

Looking Through the Fog of Brexit: Scenarios and Implications for the European Defence Industry

by Paola Sartori, Alessandro Marrone and Michele Nones

ABSTRACT

By looking “through the fog” of Brexit, this analysis highlights what could be its major implications on the European defence landscape while acknowledging that, given the complexity and uniqueness of the situation, drawing a clear picture of future EUUK relationships would be a guessing game at this stage. Accordingly, the study has been built around three different scenarios, ranging from best to average, to worse-case – or, as described in this study: “A deep and comprehensive partnership”, “A tailored and complicated partnership” and “Open competition”. Each of them has a specific focus on the likely implications for the European defence landscape, and has been detailed by pointing out possible effects on different areas – namely, research and development activities, industrial cooperation, the European defence equipment market, EU institutions and initiatives, multilateral frameworks such as ESA, LoI/FA, OCCAR and NATO as well as bilateral relations among major European countries.

European Union | UK | Defence industry | Brexit

keywords

Looking Through the Fog of Brexit: Scenarios and Implications for the European Defence Industry

by Paola Sartori, Alessandro Marrone and Michele Nones*

Introduction

At the time of publication of this study, there is little certainty about how Brexit (the United Kingdom's proposed exit from the European Union) will be implemented or about the shape of future relations between the UK, on the one side, and the EU and its member states (MSs), on the other. This is one of the reasons that this analysis has been built around three different scenarios. Each of them has a specific focus on the likely implications for the European defence landscape, and has been detailed by highlighting possible effects on different areas – namely, research and development (R&D) activities, industrial cooperation, the defence-equipment market, multilateral frameworks, EU institutions and initiatives, and bilateral relations.

In the first scenario studied – that of “a deep and comprehensive partnership” between the UK and the EU – both parties would reach an agreement on British participation in a customs union, or a deep and comprehensive free-trade agreement *de facto* equalling a customs union, and London would also join the R&D activities recently launched by the EU. In the second scenario, “a tailored and complicated partnership”, such a customs union – *de facto* or in name only – would not be agreed, but London would still participate in EU R&D and production initiatives. In the third scenario, “open competition”, the Brexit negotiations would end with no deal and the UK would be excluded from the R&D activities launched by Brussels. This study does not question the likelihood of each of these three scenarios. It rather assumes that they are all theoretically possible – especially considering the developments that have occurred since June 2016.

* Paola Sartori is Research Fellow at the Istituto Affari Internazionali (IAI). Alessandro Marrone is Head of the Defence Programme and Senior Fellow in the Security Programme at IAI. Michele Nones is Scientific Advisor at IAI. For the precious insights and interesting exchange of views occurred during the elaboration of this paper, the authors do thank people interviewed from the following institutions and stakeholders: Italian Presidency of the Council of Ministers; Italian Ministry of Defence; Permanent Representation of Italy to the EU; Permanent Delegation of Italy to NATO; Leonardo MW and Chatham House. For the same reason, the authors in particular do thank: Pietro Batacchi, Hans Kundnani, Mariot Leslie, John Louth, Robin Niblett, Thomas Raines, Richard Whitman, Nick Withney and Georgina Wright.

· Paper prepared for the Istituto Affari Internazionali (IAI) with the support of Leonardo, June 2018

Indeed, it is worth remembering that the UK referendum on membership of the Union saw a narrow victory for the Leavers (52 per cent) over the Remainers (48 per cent). This result also masked different balances across the UK. While across England's countryside the majority of the electorate affirmed its will to leave the Union, a majority of voters supported the Remain option in Scotland (62 per cent), Northern Ireland (56 per cent) and London (60 per cent).¹ The referendum also highlighted strong differences between major political parties: while Labour, the Liberal Democrats, Greens and the Scottish National Party (SNP) campaigned to stay in the EU, the UK Independent Party (UKIP) was adamantly in favour of leaving the Union, and the referendum choice divided the ruling Conservative Party.

Nine months after the vote, on 29 March 2017, the British Government led by the Tory leader, Theresa May, activated Article 50 of the Lisbon Treaty, thereby initiating a two-year period of negotiations to exit the Union by 29 March 2019. A few months later, the general election called by May on 8 June saw a decrease in seats for the Conservatives (-13), mirrored by an increase for Labour (+30) led by Jeremy Corbyn. Such a result caused the Conservatives to lose their absolute majority at Westminster, and led them to conclude an agreement with the Northern Irish Democratic Unionist Party (DUP) in order to reach a slim majority of 328 seats out of a total of 650. On such a basis, the new May government continued to engage in negotiations with the EU.

On 8 December 2017 negotiations between UK and EU counterparts recorded "sufficient progress" [...] in the first phase of the Art. 50 negotiations with the United Kingdom on the three preliminary issues on the agenda: (1) the financial contribution that the UK has to pay to the Union's budget to honour the financial commitments assumed, as an EU member, until its departure (about 40 billion pounds); (2) the rights of EU nationals living in Britain and British citizens staying in the Union; and (3) the settlement of the Irish border.²

The last-named issue constitutes the most challenging aspect of Brexit, both in economic and political/security terms. From a trade-related perspective, it suffices to mention only a few statistics in order to understand just how challenging: the border is over 300 miles (480 kilometres) long with more than 250 crossing points and no physical demarcation of the two sides, and about 30,000 people cross it every day for work. But concerns about the border touch also, and most significantly, on the extremely sensitive political and security issue on the island of Ireland.³ This was addressed in 1998 by the Belfast Agreement (known widely as the "Good Friday Agreement"), which saw, among other things, a specific constitutional settlement

¹ "EU Referendum: The Result in Maps and Charts", in *BBC News*, 24 June 2016, <http://www.bbc.com/news/uk-politics-36616028>.

