: Surely the real gain here is getting more of the stuff out of Article 296? That is where any potential gain belongs. It does not belong with dual use perambulators or whatever; it is getting categories of defence equipment out of Article 296. That is never going to happen if you go the Commission route or try to get a Treaty amendment. That would take years. By your voluntary approach or code of conduct you may well persuade some countries that some things which they would normally include under the cover of Article 296 should in fact be brought out for competition. Of course there is no sanction to ensure it but there is at least a chance of it. If you go the other way and set up a regulatory agency, no doubt to be called ‘Ofbach’, it would actually make this more difficult rather than easier.

Lord Bach: That puts it very well. I have to say that 296 has been very useful for us as well as the 1958 list. The way it is drafted has been useful for us, too. Of course, Lord Powell is right.

Chairman: Lord Bach, thank you very much indeed for coming, and indeed Dr Beaver and Mr Fraser. I think you will have gathered from the questions that the session could have gone on much longer, but there are other things for us to do and we need to remind ourselves that this is a response to a consultation paper, not an inquiry. Thank you very much for dealing with this. I am sure that much of what you have said to us this morning will be helpful to the sub-committee in the preparation of its report on the European Defence Agency, which is still on the way. Thank you very much.

Memorandum by the Ministry of Defence

EUROPEAN COMMISSION GREEN PAPER ON DEFENCE PROCUREMENT

Question 1: “A detailed breakdown of the €20 billion “European” defence procurement budget including the United Kingdom share.” (Lord King, Q87)

The figure of “£20 billion plus” as quoted in the Government’s Explanatory Memorandum was intended to give a broad indication of the current size of the European defence procurement market. The figure itself was derived from the Commission’s own estimate of between €26 billion and €30 billion quoted in the Green Paper and its accompanying publicity material.

In overall terms, in 2002–03, the United Kingdom spent some £11.2 billion¹ on defence acquisition, including the procurement of new equipment and the support of equipment already in service. Included in this overall figure is expenditure of some £6.6 billion² in respect of the procurement of capital items, such as new equipment systems and associated weapons, upgrade programmes and system procurement services such as studies.

¹ This figure covers Defence Procurement Agency (DPA) and Defence Logistics Organisation (DLO) expenditure including the latter’s operating costs.

² DPA Annual Report and Accounts 2002–03, presented to Parliament on 4 December 2003 and DLO Capital DEL expenditure 2002–03.

The table below provides data on *defence equipment expenditure* for 2002 for the other principal European industrial members of NATO, using statistics collected by NATO³. For comparison purposes, the equivalent figure derived from this document for the United Kingdom's expenditure is £5.9 billion. From the same source material, the amalgamated defence equipment expenditure of the remaining NATO states *at that time* (but not including the the United Kingdom) was some £1.7 billion. Where relevant, costs have been converted to Sterling using current Government accounting conversion rates.

With regard to European non-NATO nations who also have significant defence industrial capacity, we have established that Sweden spent some 21 billion Kronor (some £1.5 billion) covering defence equipment acquisition, including certain support costs, during 2002.

Given that the data has been obtained from a variety of different sources, and may therefore have slightly different interpretations of what constitutes defence equipment expenditure, the total figure of some £22 billion for the procurement of capital items should be considered to be indicative only.

<i>Country</i>	<i>Defence Equipment Expenditure (2002)</i>
France	£5.2 billion
Germany	£3.1 billion
Italy	£2.2 billion
Spain	£0.8 billion
Netherlands	£0.8 billion

Question 2a: "A list of European countries with significant defence industries, what these industries are, and the degree to which these industries are state owned." (Lord King, Q120)

Within United Kingdom defence industry, QinetiQ has an element of Government ownership (at 57 per cent), and the Government continues to hold a special share in BAE Systems plc and Rolls-Royce plc. Information on the totality of foreign defence companies is not held centrally. However, a list of major European defence industries has been obtained from the internet⁴ and included as an Annex. The annex includes information relating to State ownership, where this is relevant, and provides the principal market areas in which the companies (and others within the group) are involved. The internet provider indicates that the information is effective as at 28 September 2004.

It should be noted that, for clarity, the extensive information included in the website has been abridged. For instance, the table does not show separately those companies or subsidiaries that fall within a larger group of companies; some of these companies are significant in their own right. In addition, the table does not include over-arching management companies set up to manage certain international collaborative projects (eg Eurofighter GmbH).

Question 2b: "An analysis of the extent to which the Government is buying defence equipment from European partners." (Lord King, Q120)

Financial information relating specifically to the procurement of defence equipment is not held centrally in the form requested. However, the table below provides the extent to which the Ministry of Defence placed contracts against the whole of its business with other European countries during the Financial Year 2003–04. Accordingly, in addition to the procurement of defence equipment, the table includes contracts placed in connection with the operation of the Department, including support and service contracts. The table does not include contracts placed on behalf of the Ministry of Defence by other bodies, for instance, for collaborative equipment programmes.

<i>Country</i>	<i>Value £m⁵</i>	<i>per cent⁶</i>
Austria	3.0	0.7
Belgium	8.5	2.0
Cyprus	4.5	1.0
Czech Republic	0.9	0.2
Denmark	1.1	0.2

³ Figures sourced from NATO press release dated 27 November 2003. Figures converted to £ Sterling using rate of £1 = €1.43.

⁴ Data sourced from the on-line journal "Defence Systems Daily" (defence-data.com).

⁵ All figures rounded to nearest single decimal figure.

⁶ All figures rounded to nearest single decimal figure.

<i>Country</i>	<i>Value £m⁵</i>	<i>per cent⁶</i>
Finland	1.0	0.2
France	196.3	45.6
Germany	86.0	20.0
Ireland	0.7	0.2
Italy	78.3	18.2
Netherlands	8.0	1.9
Norway	1.1	0.2
Romania	0.9	0.2
Spain	35.9	8.3
Sweden	4.0	0.9
Switzerland	0.7	0.2
Total	430.9	100

Question 3: “A note describing how the voluntary code of conduct on arms export is relevant as an example for how a voluntary code of conduct might work in liberalising defence markets.” (Lord Maclean, Q126)

The EU Code of Conduct on Arms Exports was introduced in June 1998 during the United Kingdom’s last presidency of the European Union. The Code committed all EU Member States to adhere to the same criteria for defence exports and to work towards the harmonisation of the interpretation of these criteria. The Code represents minimum standards, which all Member States have agreed to apply to exports of controlled goods. These standards are defined through a common set of criteria to be used in deciding whether proposed exports should be permitted. The Consolidated EU and National Arms Export Licensing Criteria explains how the United Kingdom Government interprets the terms of the Code. The Code does not aim to treat all applications to export military equipment identically across the EU but, where differences in policy and practice occur, allow Member States to judge whether these differences need to be addressed, and to take action accordingly if they do.

The Code of Conduct on Arms Exports leaves decision-making in the hands of national governments but, by establishing norms of transparency and requiring the disclosure of specific information to partners, exerts peer pressure to adhere to the Code. The main mechanism for achieving consistency in the application of these criteria is the system of “denial notifications”. In this respect, EU Member States circulate details of licences they have refused in accordance with the Code of Conduct, with an attached explanation of their decision. Before any Member State grants a licence that has already been denied by another Member State or Member States for an essentially identical transaction within the last three years, it must first consult the Member State that issued the denial. If after consultation it is revealed that the transactions are essentially identical, and the Member State still decides to grant a licence, it must notify the Member State (or States) issuing the denial, giving a detailed explanation of its reasoning. This “undercut notice” ensures that if one country denies an export, its decision will not be quietly undercut by another country supplying the same equipment. The decision to transfer or deny the transfer of any item of military equipment remains at the national discretion of each Member State.

Since its adoption, the Code has contributed significantly to the harmonisation of policies covering national arms export controls. The relatively low incidence of undercutting since its adoption indicates that Member States have a similar interpretation of the Code.

Our positive experience with the Code on Arms Exports gives us grounds for confidence that a similar agreement could be effective in encouraging the harmonisation of procurement practices in Europe. Although the details of the proposed Code of Conduct on Defence Procurement have still to be developed, we believe that the use of similar, although clearly not identical, processes will provide the EU Member States with significantly improved transparency of the European defence equipment market. In particular, the concept of requiring Member States to report contracting opportunities and subsequently to explain where and why they have invoked Article 296 should provide a means by which Member States can apply peer pressure on others where this might be necessary.