² European Commission, *On the State of Progress of the Negotiations with the United Kingdom under Article 50 of the Treaty on European Union* (COM/2017/784), 8 December 2017, p. 3, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:52017DC0784>.

³ Interview with Thomas Raines (Research Fellow, Europe Programme, Chatham House) on "Brexit and Ireland", May 2018.

and governance model for Northern Ireland that brought to an end a 30-year-long sectarian conflict. EU membership has been important in creating the conditions to foster peace, and its removal is a cause of concern for both sides.⁴

In this context, communication on the progress reached by Brexit negotiators envisaged as a preferred option the achievement of a future agreement on EU–UK relations that would avoid the return of a land border between the two parts of the island, Northern Ireland and the Republic of Ireland: “Within the common understanding, the United Kingdom negotiator committed that the United Kingdom would protect the operation and institutions of the Good Friday (Belfast) Agreement, and avoid a hard border, including physical infrastructure or related checks and controls”.⁵ Were such an agreement not to materialize, then as a “backstop” option the British Government committed to maintaining full alignment with EU regulations so as to avoid any border friction:

In the absence of agreed solutions, the United Kingdom committed to maintaining full alignment with those rules of the internal market and the Customs Union which, now or in the future, support North-South cooperation, the all-island economy, and the protection of the Good Friday (Belfast) Agreement. In this context, implementation and oversight mechanisms for the specific arrangements to be found will be established to safeguard the integrity of the internal market.⁶

This “backstop option” *de facto* means that the entire UK has to remain in a customs union with the EU. It is needed because envisaging a different customs status for Northern Ireland than that of the rest of Britain would put at risk the integrity of the UK – and would not be acceptable to either the British Government or the majority of the House of Commons. It is worth noting that the Irish Republic, being the country most exposed to the disruptive effects of Brexit, strongly supports British participation in the EU custom union or the backstop option in order to avoid a hard border with Northern Ireland.⁷

Actually, the May government is deeply divided on the customs-union issue.⁸ The Cabinet itself is split between two different visions of a future customs relationship between the EU and the UK.⁹ The first one envisages a unique and

⁴ Ibid.

⁵ European Commission, *On the State of Progress of the Negotiations with the United Kingdom ...*, cit., p. 8.

⁶ Ibid., p. 9.

⁷ Interview with Thomas Raines, cit.

⁸ Tim Ross, Robert Hutton and Kitty Donaldson, “Cabinet Brexiters Outgun May on Her Customs Plan”, in *Bloomberg*, 2 May 2018, <https://www.bloomberg.com/news/articles/2018-05-02/may-s-core-cabinet-still-split-on-post-brex-it-customs-plan>.

⁹ For further details on the different options, please refer to: Sylvia de Mars and Dominic Webb, “Brexit: Customs and Regulatory Arrangements”, in *House of Commons Briefing Papers*, No. 8309 (22 June 2018), <https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-8309>.

complex “customs partnership” whereby the UK (a) would mirror EU customs law at its border for those goods entering the EU via the UK, thus virtually becoming an EU border; and (b) would be free to manage its own customs law for those items intended only for the British market.

The second one, the so-called “Max Fac” option, foresees the creation of a highly streamlined customs arrangement, simplifying requirements and introducing “Maximum Facilitation” at the border through the continuation of some existing agreements between the EU and UK, the introduction of new and unilateral facilitations to remove/reduce barriers and also technology-based solutions to ease compliance with customs procedures. The Chancellor of the Exchequer, Philip Hammond, and those Conservatives who voted for remaining in the EU are in favour of the customs partnership,¹⁰ in order to minimize the negative impact of leaving the Union on the British economy. The Foreign Secretary, Boris Johnson, and those Conservatives who campaigned for Brexit support the second option,¹¹ in order to retain full sovereignty on customs and trade policy with a view to negotiating favourable commercial deals across the world. It should be noted that there is also a third potential model for post-Brexit customs arrangements, which has thus far received less support from the UK Government than the two aforementioned proposals.¹² The basic assumption of this option is that UK will leave the EU Customs Union, but that this would not preclude concluding a new customs-union agreement with the Union.

At this stage, Prime Minister May has postponed the decision on this issue. Meanwhile, the Labour Party,¹³ the SNP, the Liberal Democrats and the Greens have taken a stance in favour of remaining in the Customs Union with the EU.

This division on the Customs Union is crucial because of both its impact on the British economy and its security implications for the Irish border. Generally speaking, the hard, complicated and multifaceted reality of Brexit is now becoming increasingly evident for the UK, since concrete choices have now to be made on a number of issues. This is one of the reasons the British Government has been relatively slow in presenting proposals at the Brexit negotiation table, with EU negotiators repeatedly urging their UK counterparts to clarify their position in order to reach an agreement.¹⁴ If a deal is to be implemented by March 2019, from the EU side it has to be ratified by the European Parliament and the remaining 27 MSs’ national parliaments in the 4–6 months prior to this. Such a timetable implies

¹⁰ Kamal Ahmed, “Philip Hammond Favours EU ‘Customs Partnership’”, in *BBC News*, 1 May 2018, <https://www.bbc.com/news/business-43964990>.

¹¹ Jessica Elgot, “Pro-Brexit MPs Urge PM to Drop ‘Deeply Unsatisfactory’ Customs Model”, in *The Guardian*, 2 May 2018, <https://gu.com/p/8gqt9>.

¹² Sylvia de Mars and Dominic Webb, “Brexit: Customs and Regulatory Arrangements”, *cit.*, p. 13.

¹³ Andrew Sparrow, “Labour Backs Staying in EU Customs Union, Keir Starmer Confirms”, in *The Guardian*, 25 February 2018, <https://gu.com/p/86gv9>.