Annex

<i>Country</i>	<i>Company name</i>	<i>Degree of State Ownership</i>	<i>Industrial sector(s)</i>
Pan-European	EADS	15 per cent owned by French Government	— Aircraft — Helicopters — Space launchers — Aero engines — Unmanned Air Vehicles (UAVs) — Armaments/ Ammunition — Missiles — Communications
	MBDA	37.5 per cent owned by EADS (part owned by French Government), 25 per cent owned by Finmeccanica (part owned by Italian Government)	— Missiles — UAVs
	Astrium	100 per cent owned by EADS (part owned by French Government)	— Space launchers — Satellites
France	Thales	31.8 per cent owned by French Government	— Aircraft — Armaments/ Ammunition — Defence Electronics — Sonars — Missiles — Warships — Submarines
	Dassault Industries SA	46.5 per cent owned by EADS (part owned by French Government)	— Aircraft
	Groupe Industriel Marcel Dassault (GIMP)		— Aircraft — Electronics
	SNECMA Group	97.2 per cent owned by French Government	— Aero engines — Aero systems
	Group SNPE	99.7 per cent owned by French Government	— Explosives
	Direction des Constructions Navales (DCN)	100 per cent owned by French Government	— Warships — Submarines
	GIAT Industries	100 per cent owned by French Government	— Armoured vehicles — Armaments/ Ammunition
	CMN		— Small Warships
	Panhard et Lavassor SA		— Armoured vehicles
	Renault V.I		— Armoured vehicles
SAGEM		— Electronics	
CAC Systems	55 per cent owned by EADS (part owned by French Government)	— UAVs	
Germany	Rheinmetall DeTec AG		— Armaments
	ThyssenKrupp AG		— Warships
	Dynamit Nobel GmbH		— Explosives
	Zeiss Optronik GmbH		— Optronics
	Diehl Stiftung & Co		— Munitions and missiles
	Wegmann & Co GmbH		— Armoured vehicles

<i>Country</i>	<i>Company name</i>	<i>Degree of State Ownership</i>	<i>Industrial sector(s)</i>	
Spain	Bremer Vulkan Marine Schffbau GmbH Abeking & Rasmussen	100 per cent Spanish Government owned	— Warships	
	BMW		— Mine counter measures and patrol boats	
	SEPI (State Holding Company)		— Aero engines	
	Industria de Turbo Propulsores (ITP) SA		— Aircraft — Warships — Submarines — Weapons — Electronics	
Italy	Finmeccanica	Part owned Spanish Government	— Missiles — Helicopters — Aircraft — Avionics/Radar — Electronics — Weapon Systems — Space — Communications — Warships	
	Fincantieri SpA	35 per cent Italian Government owned	— Warships — Submarines	
	FIAR SpA Fiat SpA		— Electronics — Aero engines — Ammunition — Armoured vehicles	
	Sweden	Bofors Defence AB Ericsson Microwave Systems AB EURENCO Bofors AB		— Ammunitions — Electronics — Propellants — Explosives
Kockums AB			— Submarines — Surface vessels	
Land Systems Hägglunds AB Nammo Sweden AB			— Military vehicles — Ammunition — Pyrotechnics	
Saab AB Volvo Aero Corporation			— Aerospace — Military engines — Aerospace components	
Norway		Kongsberg Gruppen ASA	51 per cent Norwegian Government owned	— Missiles
		Raufoss Technology A/S	50.3 per cent Norwegian Government owned	— Ammunition
	Kveerner Eurakass		— Armoured vehicle turrets	
Netherlands	Nammo A/S		— Ammunition	
	RDM Holding		— Armoured vehicles — Helicopters — Artillery — Submarines	
	Stork Holdings		— Aircraft assembly/ Aerostructures	

<i>Country</i>	<i>Company name</i>	<i>Degree of State Ownership</i>	<i>Industrial sector(s)</i>
Switzerland	IHAG Holdings, Hoffman-La Roche, Hilmar Hilmarsson Consortium RUAG		— Training aircraft
			— Ammunition
			— Electronics
			— Vehicles (maintenance)
			— Aircraft (maintenance)
	SIG Arms International AG		— Small arms
			Motorwagenfabrik AG (MOWAG)
Austria	Hinterberger AG Steyr Mannlicher AG		— Ammunition
			— Small arms
Portugal	Empresa Portuguesa de Defesa	100 per cent owned by state holding company	— Ammunition — Aerospace — Shipbuilding — Electronics
Denmark	Terma A/S		— Avionics
Finland	Patria Industries	73.2 per cent Finnish Government control	

Source: Defence Systems Daily on-line.

NB.

1. Company names refer to core companies. They have been grouped according to the geographic location of their core elements. Details of companies within the large grouping, including subsidiaries and those in other countries, are not listed but can be found on the Defence Systems Daily website (defence-data.com).
2. Ownership details limited to State involvement.
3. Only the main industrial sectors of the core companies and their subsidiaries are listed.

1 December 2004

MONDAY 17 JANUARY 2005

Present	Bowness, L (Chairman) Dykes, L Hannay of Chiswick, L Lea of Crondall, L	Maclennan of Rogart, L Morris of Aberavon, L Tomlinson, L
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Examination of Witness

Witness: MR NICK WITNEY, Chief Executive, European Defence Agency, examined.

Q147 Chairman: Mr Witney, thank you very much indeed for seeing us. I will not take a lot of time. I am sure you have already been told by our Clerk that we are the Foreign Affairs, Defence and Development Policy Sub-Committee of the House of Lords European Union Select Committee. One of the inquiries that we have on hand at the moment is looking at the European Defence Agency, which, and congratulations, you are now heading up as Chief Executive. We have a number of questions we would like to put to you. We hope that after we have taken evidence from you we will be in a position to produce the report. The evidence of course is being taken down and you will be given a transcript. Perhaps I can ask you to make the presentation which you have so kindly prepared and then we can move on to questions. I am sure that would be agreeable to everybody.

Mr Witney: Thank you, Chairman. Let me first introduce Laure Frier, who has been with me since the very early days of the Agency establishment team last year and who has been recruited to work with our Planning and Policy Unit, the Secretariat of the future Agency. I have a short presentation. I have hard copies. They may be helpful. I have two other handouts, which I do not propose to circulate now. One is the press release of last November which attaches our work programme for this year, which you may or may not be familiar with. The other is a background note, which I see we produced last May. Give or take one or two anachronisms—for example it foreshadows a €25 million budget for this year—it is, frankly, the best piece of paper we have of the kind which describes what we think the Agency is about and are trying to do. If those are of use, you are welcome to take those away. (*Slide presentation*)

This is about a dozen slides. A good place to start is with the aim of the Agency. This is taken verbatim from our founding documentation. There are several points I would like to pick out of this and, first of all, the fact that it says “To support the Member States in their effort . . .” I think that is quite fundamental to the nature of this Agency. It is not some supranational body which will attempt to hand out fiats to the 24 participating Member States. It is very much there as a handmaiden, an auxiliary brain I hope, of the Member

States, but it will work, or not work, depending upon the decisions that individual participating Member States take.

The second point is that it is there to help them in their effort to improve European defence capabilities. The mission is about improving European defence capabilities. Does this mean that this is a capabilities agency and not an armaments agency? No, it does not. Armament, research and technology, other aspects of our work, are fundamental to the purpose of the Agency. It does mean that this is to be a capabilities-led agency, and one in which the capability needs of the ESDP should be the main driving force of what our activity amounts to. It is about defence capabilities in the field of crisis management, external action in the jargon, what Europe may or may not do overseas beyond its own borders, not territorial defence. We are trying to help the Member States in their efforts to sustain the ESDP as it stands now and will evolve in future, which means that, as we interpret it, we have a duty to think about what may be problematic in two months’ time in Bosnia and what the ESDP might need not just in 2010 but maybe in 2020 or in even longer timeframes. As I said, we do have other functions apart from talking about capability development.

The four main functions are listed in the joint action. They are probably familiar to you: defence capabilities; armaments; the industrial and technological base and linked with that the idea of producing a more effective European defence equipment market; and research and technology. It is a wide spread of responsibilities. I am fond of saying that clearly from this we are not invited to meddle in operations. Clearly from this our views are not sought on matters of defence policy and strategy, but pretty much everything else that is defence could fall within that purview. I think that is both logical and necessary. It is logical because you have to deal on pretty broad fronts to answer to the impulse which gave rise to this Agency over the last 18 months or so in the first place. I think these were the sorts of judgments that were being made: that Europe was under-performing on defence and that is a fairly familiar reflection over quite some period of time in the trans-Atlantic burden-sharing context; an

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increasing realisation that as Europe's ambitions for external action became more clearly articulated, particularly through the European Security Strategy, capabilities were needed to back up ambition; and, with the failure to reach the Helsinki headline goal, it looked as though the delivery of capabilities was not keeping pace with a degree of ambition for ESDP. Was there a problem of not enough money? Possibly, and it might be nice if everybody increased their defence budgets but €160 billion spent across the 24 participating Member States in a year is still a huge amount of money in absolute terms and arguably we are not getting a very effective return on that investment across the piece. If one feels that the 24 participating Member States collectively could do better with what we spend on defence, you have to ask why and what is the root cause of the problem. The diagnosis that was offered last year in the Agency's establishment team's work was this issue of fragmentation, that we are simply doing too much on a national basis whereas increasingly to be effective you need to work on a more continental scale, both on the demand and on the supply side. We should be doing more to bring our requirements together rather than constantly running separate and competitive new programmes for slightly different versions of whatever the next generation of equipment is. There is more to be done in terms of bringing together the way we operate and our procedures and processes and therefore more collaborative programmes. It is as simple as that. That in itself would create the conditions in which further industrial restructuring could happen. It is a judgment that I certainly think in some areas of the defence technological and industrial base some further consolidation probably is necessary if European industry is to survive in a globally competitive world. None of that is a terribly original analysis. I think perhaps more interesting is the point at the bottom. If this is the problem and if many people have tried to address it over many years, why should the Agency be any different? Hopefully, it is because we do have such a broad range of activity and can interrelate activities the one to the other. We have to ask ourselves why many generations worth of efforts to produce more collaborative armaments programmes have not worked. I think the answer is because these efforts have tended to be conducted in small corners by people who are effectively invisible to their defence ministers and who lack the impulse of having their efforts tied to the requirement needs of the military staffs working for future defence capabilities. This gives rise to the concept of an agency as something that tries to pull these efforts together, to act as a sort of systems integrator across these various domains of armaments and capabilities, which hopefully will be in a position to provide analyses and present them to our defence ministers and to inject proposals for what

might sensibly be done, a sort of conscience and catalyst role, and to be there as a lever for our Steering Board and defence ministers to call on if they so wish.

This is a big ambition, with a small agency to do it. We have 77 personnel in our budget of €20 million for this year, which includes €3 million as seed corn money for research or buying in operational analysis or external advice according to our needs. There is provision for additional budgets to be given to us, entrusted to us by clubs of Member States. One example, and this may happen this year, I hope it does happen, is that I would expect a club of Member States to give us a sum of money to pursue technology demonstration of uninhabited air vehicles, or UAVs. That is an element in our work programme. We will see whether that comes to pass. That is quite a small ginger group but I think we have some comparative advantages. One is that the Head of the Agency, my boss, is Javier Solana. He brings political clout to the process and chairs this unique arrangement of a Steering Board with defence ministers in person. It has met twice already and we envisage it meeting at least twice a year, and perhaps more frequently in subordinate formations, such as R&T directors. We have the privilege of a direct relationship with those 24 defence ministers. Those arrangements are crucial because, at the end of the day, we are talking about 24 national defence budgets and this Agency will work or not according to whether its influence and its proposals get some changes made in the national decision making about how each of those budgets are spent. It is also what I like to call a "big tent", by which I mean that not everything has to be done by 24 people holding hands and travelling at the pace of the slowest. We have an arrangement whereby, under the umbrella of the Agency, two, three or four people can come together and do a collaboration that can be got on with together with the Agency's assistance without number $n + 1$ saying, "Oh, no, we will not agree that unless we are part of it". It is possible to have these closed collaborations and proceed without everybody saying that they too want to jump on that particular bandwagon. I do think that because of the agenda we have been set we should be well placed to identify the links and synergies between the different agendas, to put together emerging real capability needs with, let us face it, what it might suit industry to do or where promising technologies are available. I think it is through the cross-fertilisation of these different agendas that the best proposals will emerge. What do we actually need to do? Our work programme for this year includes a lot of work obviously setting ourselves up, and that means working out not merely how to do the payroll, which has taken us about three months to sort out, and I am glad to say we have resolved that. We have new

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offices to find, and there is the recruiting process. At the moment, we have made 24 appointments out of 77 and there is a big recruiting process to be done in the first half of this year. It also means getting the relations right with participating Member States, setting up the working groups, the structures, the panels, the habits of dialogue, and indeed with a great many other stakeholders, many other organisations around Brussels and further afield.

Departing trains: there is a lot going on in Brussels and whether we think something is a priority or not we need to get a hold of that. A couple of examples have been driven by the Commission: a big space agenda, a big security research agenda. I am not an expert on either of those. I know we do need to find out what is going on and work out to what extent we should be involved. We have identified four flagship projects, and apologies for the acronyms: C3, command, control and communication. That is a capabilities study which will begin with a joint study with the EU military staff to look at most pressing operational needs to see if we can think of useful things we could do to satisfy those where the shoe is pinching. UAVs—uninhabited air vehicles—is the research and technology flagship. Armoured fighting vehicles: the Armaments Directorate is going to look across the piece at the armoured fighting vehicle programmes and technologies and see if we can identify scope for some convergence of needs, R&T programmes and procurement programmes, again with an eye perhaps to creating conditions in which that element of the land systems industrial sector could consolidate. Finally, the European Defence Equipment Market where again the Commission has put proposals in the field, as you know, and where we need to make our own contribution very quickly. There are a number of other specific projects and initiatives mentioned in our work programme, which will tend, I think, to fall more into the latter half of the year.

Lastly, we must, by the end of this year, identify what we think is the right way ahead for the Agency. I say “we”; that is what the Steering Board will wish to identify as the right forward plan for the Agency, and I hope also forward plans for them because if you believe, as I do, that at the end of the day 24 national decisions are going to be fundamentally important to change, if they are going to hold me accountable, I would like, in the nicest possible way, to hold them accountable in turn to change things in ways which make sense on the basis of targets to which they sign up.

What will success look like? This is not terribly original: a better funded and better focused European R&T effort. You can read the words. The emphasis is on things coming together on a slightly more continental scale and culminating in the production of better defence capabilities pursuing the

aims of the headline goal 2010. Will we succeed? To belabour the point again, it is really all down to the Member States. Provided we do our bit and identify what ought to be done and provide attractive solutions to clearly analysed problems, it will be up to our shareholders to act or not act, but it is also, I think, fundamentally important that the Agency’s culture is right. I can get very boring on this subject. This is going to be very small. It will only survive if it is very open, very outward facing, and there is constant dialogue with its shareholders, the participating Member States, its stakeholders. If it becomes locked into the culture, which sometimes can be found around this capital, of indulging in turf warfare or believing that within the confines of the Agency wisdom is to be found which must be imparted to others, then we will be dead. This is going to be a place where we genuinely consult and pinch all the best ideas of other people. That is all I would say by way of introduction, thank you, Chairman.

Q148 Chairman: Thank you very much indeed. I am sure members have questions. You listed amongst the flagship projects the European Defence Equipment Market. We have seen proposals before the Commission. The Government have said that they are not looking for a regulated defence market and think that there should be a voluntary code of conduct which would be monitored by your Agency. This proposal caused the Committee some concern. Can you tell us perhaps what your views are about it from the Agency’s point of view?

Mr Witney: At the most recent meeting, the second ministerial Steering Board of the Agency last November, first of all the Steering Board issued some conclusions which welcomed the thrust of the Commission proposal and welcomed the idea that, yes, work needs to be done to create a more genuinely open,¹ competitive equipment market in Europe. Having welcomed the thrust of the Commission ideas, it then asked us to do two things: one is to produce a proposed Agency input to the Commission’s consultation; and, two, to consider whether there was anything that we thought we could do on a parallel track as a complementary activity. We bring those two remits back to the Steering Board when it meets in National Armaments Directors formation on 2 March. We have a widespread consultation going on at the moment. My guess is that we are likely to end up with a position that says something like: we should not be against the idea the Commission has offered, a move towards greater regulation in this market. There is much to be said for a level playing field that is legally enforceable if you can get there, but it will be a long slog to get there. It will take an awful long time, years, many years probably, and certainly in the interim as a

¹ See self-correction in subsequent answer.