¹⁴ Sam Morgan, “Chief EU Negotiator Urges More Clarity, Speed from UK As Brexit Talks Resume”, in *Euractiv*, 28 August 2017, <https://www.euractiv.com/?p=1169858>.

that a deal between the UK and EU negotiators should be reached by October/November 2018.

In this context, London and Brussels have agreed a transition period from March 2019 to December 2020:¹⁵ over that period, nothing should change in the current status quo concerning the UK's presence in the EU Single Market and the whole regulatory framework valid for companies, individuals and institutions. By the end of 2020, the basis of future relations between the UK and the EU should have been negotiated in order to reduce uncertainties and risks over the future developments of the current situation.

At the time of writing, it is difficult to envisage whether such a "roadmap" will work effectively. May's Cabinet has not yet spelled out its position on the Customs Union and the Irish border. Meanwhile, the EU (Withdrawal) Bill presented by the government to the House of Lords, which aimed to set the roadmap for the UK's decision on the eventual deal to be reached with Brussels, has faced serious setbacks – with the government losing 14 votes in the Lords.¹⁶ Firstly, a cross-party amendment has been voted through to give the House of Commons the power to approve the withdrawal agreement and transitional measures by an Act of Parliament, and to decide the next steps for the government in case the deal with the EU is rejected. In other words, the British Government will not be able to present to parliamentarians a binary choice: approve the agreement reached with the EU whatever it looks like, or reject it and exit the Union with no deal at all. Should the amendment pass, the House of Commons will instead be able to reject the deal and decide on other options – such as, for example, postponing the current Brexit date and giving a new mandate to the government to negotiate with Brussels on a different basis.

A second amendment was passed by the House of Lords to prevent the establishment of a border between Northern Ireland and the Republic of Ireland without a mutual agreement,¹⁷ which means forcing the British Government to find a compromise on the Irish border – and thus, also the Customs Union – with the EU. A third amendment has removed the exit date of 29 March 2019 from the EU (Withdrawal) Bill, thus opening the door for a prolongation of UK membership of the Union as well as of the following transition period. A fourth amendment has mandated the government to negotiate with the EU the UK's membership of the European Economic Area (EEA), thus reintroducing to a certain extent the possibility of a customs union and/or customs partnership with the Union. In the end, the Bill was returned by the Lords to the Commons with instructions to consider keeping

¹⁵ Jon Stone, "Brexit: EU and UK Agree Deal on Transition Period", in *The Independent*, 19 March 2018, <https://www.independent.co.uk/news/uk/politics/brexit-transition-period-deal-agreement-eu-uk-david-davis-barnier-latest-updates-a8263211.html>.

¹⁶ Anne Perkins, "EU Withdrawal Bill: 14 Defeats in the Lords for the Government", in *The Guardian*, 8 May 2018, <https://gu.com/p/8tv9q>.

¹⁷ *Ibid.*

the UK in the Union's Single Market.¹⁸ All these amendments can be overruled through a vote by the House of Commons. However, as mentioned before, the Conservatives alone do not have an absolute majority at Westminster – and nor are all Conservative Members of Parliament united against such amendments.

The House of Lords is not the only British institution in which the Brexit process has faced difficulties over the last two years. On 15 May 2018, all parties in the Scottish Parliament except the Conservatives voted by an overwhelming majority (93 to 35) to refuse consent to the British Government's withdrawal bill.¹⁹ This is the first time since the creation of the Scottish Parliament that there has been a constitutional crisis of this kind.²⁰ The reasons for this refusal are many and deep-rooted. Scotland's labour market is deeply dependent on the free flow of EU citizens. Two very important sectors of the Scottish economy, agriculture and fisheries, are heavily reliant on EU Common Agricultural Policy funding, as well as on access to the Union's Single Market. The country's education system also benefits from EU funding, as well as from Erasmus opportunities. There is also a fear that the implementation of Brexit may reduce the competencies devolved to Scotland and recentralize them in London. Accordingly, the Edinburgh Parliament had, already by 28 March 2017, mandated the Scottish Government to ask Westminster for enabling legislation for a new referendum on Scotland's independence, quoting Brexit as its main motive.²¹ The May government ignored this request, and then ignored the refusal of consent of 2018. Although a new referendum is unlikely to take place before March 2019, the issue of Scottish independence will probably be reignited by the Brexit process – particularly among young voters.²²

In conclusion, the implementation of the 2016 EU referendum is coming up against a hard reality comprising crucial issues such as the Irish border, Scottish autonomy and the Customs Union choice. On top of this, the British Government is experiencing concrete difficulties in terms of procedures, resources and expertise, due to the sudden need to deal at national level with a number of policy issues that, for over four decades, have been addressed within the EU framework. In this context, the deep split within the May Cabinet and the Conservative Party – which does not command a majority either in the House of Commons or in the House of Lords – could result in a government crisis when a final decision has to be made on the Customs Union and the Irish border. Interestingly enough, such a crisis may lead to new general elections, which the Labour Party is likely to win. So far, Theresa May has postponed such a decision. However, not deciding is

¹⁸ Anne Perkins, "EU Withdrawal Bill: What Happens Next After Lords Votes?", in *The Guardian*, 9 May 2018, <https://gu.com/p/8t3cy>.

¹⁹ "Scottish Parliament Refuses Consent for Britain's EU Withdrawal Bill", in *Reuters*, 15 May 2018, <https://reut.rs/2wLbSQ8>.

²⁰ Interview with Leslie Mariot (Associate Fellow, Europe Programme, Chatham House) on "Brexit and Scotland", May 2018.

²¹ Mure Dickie, "Scottish Parliament Backs Second Independence Referendum", in *Financial Times*, 28 March 2017.