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complement to this I think we would be interested in working on the idea of a code of conduct approach to increasing competition in the European Defence Equipment Market on a more inter-governmental basis, something that the Agency might orchestrate and police.

Q149 Lord Maclellan of Rogart: I have one preliminary question, a machinery question: I am not quite clear whether your accountability is directly through the Steering Group to the Council of Ministers or some other body and, related to that, whether you could be a vehicle to act upon references from the European Council. We have been talking about how you relate to individual member governments. Have you any expectation on how you will react to the Union institutions as a whole? Secondly, and more particularly with respect to the matter that our Chairman raised, how do you approach the issue of assessing whether external material, from the United States for example, might be a better option than the internally produced options? Is there any incompatibility between looking at what is produced externally, the goal of creating a European self-sufficiency? Those are sufficient questions.

Mr Witney: Neither is easy. This Agency has a unique status. There are a number of agencies which are attached to the Commission which are, I suppose, largely conduits for expenditure programmes. They have large staffs and large budgets; they are clearly designed to take forward this or that spending programme within Europe from the European Community Budget. The Union has only three agencies, two of which were inherited from the Western European Union: the Security Studies Institute in Paris and the Satellite Centre in Torrijón, both of them very small, nice, stand-alone, single product agencies producing satellite imagery and security studies. We are a strange beast. Half in and half out is the best way I can describe it. The joint action says very clearly we are part of the single institutional framework of the Union, whatever that means, so we have this unique arrangement of answering to a Steering Board comprising defence ministers, but at the same time we are also answerable to the Council. The link is provided by Solana as the Secretary General and High Representative who is also Chairman of the Steering Board. We will get guidelines from the Council for the work of the Agency. We will get a budgetary framework from the Council for the work of the Agency. The 2005 Budget was, exceptionally, agreed by the Council specifically for this year. The idea is that from here on in next autumn a three-year budgetary framework should be agreed by the Council, and then filled in year by year by the Steering Board to provide exact figures. There are these two routes. Certainly we are actionable by

the Council. As for the market issue and the trans-Atlantic dimension to this, I am quite clear that if in working on a European Defence Equipment Market we tried to deal with the question of whether that means London should cease to buy from North America or, contrariwise, that Paris should be more open to buying from North America, we would get nowhere. These are major strategic issues, which will not be solved on my watch. I think you can make progress on a more competitive, genuine defence market where European countries are more prepared to buy from each other and leave this external dimension to one side as something too tough and not agreed. I would do what the Steering Board tells me to do but I hope we can park that issue as simply too difficult for now. I should also use this opportunity to correct myself when I talked earlier about the Steering Board having referred to endorsing the idea of a more open and competitive European defence equipment market. It did not. It talked about a competitive European Defence Equipment Market because some people were worried that the inclusion of the word "open" might have suggested open to North America and that is neither ruled in nor ruled out.

Q150 Lord Hannay of Chiswick: On the institutional side, could you clarify in my mind at any rate: is anything about the EDA dependent upon the Constitution and how it turns out or is it completely freestanding from that operation; i.e. if the Constitution never came into effect, would the EDA still operate in all the functions that you have told us about, or is there some dependence upon it? If there is a dependence upon it, what would be the change when the Constitution comes into force, if it does? Secondly, could you comment a little bit on this? You talked about the problems of fragmentation and the need to try and remedy that. Could you comment on to what extent the remedies, in your view, are likely to be to get everyone or most people to buy the same equipment, the interoperability, or to what extent it will give rise to the actual need to have dedicated things which are available for everybody but are not split up into 25 little national bits?

Mr Witney: I am not aware of any particular feature that would arrive with the Constitution which we will spend the next two or three years wishing we had right now. If the assumption is that the Constitution is ratified, then my understanding is that our legal basis, our joint action, falls away like all joint actions. The Constitution talks about the need for another European decision to set up the Agency. We will need a revised legal base. I think that could actually be quite timely. The present joint action talks about a review after three years. It probably will be in that sort of timeframe the right time to be thinking: all right, we have had a couple of years of experience,

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how can we reform things to do things better? As I say, I think in the next two or three years we can make perfectly good progress. There is not a further and better option foreseen in the Constitution which I wish we had today. Your second point is about whether everybody is involved in everything or whether there should be some more specialisation? I honestly do not know. It is hard to escape the logic that it cannot be right for 24 European countries each to try to maintain the full swathe of capabilities. We know that they do not. Not even the biggest defence players any longer believe that they can maintain fully comprehensive capabilities across the complete range from A to Z of a world-class nature. We are beginning already, each of us, to make our own decisions about what bits of capability we give up and where we concentrate our efforts. I think there will be a role for the Agency in helping people to discuss that and perhaps do it in a rather more co-ordinated way. We are already seeing the Czechs wishing to play to their long suits of NBC capabilities and so on. I imagine within the dialogues that we shall encourage within the Agency that sort of thing will be considered.

Q151 Lord Hannay of Chiswick: Could you give any examples of areas where it is most likely to become acutely necessary?

Mr Witney: No, not at this point.

Q152 Lord Tomlinson: Can I add to that? If you cannot give any areas where it is likely to be acutely necessary, why is there such an imperative for it at all?

Mr Witney: Because we do not need 11,500 main battle tanks in Europe, which according to the IISS is the inventory today. This cannot be a sensible use of our funds.

Q153 Lord Tomlinson: Why not do it within NATO?

Mr Witney: Indeed, and I do not think there is anything that we do which we would regard as bread snatched from the jaws of NATO. I absolutely do not see the future activity of this Agency as a zero sum game with NATO. I think to an extent there are two separate organisations, I was going to say, but they are not quite that because NATO is an elephant and we are a midget in terms of current numbers, and indeed in terms of our institutional position. A treaty organisation is very different from an agency that supports Member States. But we do have different memberships; we do tap into different political impulses in some of the Member States. Provided that we talk to each other and avoid tripping over each other, I think that what we do should be good for NATO and almost certainly the converse is true as well.

Q154 Lord Lea of Crondall: I was struck by the first blob of your third slide which says Europe is under-performing on defence. That sounds like you are going a bit wider than the question of defence procurement, and indeed we know you are going a bit wider than that question. My question really arising from that is: are we clear? Are the Member States transparent in all their statistics of what they are doing in terms of their defence capability or will you be developing a statistical base? Is this something which a Member State could veto and say, "No, I do not want to produce any more statistics on that"? Assuming you will produce an annual statistical report, it will show some backsliders and some people who are doing rather better. That must be the case if some people are under-performing and other people are doing better than others. Mr Witney, can you say whether that implies you are working towards a benchmark of what would be a satisfactory level of performance and that presumably all 15, or is it now 25, must have voted for this and agreed "Why an Agency?" in answer to the first question: "Europe is under-performing on defence". Can you say a little more about what you mean by "under-performing"? Is it more than procurement? That is to say, is it that the defence capability, and I mean the fighting capability, is weaker than it should be as provided by some Member States? If that is part of what you are addressing, can you give us a timescale or a feel for how you are going to address that?

Mr Witney: This is the danger of headlines, is it not? I think that refers basically to two things: yes, shortage of capabilities, things like the failure to hit the Helsinki headline goal, and the condition in the defence technological and industrial base where I do not think anybody could feel comfortable about the strength and profitability of at least the defence elements of European defence companies. I think that suggests one spending statistic that we ought to take seriously. We probably are just not putting enough money into research and technology in defence in Europe. That is not provable; that is a sort of judgment. We will find out as we go along what Member States are prepared to share with us. One of the very first things we did last autumn was to write to everybody and say, "Could we please know what your budget plans are?" No-one objected. I think we have had 22 out of 24 results in. We are of course left goggling at material which we were not smart enough to specify correctly in advance, so some people are pensions inclusive and some people are pensions exclusive, and I am not quite sure how we are going to take that forward. One of the things we might do is talk to people like the IISS, for example, who have quite a lot of expertise in trying to get defence spending statistics on to a uniform basis. That is certainly part of what we should be doing, gathering together facts and analysis and holding up a mirror

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to 24 Member States and saying, “Are you happy with this?”

Q155 Lord Lea of Crondall: Can I just ask you a supplementary because I think it is very useful to develop that train of thought? Now that you have received rather incomprehensible answers and IISS do a little bit of this, in order to compare apples and apples next year and oranges and oranges, you will presumably now refine your questions for the statistical data for next year. Is that right?

Mr Witney: Yes. As for targets, well, what will the market bear? Would 24 participating Member States, represented just by their defence ministers, agree: yes, we will devote a minimum of 3 per cent of our GDP to defence in the future? I doubt it. Would they accept a target which was something like, “At the moment you spend 3 or 4 per cent of your research and technology budgets collaboratively; will you commit yourselves to trying to do better on that—say 5 or 10 per cent over the next couple of years?” I think that might be more accessible. We will have to work this out as we go along and see what the market will bear.

Q156 Lord Morris of Aberavon: Thank you very much for setting out so helpfully what you hope to be doing. I notice in particular your words under the “big tent” point of closed collaboration. What can you do about it? There is a need obviously for substantial improvement on spending of existing amounts of money for defence, but there have been successes over the years, and there have been failures too. One of the problems is that when there is agreement for closed collaboration, then you get at the very last minute a reduction in the amount of orders for particular aircraft, and that puts the whole caboodle back. Principally what I would like to know is this: why could not existing organisations do what you are hoping to do and how do you relate to NATO, following the point made earlier? You washed your hands of two important areas, as I understood it: buying American and trying to influence some national markets. That may be very appropriate because it is a very difficult point, but precisely what do you hope to be doing and what do you hope to achieve, say, three years from now?

Mr Witney: I will answer that question at the end of the year. One of the things that we have there in our work programme is to set ourselves and other participating Member States targets, in so far as we can quantify targets, either input or output targets. What we hope to do is deliver on our work programme for this year, which involves setting ourselves up, beginning to understand and hopefully play a role in some of the relevant agendas which are being run through Brussels, delivering on our flagship programmes, and doing some of the other things in the work programme; for example, the test

and evaluation base across Europe. I am still looking for the killer fact about how many wind tunnels exist in Europe. We do not need the capacity we have. There is scope for rationalisation. It should be done. It will be very difficult politically. In an ideal world, I would like to see savings that came out of that flowed into research and technology budgets. What progress will we make with that? We will go after the facts. We will present the facts. We will try not only to present the facts but to suggest intelligent solutions as to what the answers might be to rationalise this rather wasteful set of services across Europe. The proof of the pudding will be whether Member States are prepared to act on those.

Q157 Lord Morris of Aberavon: Is your very existence the result of a failure of existing bodies?

Mr Witney: It is an acknowledgment that there is scope for even more to be done than what has been done by some existing bodies so far. One can distinguish, I think, between different existing bodies. Sometimes, for example, OCCAR is mentioned in connection with the Agency. My own view is that that is, certainly in the short to medium term of the EDA’s existence, a very complementary body. I think where we finish is roughly where OCCAR starts in terms of procurement and we should work together in a very harmonious partnership for the first while at least. The situation is different in the Western European Union Armaments Organisation, and indeed ministers of course decided that the Armaments Group should close down so that we can occupy the area they have occupied and hopefully do better than they did, I think largely because we will have this ability to relate consideration of possible armaments collaborations to wider issues of capability need, which has been what has handicapped WEAG activities to date.

Q158 Chairman: Before I ask Lord Dykes, perhaps I could just ask you because we were trying to work it out on the train, what OCCAR stands for and who does it belong to? Some of us did not know.

Mr Witney: It is *L’organisation conjointe de coopération en matière d’armement* (Organisation for Joint Armament Co-operation).

Q159 Chairman: Who belongs to it?

Mr Witney: There are now six members. It was the big four—United Kingdom, France, Germany and Italy—and then the Belgians joined and now the Spanish have joined or are joining. They have taken the decision to join.

Q160 Chairman: Is it outside the framework of the EU altogether? Is it coincidental that all the members are members of the EU?

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Mr Witney: It is freestanding, set up by an international or inter-governmental deal.

Q161 Lord Dykes: You have mentioned about the externalising of the matter of France and Britain for the moment because of their particular propensities, connections and history in matters of defence procurement. Were there at least frissons of resentment and disappointment among some of the other countries involved? Were their defence ministers on the Steering Board? You said “for the time being”, and of course that can mean a long time or it can mean a short time and this is very early days anyway; we appreciate you are walking on eggshells at the moment in creating this entity. Do you feel that there will be pressure eventually both from within those two countries and from others outside, like Spain and Italy and so on, really to get people to start working together on common procurement and reduce those nationalist coefficients?

Mr Witney: I think you just have to believe in the power of a good idea, which may be a little naïve but I think if we keep on offering up proposals which just make sense, at least some of them will stick. I am pretty clear that the mood on the Steering Board is that people want to give this a go, but whether there is an element of St Augustine about it—yes, but not perhaps just yet—is what we wait to see.

Q162 Lord Dykes: Was it diffusing a situation rather like Gordon Brown and Tony Blair deciding not to join the euro for the moment? Was it similar to that?

Mr Witney: I can think of two or three fairly hard fundamental issues of strategy where you are never going to get a consensus between participating Member States right now, but I can think of several hundred issues where there does actually seem to be a sense of a readiness to adopt a common approach. It is not for me but for the Steering Board to tell us what to do but I would rather leave the hard points to one side where possible and concentrate on doing good where there is a consensus and where there is a tide running, I think.

Q163 Lord Dykes: On a do-able item?

Mr Witney: Yes.

Q164 Lord Dykes: Equally, does the St Malo background now actually also begin to be a bit of a catalyst to that process because of France and Britain working together?

Mr Witney: I suppose that is the latest impulse for the Agency, and it is like all these things: how far back do you go? The Le Touquet summit in February about two years ago was the last major definable impulse that pushed and created the situation we have today. Those capitals are two very important supporters and shareholders in this enterprise.

Q165 Lord Dykes: Again, it very early days and this is the formative period, so forgive me, but has there been a particularly interesting reaction from the leading corporate defence manufacturers and suppliers of equipment in any of the countries, Britain and so on, about the creation of the Agency?

Mr Witney: There has been a lot of interest and enthusiasm. This morning the boss of Finmeccanica popped in to make sure that we were getting on with it. He is also, as it happens, this year the President of the trade association for all the defence industries in Europe. Yes, I hear a lot, particularly from the big companies. I think we must also be interested in some of the smaller and medium-sized enterprises, whose voice is sometimes a little more difficult to hear. Last summer the EADS took notice of our arrival in a rather damning way, saying, “small staff, small budget and a missed opportunity”. I think they have perhaps come round to recognise that a small beginning was inevitable and right and that it has its advantages and there is good that we should be able to do without necessarily having to have the budget and run the programmes ourselves.

Q166 Lord Tomlinson: Earlier on you spoke about the difficulty of staying outside some of the turf wars that take place in Brussels. You have also mentioned the importance of research and technology. Do you think the Commission are trying to drag you into a turf war by their proposals in relation to the seven, the framework programme, or do you share the view that has already been very clearly expressed by some representatives of government that the work of the Defence Agency should not be in any way an access route to research and development funds of the European Union?

Mr Witney: I hold two slightly contrasting but not incompatible beliefs about this area. One is that it is absolutely right that in the real world it is increasingly difficult in many instances to distinguish clearly between what is relevant outside and what is relevant inside. Terrorism does not necessarily respect frontiers; the external/internal security of the Union are something like two sides of the same coin. When the proponents of the European Security Research Programme say that the technology which will enable the Swedish Fire Service to speak to the Swedish Police is actually the same as the technology which would enable contingents in Bosnia to speak to each other, I think this is just true. The companies that will provide that technology are the same. So in the real world there is considerable blurring across this borderline. On the other hand, a defence ministry is a defence ministry and a justice and home affairs ministry is something else. Each of them has their own separate responsibilities in national administrations; they have their own budgets and they have their own ministers. What we in this

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Agency are concerned about is defence research and technology, which is the province of defence ministers. I think the reality of this distinction has to be acknowledged. The trick then must be to work across that somewhat artificial boundary in practical terms so that, for example, I hope we will have a great deal of transparency between whatever may happen under this security research banner and between what we get up to, the sharing of results and cross-funding, because our founding document does allow the European Commission not to contribute to our running costs; we are funded by our shareholders, but that does allow the European Commission to give us chunks of money to do particular bits of research on their behalf if that is what they want and we are happy to do it. I hope we can both respect this necessary formal distinction and then get on with working in practice so that it all happens in a mutually complementary way.