²² Interview with Leslie Mariot, cit.

sometimes a decision *per se*, because it will lead sooner or later to accepting either a deal agreeable to the EU or a no-deal scenario – with “cliff-edge” implications for the UK economy. Both options may trigger – in Northern Ireland, in Scotland, in the House of Lords and eventually in the House of Commons – an even deeper reflection on the whole Brexit issue, its timing and end state – including a possible referendum on British participation in the EU Customs Union. Moreover, should general elections be held, a probable Labour victory would enable Jeremy Corbyn to reshape the British Government’s approach to the Customs Union and the Irish border, Brexit in its entirety, and London’s defence and industrial policies.

In the light of such an extremely fluid and unpredictable situation, this study has consciously chosen not to focus on the negotiations as such, and to not consider the likelihood of any of the aforementioned three scenarios. Its scope is restricted to offering policy-makers, practitioners, experts, stakeholders and possibly broader public opinion a sober analysis of the features of different scenarios when it comes to defence cooperation in Europe by outlining pros and cons, and possibly contributing to an improved awareness within the decision-making process.

1. Brexit, and R&D activities in the defence sector

1.1 European defence R&D activities: *The state of the art*

The UK’s decision to exit the EU will have potential consequences for defence R&D activities and innovation, and will affect all sectors characterized by considerable investments in R&D – from automotive to life sciences, to security and defence.²³ The impact will, of course, depend on the negotiation results, but it will also differ according to different cooperation levels and the related stakeholders and institutions involved.

In fact, European R&D activities can be listed according to five different cooperation levels:

1. Intergovernmental, through bilateral or multilateral programmes followed up by co-production initiatives, usually managed by specific agencies or national Ministries of Defence;
2. Intergovernmental, through bilateral or multilateral programmes generally followed by co-production programmes managed by the Organisation for Joint Armament Cooperation (OCCAR);²⁴
3. Intergovernmental, through multilateral programmes managed by the European Defence Agency (EDA);

²³ On the impact of Brexit on different economic sectors, please refer to: UK Parliament, *Brexit Sectoral Analyses Published by Committee*, 21 December 2017, <https://www.parliament.uk/business/committees/committees-a-z/commons-select/exiting-the-european-union-committee/news-parliament-2017/sectoral-analyses-published-evidence-17-19>.

²⁴ To note, at the moment MALE RPAS is only a definition study.

4. EU, only concerning those programmes in the security or dual-use field managed by the European Commission, i.e. via Horizon 2020 (H2020);
5. EU, concerning programmes within the defence sector.

In fact, thanks to the recent decision by the EU to grant important funds for the R&D activities in this sector through the European Defence Fund (EDF), the EU could itself become the fourth-largest European contributor to the field of R&D activities after France, Germany and the UK.²⁵

As previously mentioned, Brexit's effects will also depend on negotiations with the EU, and the UK decision regarding EDA. Only after these issues are settled will their impact on OCCAR become clear – particularly if the EU decides to use OCCAR to manage the European Defence Industrial and Development Programme (EDIDP) programmes. In addition, the possible shift in the UK's position within (or outside) EDA could also potentially affect the relationship between the EU and NATO. Concerning R&D activities and procurements, the Atlantic Alliance has, and will continue to have, little influence on allies' R&D agenda – especially if EU MSs proceed towards more integration without a UK veto, having at their disposal a wide range of industrial, financing and regulatory tools.

By taking a closer look at R&D activities in the field of defence, we can see that two main issues are currently feeding the Brexit debate:²⁶ (1) the UK possibly leaving the Customs Union, with possible impact on freedom of movement, transfers of products, and the availability of skills and talent; and (2) UK access to European defence research funding and collaboration opportunities.

As for the first point, besides the more immediate impact of taxes and barriers, a UK decision to leave the EU Customs Union could also affect the defence sector's industrial-skills base. For instance, restrictions on freedom of movement could result in an exacerbation of the existing shortage of skilled workers in certain specific sectors (e.g. engineering). According to the Aerospace, Defence, Security and Space Group (ADS), 7 per cent of UK citizens are employed within the aerospace sector²⁷ – 4 per cent of them are from the EU, while 5 per cent of EU staff are from the UK.²⁸

²⁵ As for this level, significant steps have already been made through the launch of two different initiatives: the Preparatory Action on Defence Research (PADR) for the 2017-2019 cycle (with 90 million euro) – a sort of test bed for the future European Defence Research Programme (EDRP) – and the European Defence Industrial and Development Programme (EDIDP) for the 2019-20 cycle (with 500 million euro).

²⁶ To get also a British perspective of the matter, please refer to: James Black et al., "Defence and Security after Brexit. Understanding the Possible Implications of UK's Decision to Leave EU. Compendium Report", in *RAND Research Reports*, No. 1786 (2017), <https://doi.org/10.7249/RR1786>.

²⁷ Kate Westbrook, "Brexit and Defence, Aerospace and Advanced Engineering", in *Thrings*, 26 August 2016, <https://thrings.com/?p=2367>.

²⁸ Deloitte, *Impact of Brexit on the Manufacturing Industry: Aerospace & Defence*, 2017, p. 2, <https://www2.deloitte.com/content/dam/Deloitte/uk/Documents/manufacturing/deloitte-uk-brexit-ad-sheet.pdf>.

Referring to the latter point, a distinction should be made according to the different funding cycles, also considering the fact that until an agreement is reached the UK remains a fully-fledged EU member.²⁹ In this regard, looking at the evolution of the negotiation process thus far, it is likely that an agreement will not be reached before 2019. Therefore, the major question revolves around UK inclusion in EDIDP for the 2019–20 cycle, although uncertainty regarding the future participation of UK-based companies within EU-funded activities has also already influenced the composition of consortia applying for PADR, the Preparatory Action on Defence Research, in 2017.³⁰

Thus far, the UK has participated in European security-related programmes (e.g. Horizon 2020) with two different categories of companies: (1) British companies (located in the UK) controlled by EU shareholders; and (2) British companies, controlled by non-EU shareholders (including even British shareholders after Brexit).

Since defence research touches upon matters of national sovereignty as well as the European strategic-autonomy principle – the latter becoming increasingly relevant as well as explicitly mentioned by many European stakeholders, albeit with different meanings – the management of funds within this field is a much more sensitive issue than it is for other industrial sectors.

More specifically, the concept of EU strategic autonomy will deeply influence future EU–UK relations when it comes to defence research and procurement. How such issues will be solved will partly depend on the willingness and ability of the UK to continue being “a European country” even without being part of the EU, and to be accepted as such by the Union’s remaining MSs.

With reference to EDIDP, the current proposal for the programme’s regulation³¹ epitomizes EU concerns regarding the fulfilment of European priorities. According to this document, companies in the aforementioned categories 1 and 2 could, in fact, participate in programmes but would not be eligible for funds. As for the category 1 companies, the regulation draft specifies that “beneficiaries and subcontractors involved in the action [...] may use their assets, infrastructure, facilities and resources located or held outside the territory of Member States” provided that “there are no competitive substitutes readily available in the Union, and if this usage would not contravene the security and defence interests of the Union and its

²⁹ Olivier de France et al., “The Impact of Brexit on the European Armament Industry”, in *Ares Group Reports*, No. 19, August 2017, p. 9, <http://www.iris-france.org/notes/the-impact-of-brexit-on-european-armament-issues>.

³⁰ Ibid.

³¹ To note, a provisional agreement on EDIDP regulation has been reached 22 May 2018 and endorsed by the EU ambassadors on 7 June 2018. The version is the result of the trilogue negotiations between Commission, Council and Parliament that began in mid-March 2018. At the time of writing, this regulation waits for the vote by the EP, before it can be finally adopted by the Council.

Member States”.³² It is worth noting that the condition of ready availability is meant to avoid counterproductive delays within the programme, on the one hand, as well as to prevent any potential conflict of interest among different EU competitors, on the other. Regarding category 2 companies, on the other hand, “undertakings established outside the territory of Member States or controlled by third countries or third country entities” are allowed to cooperate within the programmes only “if this would not contravene the security and defence interests of the Union and its Member States”.³³

1.2 Assessing Brexit implications on defence R&D: Scenarios “on the table”

According to the previous preliminary assessment, the following three scenarios could materialize:

- A. An EU–UK deal with the UK participating in the Customs Union and co-participating in the EU’s R&D activities with the related specific co-fund. In this scenario, the UK may or may not reach an agreement to be an associate country for EDA.
- B. An EU–UK deal that does not keep the UK in the Customs Union but foresees the co-participation of the UK in the EU’s R&D activities with the related specific co-fund. Again, in this scenario an association agreement between UK and EDA may or may not materialize.
- C. An EU–UK deal with the UK not participating in the Customs Union and not co-participating in EU R&D activities with the related specific co-fund. In such a scenario, an agreement that makes the UK an associate country for the EDA may or may not occur.

A graphical simplification of the aforementioned scenarios is presented in Table 1.³⁴

Table 1 | Scenarios “on the table”

Scenarios	UK in the EU customs union	UK co-participating EU R&D
A	√	√
B	×	√
C	×	×

³² Council of the European Union, *Proposal for a regulation establishing the European Defence Industrial Development Programme aiming at supporting the competitiveness and innovation capacity of the Union’s defence industry – Confirmation of the final compromise text with a view to agreement (First reading)*, 4 June 2018, Article 7(5), http://www.consilium.europa.eu/register/en/content/out?&typ=ENTRY&i=ADV&DOC_ID=ST-9262-2018-REV-1.

³³ *Ibid.*, Article 7(6).

³⁴ For the sake of clarity, this effort represents a necessary simplification of the reality. The exact impact of Brexit will depend on various facts and specific circumstances. Brexit is an unprecedented situation that will probably require the negotiation of a bespoke model of cooperation between EU and UK. This tailored agreement could be also further customized and detailed within different agreements, according to various sectors and groups of EU MSs.

Scenario A: "A deep and comprehensive partnership"

"A" represents the best-case scenario, whereby the EU and UK agree on an extensive and deep partnership, with London remaining within the EU Customs Union. Given that political sensitivities could rule out such a solution, a similar scenario could also envisage the achievement of a deep and comprehensive free-trade agreement that encompasses the main obligations and benefits, *de facto* equalling a customs union. This would prevent criticalities, both in legal and financial terms, regarding potential taxes and tariff-related issues; restriction on freedom of movement, with the reintroduction of customs checks at borders; and different requirements for data protection and data sharing. All these elements would additionally impact on the aerospace, security and defence sector, and would be avoided in this picture.

As a whole, within such a scenario the impact of Brexit on relevant stakeholders, including public and private actors, in all the countries concerned would be limited, and such a framework would positively affect both the civilian and the military side of arrangements by also encompassing security and dual-use technologies.

As for the second variable, UK participation in the EU's R&D activities would imply the conclusion of a twofold partnership. On the one hand, by co-funding these activities London could exert some influence on the definition of the research and technological agenda. On the other hand – through the participation of industries, Small and Medium Enterprises (SMEs), laboratories and universities – the British Defence Technological and Industrial Base (DTIB) will remain well connected with the rest of the European Defence Technological and Industrial Base (EDTIB) within the "upstream" R&D activities. This outcome also includes the participation of end users as well as work on standards, certification, pre-procurement, etc. Similar to what was envisaged for the Customs Union, such a partnership would greatly reduce the possible negative impact of Brexit on stakeholders across the Channel as well as across the public–private and civil–military spectrum.