Q167 Lord Tomlinson: Do you believe that that is a wish that has a great deal of realism in it? Is it not perhaps the case that people like Liikanen and Busquin when they were putting forward the proposal to establish the expert group that came up with the proposal in relation to the quantified sum of money they saw being made available earmarked specifically in the security area were doing that with their hands on their hearts saying, “and this is in recognition of our support of the Member States in their efforts to improve European defence capabilities” or were they seeking to get themselves engaged in an area which institutionally is not theirs?
Mr Witney: I know that some people did feel that the six or seven priority areas for the ESRP which were identified did seem to butt up quite closely to this fence line that I was describing between the two areas, if not in some cases to look like a bit of an overhanging branch. That was an old Commission. Commissioner Verheugen attended our Second Ministerial Steering Board and spoke very warmly about (a) the need for the European Defence Agency and (b) his wish that the relevant Commission services should work in a fruitful partnership with us. On the whole, I think we have not really had time to have too many contacts with relevant Commission staff but that is not shaping up to be a turf war, I do not think. I may regret offering that perception in six months’ time but that is the way I am feeling about it at the moment.

Lord Tomlinson: Your perception is welcome.

Q168 Lord Morris of Aberavon: I hope I am right. What is decided to be spent upon defence depends upon one’s military philosophy. Has it been considered whether it should be part of your remit to rationalise military philosophy in each different country or at least sufficient to achieve a particular

object? Many years ago, more than 30, during the Cold War I had a little part to play in building tanks. Our philosophy and the Germans’ philosophy on the common component were quite different. The Germans wanted to build Leopards, which were fast; we wanted to build heavy armour, yet we were going to fight the same war. Is that part of your remit? Why not? Secondly, if I could come back to one of my original questions, could not NATO do all this or is it an admission that the existing machinery has failed?
Mr Witney: I think in theory there is quite a clear cascade of who is responsible for what, which again is not so easy to operate in practice. By “cascade” I mean that defence ministries, defence ministers, national governments, are responsible for thinking about defence policy and coming together within the Council and agreeing a European Security Strategy, high level statements of what Europe aspires to be able to in the world, and therefore that has implications for the missions. You can go on from the Petersberg tasks and Helsinki goals and headline goals to derive an increasingly detailed account of what the military requirements are if you are going to satisfy that, if you are going to produce that kind of capability. When you are getting into joint military requirements, you are really in the realm of authority of the EU Military Committee and the EU military staff. The simplistic way of representing the position would be to say, “They do the requirements and we do the solutions”. What does Europe need in capability terms? What has it got? What is the difference? Where are the priorities? That, I think, is first and foremost the province of the Military Committee and the military staff and the governments to whom they answer upstream of the Agency. We then come in with: if this is the real problem, let us think about half a dozen different ways in which we could rectify it and let us try to find the one that is most promising and get a constituency in favour of it and let us try to get that sold and accepted by quite possibly a club of Member States to put it right. Of course, in reality it is not a cascade. It is a process of continuous looping and it is a feedback process that has to operate here. Your example was of tanks. If we, as we will this year, interest ourselves in armoured fighting vehicles, what are the current programmes, what are the opportunities for bringing together either systems plans or at least technology plans? That must, I think, feed back into the requirement. If we discover that half the countries are going for a 40 tonne thing and the other half are going for a 20 tonne thing, we shall push quite hard to try to get people to explain and see whether maybe there is some scope for coming together on that. That is a bit of a woolly answer but obviously we shall be pushing the boundaries of what we are formally allowed to do. Why could they not do that in NATO? I wish I were more of an expert on where NATO goes

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on things like that. Obviously the Conference of National Armament Directors addresses some issues but it probably does not address a very wide range of armaments-related issues. I ought to know more and I do not.

Q169 Lord Lea of Crondall: Just following up this question from Lord Morris, presumably it is one thing to say that we will buy our own tanks to our own design and we will build our own tanks to our design. If we are going to have open public procurement and there is going to be a voluntary code about that, you could still say, “I want my own tank”, but then you could have a regime of open tendering as to where you build it and buy it from. Presumably the wish for some countries, going back to the Green Paper of September, about having a voluntary code, and I think the British Government goes with a voluntary code rather than a regime of open tendering for everything—perhaps you will correct me if I have the story about where we are wrong—is one of the great successes of Europe in the last 50 years, that there has been public purchasing. It took a long time but eventually you see the results. Years and years have gone by and we do not expect this overnight. Eventually you do see the huge welfare gains to the gross national product from open tendering. Can you say a bit about the debate that has followed on the Green Paper about a voluntary code? Do people commit themselves to doing something through a voluntary code or is that just a way of saying they do not want to commit themselves to doing anything? Can you say a little bit about where the debate has got to between a voluntary code, as I understand it, and a fully-fledged regulated defence market, which implies totally open tendering, does it? *Mr Witney:* I am not trying to be evasive; it is just that Ulf Hammarström, a Swede who has very recently joined me as my Director of Industry and the Market, has been very busy. He had one seminar in the run-up to the Christmas with representatives of all the participating Member States and he has been doing work with the industry since. I am not, frankly, quite sure where today his thinking has got to on these issues. I think on a code of conduct for such procurements—and you would need to define the territory or area, the sort of things we were talking about—if they were completely trivial, the Commission would say, “Hang on, not that”. If you are talking about wineglasses for military messes, come on, this ought not to be part of a defence regime at all. This should be open public procurement according to the normal rules, but where it has something of a defence flavour, like uniforms or 4x4 vehicles or something like that, you would agree what the area was and get people, maybe not all 24, maybe only 20 to start with, to sign up for the fact that they would in future handle the procurement in such a

way that everybody had a chance to bid, which would involve publication of some central bulletin, I think, and some work to standardise requirements so that you could not specify that it had to be done with a feature which was plainly strictly national in character. At the end of the day, you would have to have some system of logging what was going on; people would have to commit either to follow this route and use this bulletin or to report exceptions. The Agency might be the place to which they report exceptions, and the Agency would keep the statistics and put together a six-monthly picture for defence ministers about: the following countries made these exceptions for these sorts of reasons, and you have to look at the way this code seems to be operating.

Q170 Lord MacLennan of Rogart: I think we have a remarkable example of how this works from you, Mr Witney, particularly describing what are no go areas and what the limitations and constraints are, and so on, all of which seems to be very comprehensible both in the time, as we were hearing earlier, in the life of the Agency and also because of the external sensitivities and interests. I would like to ask you, if you could, to exemplify a little bit more positively perhaps the *modus operandi* in respect of what you have marked up as a flagship project and how you would intend to present your recommendations. Are you operating as a think-tank or are you operating more as something really in an executive role where you would push the levers and others would have to respond? For example, look at C3, which clearly was your first flagship project. It cannot be secret. It must be something that we can all grasp, if it is so called. *Mr Witney:* I feel horribly exposed on a lot of this stuff. I do not know what I will be doing next week or what we should be doing next week. The work programme that we agreed with participating Member States last autumn was something that seemed sensible to us and on which we could get participating Member States to agree. We had to get inputs from different participating Member States but it was not scientifically derived. Next year’s I hope will be more scientifically derived. At a meeting of my management board with my six cohorts round this table, just before you arrived, one of the things we were talking about was: what exactly are we going to do with the armoured fighting vehicle work thrust and the UAV work thrust? How are we going to skin this cat? How are we going to put ourselves in the position that by 23 May when the ministers meet again in the Steering Board we are going to have a draft action plan to put in front of them—not necessarily the answers but an action plan on where we go with these projects? I just do not have the answers today. On C3, we wrote into the work programme that this would be kicked off by a joint study between this Agency and the EU military staff,

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partly because we felt it would be a good discipline to encourage joint working between these two institutions that might otherwise sit and spit at each other. We are just about to launch that. I hope that what comes out of that by the summer are two, three or four axes of effort that we could usefully pursue. I may have mentioned that I would love to find something that we could fix quickly in Bosnia. As for the battle groups in two years time, I do not know at the moment what the command control and communication challenges will be to do with putting those battle groups together and then running them, but I know that there will be some, and I am relying on this joint study to identify what they are and we will see then if we can play a role in helping. As for a longer time frame, a number of people tell me that software-defined radio is the way of the future. Please do not press me on exactly what software-defined radio is but I know that (a) this appeals to the government side in a number of participating Member States and (b) that industry is intensely interested in it. Where there is a subject where both governments and industry seem to be interested, that looks like the place to pursue. I think there may be something to do with satellite communications as well: simple capacity and the lessons of operations seem to be that you never have enough bandwidth. Are there more intelligent ways in which we could procure satellite bandwidth for future ESDP operations? There are three or four strands that may come out of this joint study. By May, you will discover that I am completely wrong and that there are four other things that we recommend to ministers we should pursue, but every day is a bit of an adventure. We will see how we go forward.

Q171 Lord Hannay of Chiswick: Following up on that point, given that ESDP seems likely to focus a lot in the next few years on peace operations broadly defined—the Petersberg Tasks, et cetera—and given that I think everyone now understands that these operations are pretty complex and involve both strictly military and non-military aspects and that the EU itself is I think now working rather hard on the non-military aspects, civil police and so on, as in Bosnia, et cetera, to what extent is the fact that your remit seems to stop short of that dividing line an inhibition, or do you think you can get over that? What is the point of having C3 amongst all the military operations in the battle group if the civilian police element of the same operation cannot communicate with the military one, for example?

Mr Witney: I recognise the problem. I do not have an immediate answer to it, other than to make sure that we keep on talking. In this case, a key figure and key interlocutor for me on this is Robert Cooper within the Council General Secretariat who is one of those

most prominently grappling with the development of the civil capabilities in support of ESDP.

Q172 Chairman: If there is not an answer to Lord Hannay's question, then the question of the security research by the Commission and the resistance that some people would like to put up to that becomes more difficult, does it not?

Mr Witney: I am not sure there is not an answer. I just do not have it. It is a very difficult thing. I have a mission which does refer to defence capabilities. I have instructions from the defence ministries. There is a very clear edge to where formally the activities and interests of the Agency finish and yet that is only a rather arbitrary point in a spectrum, whether it is technologies or indeed capabilities, and somehow we have to find a way to see who is responsible on the other side and work effectively across those divisions.

Q173 Lord Tomlinson: A couple of minutes ago I just scribbled down, when you were talking about 4x4s, "everybody has a chance to bid". Should that be so? We have amongst the 25 enormous variations in the percentage of our gross national product we are attributing to defence expenditure. Part of the main functions of the Agency is, number one, that they are developing defence capabilities. Would it not be justified if a British industry minister or a British Treasury minister or defence minister were to insist in Cabinet that because we are spending, whatever it is, 5 per cent of our gross national product on defence, we should not allow all these Germans to be bidding for things that we can produce because they are not spending enough?

Mr Witney: Obviously that is only if the German market is equally and reciprocally open. I think, as it so happens, the United Kingdom has—

Lord Lea of Crondall: Of equal size, you mean?

Q174 Lord Tomlinson: It can be equally open but it cannot be equally attractive if it is a very small market because of the very small proportion of their gross national product that they are spending. Where is the reciprocity in this process?

Mr Witney: I wonder to what extent national defence industries do tend to match, do they not, the scale of national defence budgets. On the whole, if you have a tiny defence procurement budget, if you are from one of the rather small Member States, then the scale of indigenous industry you have which could move in and Hoover up business in the United Kingdom market is not great. I think this is a form of the *juste retour* argument really, is it not? I think we just have to take that head-on and say, "If everybody insists on that, then everybody's industry is heading for decline". We have just to discard that and try to get a more equal market position, which I think, as it happens, would be more advantageous for the Brits

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than more or less anybody else at the moment, and is certainly just an economic necessity.

Q175 Lord Tomlinson: I know, but if part of the objective is improving the defence industrial and technological base, improving it can be quantitative as well qualitative. Would we not be justified in pressure from the big spenders on the low spenders to say, "If we are going to achieve that and it is listed as one of our main functions, we have a right to the say that access to market is partly conditional upon your being prepared to put up your share of procurement"?"

Mr Witney: I suppose that is what a group of Member States might decide was a regime that they wanted to have. I do not honestly think it is one that I would be recommending to them because I simply believe that what you have to do is get beyond these considerations, the national *juste retour*, if you are to find the economies of scale which ultimately will benefit all of us, and particularly those with large defence industries.

Lord Lea of Crondall: That is not necessarily so. I was trying to think what would be the answer if I wanted to debate the matter with Lord Tomlinson.

Lord Tomlinson: I am not putting it forward as an idea. I am putting it forward as a question.

Lord Lea of Crondall: It is a very interesting question. It is not a *juste retour* question. It is rather like saying that we should not be able to bid for French nuclear power stations because currently they have a bigger nuclear power station programme than we have. I do not think the reason for the defence procurement being different from other industries can be along that line. It can be along the line of security. I do not see how it can be along the line that Lord Tomlinson has raised, but it is something we will have to touch on in our report, I am sure.

Q176 Lord Dykes: Perhaps we are conjecturing for the longer term, which is always a mistake. There was that very wise saying that predictions are always difficult, particularly when they concern the future. Again, it is very early days and who knows what it is going to look like in a year's time. It could be very different and it is developmental all the time and the intellectual acceptance would be growing, one hopes, in a secular and rapid way by all the participating states. Would the possibility of proceeding from codes of conduct and all that and the emotional encouragement maybe to a more regulated market and open tendering be mitigated, helped, encouraged and advanced by, for example, things like cluster groups of officials, technicians and workers going from one country to the actual project that is being developed in another one? It would be gradually more collaborative and it would be trans-national, as indeed so are the manufacturers and equipment

suppliers themselves gradually going across the borders, as we know, in various fields of equipment. Would that not all help the process much more rapidly maybe than we think now pessimistically?

Mr Witney: I think that is right. I think as more and more trans-national requirements are set and bid for by increasing numbers of trans-national companies, in a sense all these issues may just fall away.

Q177 Lord Dykes: Do you think Eurofighter has illustrated that on a big scale so far or has it been beset by so many hesitations and delays that it is not a good example? To take a civilian example, what about the old Airbus in Toulouse and so on? Would that not be a good example of cluster groups of technicians going to work somewhere else in a trans-national sense?

Mr Witney: It certainly seems to be an example of where industry has managed to sort out the work-share problems which are incredibly difficult for governments.

Q178 Lord Dykes: Whereas governments were dragging their feet?

Mr Witney: I think institutionally it is very difficult for government to get to grips with those issues. I myself think industry is better at sorting work-share issues.

Q179 Lord Dykes: So you will be encouraging them, will you not, as an agency, and legitimately?

Mr Witney: I believe, and this is not a rule which applies in every situation but there is scope for consolidation in the defence industry and there is scope for more trans-national entities to emerge, that, yes, we would be encouraging those.

Q180 Lord Dykes: Are you fearful that some of the shareholders will induce dragging of feet as much as possible or not, as it looks at the moment?

Mr Witney: Every couple of years there are different concerns and different strategies. Often they change with rapidity according to their interpretation of the commercial environment, and so it is hard to generalise.

Q181 Lord Dykes: With the possible exception of C3, which is a very important area, and I am not in any way denigrating it—I think the EDA is a great idea and a great invention—was there, though, inevitably some atmosphere at the beginning that we gave some safer things condescendingly to the Agency to begin with because they were safe areas without too much nationalistic input?

Mr Witney: No. As I say, I do not pretend that our work programme for this year was derived with a huge amount of science behind it but on the basis of a whole series of conversations. On the whole, we

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wanted to go for areas where we thought there might be something on but we were also looking for things we thought were important.

Q182 Lord Dykes: Was anything excluded that you would like to have seen in as a particular conceptual piece of equipment, such as helicopters, in the future, or something like that?

Mr Witney: No, I do not think so. I am pretty happy with the areas we have been asked to look at.

Q183 Lord Morris of Aberavon: I take it that it is not part of your remit to encourage those who spend least, having regard to their GDP, on defence. I may also ask if research and development is a fruitful field for encouraging the avoidance of duplication. Are you minded to do so?