Against this backdrop, being an EDA associate country would further enhance an already strong cooperative framework, as it would ensure London's inclusion within a host of R&D activities under the Agency's umbrella. Nevertheless, should the UK simply decide to leave the EDA, and/or fail to negotiate an associate status, the impact on the European body – while representing a drawback – will not be particularly relevant in this specific scenario, because of British participation in more substantial EU R&D activities and the positive default effect of being in the Customs Union.

From an EDTIB perspective, the main benefits deriving from a possible UK inclusion within R&D activities relate to technological "edge" and competitiveness, connections with a number of Anglo–American frameworks, and indirect support for greater cooperation at the industrial and military levels (in this regard, see subsequent paragraphs of this study). It should be noted that the absence of the

UK from the EDA could have further positive effects.³⁵ On the one hand, it could potentially result in an increase in the EDA's budget, in the light of the removal of the UK veto, while, on the other, the EDA could reinforce the work on "hard defence" that was often opposed by the UK as it sought to avoid possible overlaps with NATO or areas of national reserve.

The challenges for the EU would be manifold. Complex and sensitive agreements would be necessary in order to meet UK needs and requests while ensuring that the Union could tailor R&D activities to reach the goal of EU strategic autonomy. In this regard, Europe's growing ambition in R&D activities risks further limiting UK participation within this field. As previously mentioned, uncertainty regarding the possible results of negotiations is already affecting the inclusion of British entities within consortia participating in security-related (e.g. the Horizon 2020 framework) as well as defence-related projects (e.g. the PADR framework). The rapid evolution occurring within EU defence R&D will make it increasingly difficult for London to anticipate what the EU is aiming at, and consequently frame its participation in future activities appropriately. At the same time, negotiations and the transition period imply at least three years of uncertainty and therefore a further disconnection of British stakeholders from accelerating EU developments in this field. Also, it may prove difficult – but not impossible – to align UK and EU priorities regarding R&D activities. In fact, the risk lies in moving towards diverging views and needs, considering possible UK exclusion from EDF, the Permanent Structured Cooperation (PeSCo), Coordinated Annual Review on Defence (CARD) and other initiatives that aim at greater EU defence cooperation and integration, with the potential harmonization of the needs of EU MSs' armed forces.³⁶

Finally, according to this scenario the impact on R&D activities conducted at a purely intergovernmental level (be that national, bilateral or mini-lateral) will be limited. In fact, these cooperative frameworks will be somehow embedded and regulated within the broader agreement. On a general basis, they could benefit by the general cooperative atmosphere, and could be considered on a case-by-case basis as an option to complement or replace activities at EU level (EDA, H2020, EDF, etc.).

Scenario B: "A tailored and complicated partnership"

This would be an "average" scenario, with the UK leaving the Customs Union – and falling short of achieving a comprehensive free-trade agreement – but continuing to participate in defence R&D activities with the EU MSs. The alternative to the Customs Union could be the definition of a lower-profile agreement resuming or relying on existent arrangements, from the European Free Trade Association (EFTA) to the World Trade Organization (WTO) basic rules for international trade.

³⁵ For further details on possible implications of Brexit on EDA refer to Section 5.

³⁶ For further details regarding the prospective effects of Brexit on PeSCo and CARD, please refer to Section 5.

According to this scenario, tariffs and other forms of barriers could be reintroduced, with related financial and non-financial aspects hampering the free circulation of technologies, products and human resources in the aerospace, security and defence sector. This would imply an impact for all stakeholders even if the extent of the implications depends on the agreed level of cooperation, as highlighted in the following table.

Table 2 | Scenario B – Stakeholder impacts

Terms of comparison	EEA membership	EFTA membership	Independent (WTO option)
No or very few customs tariffs	Yes	Yes	No
Uniform regulatory framework for export	Yes	Yes	No
Free access to the respective markets	Yes	No	No
Different financial passport regulations between EU and UK	No	Yes	Yes
UK influence on EU regulation	Limited	No	No
EU control over UK regulation	Yes	Limited	No
Ability to negotiate independent bilateral trade agreements with third countries	No	Yes	Yes
UK contribution into the EU budget	Yes	Yes	No
UK ability to pursue its own immigration policy	No	Limited	Yes

Source: IAI elaboration of KPMG IFRS Institute, *Brexit – An Impact Analysis. How Brexit May Affect US Companies Established in the United Kingdom*, February 2017, p. 3, <http://www.kpmg-institutes.com/institutes/ifrs-institute/articles/2017/03/brexit-an-impact-analysis.html>.

For example, the private sector will have to deal with these barriers and the related financial and non-financial costs, while public entities in the UK and the EU – at both Union and MS level – will have to manage their regulatory, bureaucratic and enforcement aspects. The impact will be deeply felt by a number of economic sectors in the concerned countries, and also across the civil–military spectrum. Measures to mitigate such an impact may include opening up subsidiaries of British actors in the EU – something that is already happening, with UK universities, SMEs, and consulting firms establishing offices in Brussels, Paris and other EU cities.

Against this backdrop, UK participation in EU defence R&D activities will constitute a form of tailored partnership. This may or may not be part of a broader, bespoke agreement that would somehow insulate security and defence cooperation from the impact of Brexit and define specific cooperation mechanisms at intelligence,

operational, industrial and technological levels. However, being out of the Customs Union will reduce the benefits deriving from the UK's involvement in programmes backed by European funds. London would be involved in the definition of the research agenda (although with no decision-making power) and British stakeholders would be able to benefit to a certain extent from fruitful synergies with EU counterparts as well as from the competitiveness and technological edge of EDTIB.