Mr Witney: I am sure it is and I am sure that one of the things that we ought to be able to bring to the party is a slightly more top-down view than has happened at the moment. A lot of good work has been done over a number of years under the WEAG/WEAO, under the Western European Union, and in particular in research and technology. We have this little research cell here in Brussels, the WEAO Research Cell, which does good work and has a portfolio of collaborative projects that is running at the moment, but this is still only some 3 or 4 per cent of the overall spend on defence R&T in Europe. I think it is inhibited by the fact that essentially these things are approached on a bottom-up basis. Everybody decides on their laundry lists on a national basis, gets together and looks to see if there happen to be any matches, and by that stage you are already constrained quite considerably. I would much rather a debate actually took place amongst the research and technology directors of the participating Member States *ab initio* as to what are the R&T areas which in principle seem more important for the future of ESDP, the sort of operations we would be engaged in, or maybe just the European Defence R&T as a commercial proposition, and arrived at some sort of consensus about where the priorities might lie. If we have that sort of framework of European priorities, that will make it a lot easier to have a considerably larger proportion of the national budgets spent collaboratively.

Q184 Lord Morris of Aberavon: Who is going to do that—you or the industry?

Mr Witney: We are not going to do it. We are going to orchestrate it. We are going to bring together the participating Member States to have those conversations.

Q185 Lord Morris of Aberavon: You have identified where the problem is, have you not, of duplication, so as to give a lead in one form or another, whichever diplomatic language you use to industry?

Mr Witney: Indeed, it is our business to try to establish salient facts and where salient facts suggest that something should be done, we will try to come up with sensible ideas as to what might be done, even if they are not very comfortable ideas.

Q186 Chairman: Can I perhaps just ask you this question? You have mentioned a number of times the 24 participating states. We very often hear that some of the smaller and newer Member States have not really got very much to bring to the defence party. I am not necessarily subscribing to that point of view, but perhaps you could tell the Committee how you see the role of the Member States which are participating that have not got the huge armies and the large defence projects, and what sort of positive role are they going to be playing? Do you think, if there is a role that they would not otherwise be playing it if perhaps the Agency had not been brought into existence?

Mr Witney: I think there is scarcely a country amongst those 24 which does not have something to offer. I think it is important to ensure that we are trying to harvest whatever anybody has to offer. In some ways it is perhaps some of the smaller nations who may find it more helpful to have Agency analyses, Agency suggestions, to guide them than some of the larger participating Member States who will probably feel they can work all this out very satisfactorily for themselves anyway. It may be that we can make a disproportionately larger impact on some of the less prominent and well-established members.

Q187 Chairman: It may be invidious to quote, but are there particular examples that you have in mind of particular countries that perhaps are not seen as big players in the defence field that, nevertheless, you hope are going to bring something to this party?

Mr Witney: Increasingly, as we attract more staff to this Agency, so there will be a larger number of people around these corridors whom I can call on to supplement my own, let us face it, not encyclopaedic knowledge of the European defence scene. One of the important things that I must do and all our people must do is to get out and about. I shall be visiting a lot of places and I have already. As you would expect, I have spent a lot of time in London, Paris and Berlin. It is now my job to go and discover some more about some of the other countries.

Q188 Lord Hannay of Chiswick: On this same area, surely it is quite likely, is it not, that as indeed with the European Community itself, the small countries will

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be the ones quickest to find usefulness in your activity as opposed to the larger ones which may be more doubtful about it?

Mr Witney: I think that is true. I think there is probably also a flip side as well, that some of the things we might want to do may look threatening from the point of view of relatively small countries. For example, a more open market: if we could snap our fingers and achieve it, I guess that is fine for people with strong defence industries. I guess it is fine for people without defence industries at all. If I were sitting in the middle with a rather weak defence industry, which was still rather important for jobs, then I would be worried about what the Agency was after. I think there are probably both aspirations and hopes and also fears out there about what we might do. Yes, I agree. That is the short answer.

Q189 Chairman: This is perhaps a question you would prefer not to answer. The Government indicated to us originally that they were opposed certainly to a research and armaments agency, if not the concept of the Agency. They gave the point away in the negotiations in the Convention on the Constitution. Some of us were actually quite intrigued when we saw Mr Solana who told us—and I am not giving any confidences away because the transcript is seen, approved and published—that it was actually a United Kingdom idea.

Mr Witney: I think that was harking back probably to the Le Touquet summit. If you are looking for a generating moment, Le Touquet in February 2003 was probably it. The idea of an armaments agency has been around, as you know, for very long time. My understanding of the United Kingdom Government's position was that they were quite determined it should not happen as a sort of benefit to industry without regard to proper defence needs. My own view is that what we have come out with is this sort of amalgam of capabilities-led agency which nonetheless has a very clear licence to interest itself in the health of the technological and industrial base, which is the right answer. If you look purely at capability issues, you are missing a dimension. If you confine yourself solely to capability analyses, you might keep on coming up against proposals to go and buy the American stuff, and then people will not and nothing will happen, whereas I believe that if you can put the realities of the industrial perspective in with the capability needs, you can, hopefully, find issues where real progress can be made with various constituencies supporting what you are trying to do.

Q190 Lord Dykes: You referred just now to the work with the EU military staff and so on. Is that on an everyday basis now? Is it developing fast? Do they have enough personnel to service the relationship from their end?

Mr Witney: Yes. At the moment, indeed for any time for the foreseeable future, they have the staff and we do not, but, yes, it is taking a little while to shake down but I am hopeful that in particular this piece of joint working we are going to be doing on C3 will be a catalyst to help everyday relations become smoother and smoother.

Q191 Lord Dykes: Was there a psychological acceptance by them of it being a good idea to have the EDA separately, or do they feel they could do their stuff in-house anyway?

Mr Witney: I think the Military Committee and the military staff have wanted to know what this new beast was and what it saw as its proper area of responsibility. We have been having some dialogue over that. As so often, I think there are all sorts of people who want an administrative arrangement with this Agency. I have learnt quite rapidly to tell everybody that I am not interested in administrative arrangements, at least not yet. I am interested in finding out, first, what the Agency is going to do and then working out how we can do that helpfully and sensibly with partner A or partner B, and then we can codify it. If you approach it from the other end and try to define terms before you ever begin, I think that is not going to be productive. I think that relations with the EU Military Committee and EU military staff are now moving on to a productive basis.

Q192 Lord MacLennan of Rogart: May I refer back to your emphasis on the overall aim of your Agency for supporting Member States? I think, looking back on what you have said, supporting those Member States who are looking for support in itself of course could be quite a divisive activity if different Member States had different views. Are you going only to be able to operate where you can find consensus?

Mr Witney: The internal decision making of the Agency will be by QMV, so it will not be possible for one Member State to say, "We are not happy with this. Whatever this axis of effort is, it does not seem to be optimised to suit our national interests, so we are going to block it". I think we just have to learn not to be afraid of variable geometry and doing some things at four, eight or at 23 rather than 24. There will be peer pressure. It seems an observable fact that people hate to be left out.

Q193 Lord MacLennan of Rogart: You say it is QMV for the Steering Board?

Mr Witney: Yes. That is the governing body. We cannot take on a new project without putting it for the formal approval of the Steering Board and they need to approve it. If it ever comes to a vote, that would be decided by qualified majority voting rather than by unanimity.

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Q194 Lord MacLennan of Rogart: In the formula for that you have not got 24 members of the Steering Board, have you?

Mr Witney: It is an adapted version. There are many experts with spreadsheets who can show you this.

Q195 Lord MacLennan of Rogart: I do not want to know the detail.

Mr Witney: I shall be astonished if there is ever a vote held on any subject on the Steering Board. It is just understood that if one country is determined to block something that is sensible, the narrow national interest cannot do it. Once you have that

understanding, I think the situation should not arise.

Q196 Chairman: I think we ought to press on but, before we do, Mr Witney, and before I thank you for all your answers, is there anything you wanted to say to us about the Agency that we have not asked you about and should have asked you about?

Mr Witney: I laugh, Chairman, only because I have done so many interviews for jobs and that is always what I say. I notice that those who respond saying, "Oh, yes, there was one thing" have usually made a mistake. No, there is nothing else, and thank you. I have enjoyed the session.

Chairman: Thank you very much indeed for your time.

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