However, the expected restrictions on the circulation of related technologies and human resources, let alone products, will probably deter stakeholders based in the EU from partnering with British counterparts despite the latter's expertise. Given the economic interests at stake, in Continental Europe in several cases a precautionary principle may prevail over interest in joining forces with competitive and effective DTIBs across the channel. This may apply also in the UK, with British actors increasingly looking for national solutions – provided that these receive greater government funding – and/or for cooperation with the US and other traditional Commonwealth partners such as Canada and Australia. According to some analysts, this could have significant industrial implications, particularly considering that the UK is undergoing an increasingly domestic path when it comes to defence acquisitions. Furthermore, the resulting need for the UK to review its regulatory approach could also have a potential impact on the relationship between government and the defence industry.³⁷

In this context, being an EDA associate country would represent a way to enhance R&D cooperation in the defence sector despite the UK being outside the Customs Union. Conversely, the absence of such an agreement would further weaken cooperation, including British participation in other EU R&D activities.

Within this scenario, major benefits for the EU side will consist of a limited, albeit not marginal, connection with the UK's DTIB, with a positive "spill-over" effect on EDTIB in terms of competitiveness and technological edge; will ease relations with Anglo-Saxon frameworks; and will provide indirect support to industrial and military cooperation in a context in which current economic interdependences will no longer apply.

Concerning challenges, on the EU side, pursuing strategic autonomy would become somewhat more difficult for the Union because of the diverging economic interests that would probably hamper the politico-strategic partnership. As a matter of fact, the UK would be involved in the definition of research agendas that are meant to foster the strategic autonomy of a Continental bloc no longer perceived as a real partner by London. At a practical level, the challenge would be to guarantee in the defence sector, through specific agreements and protocols, a freedom of movement of researchers, data, technologies and projects that would not otherwise be allowed in the broader economic relations between both sides

³⁷ James Black et al., "Defence and Security after Brexit", cit., p. 48.

across the Channel. The situation will be particularly difficult for SMEs, which will have to rely even more than hitherto on prime contractors in order to participate in EU R&D activities, considering that they would not have the expertise and human resources to manage the new legal framework without additional support.

Lastly, the management of R&D activities at intergovernmental level (national, bilateral or mini-lateral), would probably be seen as a strategic tool to enhance tailored cooperation between London and other European capitals and circumvent the obstacles posed by the absence of a customs union. Therefore, these frameworks may be seen as complementary to EU R&D activities, and could contribute to reducing the broader divergence between the EU and UK within the defence sector. They could also be pursued by London and other European capitals – such as Paris – to enhance purely bilateral relations, which put under pressure to a certain extent the tense equilibrium between remaining outside the Customs Union and within EU R&D activities. In any case, bilateral relations will be considered more important in this scenario than in Scenario A, and indeed there is already an observable trend of increasing British activism at bilateral level³⁸ in order to prepare for different scenarios of future relations between the UK and EU.³⁹

Scenario C: “Open competition”

This could be labelled as the worst-case scenario, whereby cooperation between the EU and UK would be overwhelmed by open competition. First of all, such competition would affect the economic sphere, considering that the UK would have left the Customs Union and that no deep and comprehensive free-trade agreement would have been negotiated. But competition would also affect the field of defence R&D, because the UK would be completely excluded from EU R&D activities. Such a combination would probably contribute to “building a fence in the Channel”, fostering diverging approaches not only in broader economic terms but also specifically in the defence sector. In this sense, the UK leaving the EU could even result in the exacerbation of European protectionist instincts considering the British role in having made the EU more economically liberal. Furthermore, increasing divergence could also affect standardization as well as cooperation and interoperability within the NATO framework.

EU- and UK-based stakeholders such as companies, SMEs, laboratories and universities would have little incentive to cooperate with each other. On the contrary, barriers would range across the Technology Readiness Levels (TRL), from the definition of standards and the research agenda right up to procurement. Public institutions would have to manage these barriers with little or no top-down mandate to cooperate, considering the resulting strategic divergence in political

³⁸ Federico Santopinto, *CSDP after Brexit: The Way Forward*, Brussels, European Parliament, May 2018, p. 13, [http://www.europarl.europa.eu/thinktank/en/document.html?reference=EXPO_STU\(2018\)603852](http://www.europarl.europa.eu/thinktank/en/document.html?reference=EXPO_STU(2018)603852).

³⁹ The possible impact of Brexit on bilateral relations is specifically analysed in Section 6.

and economic terms. Such a situation will be extremely difficult for SMEs in particular, but not only in the UK because they will be deprived simultaneously of free access to the prime contractors in the respective UK/EU market and of access to pan-European consortia bidding for EU R&D funds.

In this context, the signing of an association agreement between the UK and EDA would have only a limited impact. As an associate member, the UK would not have a vote in EDA decision-making and, in the light of the aforementioned conditions, its participation within EDA-managed R&D activities would also probably be reduced. In addition, considering that its participation would be subject to veto by EU MSs, it is likely that London will in any case be excluded from the relevant EU R&D activities.

In such a scenario, the benefits for the EU side will consist of a clear, although difficult, pathway towards strategic autonomy, while challenges will derive from the lack of connections with the UK DTIB as well as possible tensions arising from open competition. This situation would have a negative impact on EDTIB in terms of competitiveness, technological edge and relationships with Anglo-American cooperative frameworks.

Finally, R&D activities at purely intergovernmental level without EU involvement would have to navigate the new waters of an uncharted European geopolitical and security environment. Against this backdrop, the UK and some European countries would probably foster their bilateral cooperation depending on the strategic value of that cooperation as well as the extent of national technological edge in specific sectors. This is likely to apply not only to the Anglo-French relationship but also to London's relations with Germany and countries in central-eastern Europe, the Baltic region and Scandinavia.

2. Brexit and defence-sector industrial cooperation

2.1 European defence-sector industrial cooperation: The state of the art

The UK's involvement in cooperative projects with European partners has thus far been remarkable, and London, being the world's second-largest exporter of defence equipment and services,⁴⁰ has often played a pivotal role in many procurement initiatives. For many EU MSs, industrial cooperation with the UK traditionally represented an alternative to working with French industries – especially concerning fighter aircraft, engines and avionics, as well as missile systems – and, in the case of the EH101 (a medium-lift helicopter, after 2007 marketed as the AgustaWestland AW101), it has expanded to the helicopters field. For France, the UK has become a more important partner with the signing of the Lancaster House Treaty and subsequent initiatives in the nuclear and conventional armaments fields.

⁴⁰ See ADS Group website: *Our Sectors*, <https://www.adsgroup.org.uk/about/our-sectors>.

In some cases, intergovernmental cooperation has led to the integration of British industries within European industrial groups. For instance, this has been the case for the acquisition by Leonardo (then Finmeccanica) of Westland in 2000, the avionics sector of what was then Marconi Electronic Systems in 2005, and its participation within European missile developer and manufacturer MBDA. In other instances, industrial cooperation was fuelled by the sustained growth of the British market – as was the case for Racal Electronics within the Thales group.

It is noteworthy that the British industrial contribution to European programmes has so far focused on the Eurofighter aircraft, which represents the most successful result of European cooperation and whose production is continuing thanks to the award of several important export contracts in Arab countries (Saudi Arabia, Oman and Kuwait). Besides BAE Systems, from the UK side Leonardo MW⁴¹ is also heavily involved in this programme by virtue of its assembling an important part of the avionics of the aircraft, and both Leonardo and Airbus have a strong role too. Furthermore, the Eurofighter engine is constructed by the Eurojet consortium composed of Rolls Royce, Avio Aero, MTU Aero Engines and ITP, thus representing another strong case of enduring European cooperation. As a whole, Eurofighter is the most important example of defence-sector industrial cooperation involving the UK because of its duration (since the mid-1980s), scale, degree of coordination regarding not only production but also export to third countries, logistics and Maintenance Repair, Overhaul and Upgrade (MROU) features. It is not by chance that the recently announced UK Combat Air Strategy primarily mentions Tornado and Eurofighter.⁴²

This project built on the previous governmental and industrial cooperation experience between Germany, Italy and the UK for the development of the Tornado, and it has been enlarged to include Spain. Following the British decision on Brexit, in July 2017 Berlin agreed to develop a new family of combat aircraft with Paris, thus interrupting a cooperation experience that had lasted for almost five decades.

Separate mention deserves to be made of the participation of BAE Systems and Rolls Royce in the US' Joint Strike Fighter F-35 Lightning II programme, also involving several European companies (in particular, Leonardo) as, in this case, cooperation is mediated by Lockheed Martin and Pratt & Whitney. Nevertheless, here too British industry represents an essential part of the EDTIB involved in F-35

⁴¹ The new company is fully operational from 1 January 2017 and brings together AgustaWestland Ltd, Selex ES Ltd, DRS Technologies UK Ltd and Finmeccanica UK Ltd under the name Leonardo MW Limited, where the "M" and "W" stand for Marconi and Westland, which are important parts of its heritage. For more information: Leonardo, *Leonardo-Finmeccanica establishes Leonardo MW Limited, the new single entity to oversee its UK operations*, 4 August 2016, <http://www.leonardocompany.com/en/-/leonardo-mw-ltd>.

⁴² UK Ministry of Defence, *Britain Set to Launch Combat Air Strategy, Defence Secretary Announces*, 21 February 2018, <https://www.gov.uk/government/news/britain-set-to-launch-combat-air-strategy-defence-secretary-announces>.

development and procurement.

In the missile-systems field, the air-to-air missile Meteor has been developed by six European countries – namely France, Germany, Italy, Spain, Sweden and the UK – through their respective industries: MBDA France SA, MBDA Deutschland GmbH, Bayern-Chemie Protac GmbH, LITEF GmbH/Northrop-Grumman, MBDA Italy SpA, INMIZE Sistemas SL, INDRA Sistemas SA, Saab Bofors Dynamics AB, MBDA UK Ltd, and SELEX Sensors and Airborne Systems Ltd. This experience retains strategic relevance for Europe since the missile can be used on all three European fighter aircraft currently in service (Eurofighter, Rafale and Gripen) and it will also be used on the British and Italian versions of the F-35. It is also worth mentioning the cooperation between France, Italy and the UK on the naval anti-aircraft Principal Anti Air Missile System (PAAMS) through MBDA. Different versions of this system are utilized on the British Type 45 warships as well as on French and Italian Horizon-class frigates.

With specific reference to Italy, the helicopter sector represented, and continues to represent, an important playing field on which to strengthen bilateral cooperation.⁴³ In fact, from a historical perspective, the AW101 programme contributed to increasing the technological maturity of the Italian aerospace and defence industry in this sector. Another important programme is the military helicopter Super Lynx 300. As proof of this valuable relationship, in July 2016 the British Ministry Of Defence signed a strategic-partnership agreement with Leonardo-Finmeccanica. More recently, as of January 2017 the British MOD signed a £271 million deal with Leonardo Helicopters to continue to support the AW159 Lynx Wildcat helicopters.⁴⁴

Within the framework of the Lancaster House Treaty, signed in November 2010, France and the UK have started close military bilateral cooperation, with the launch of new programmes regarding missiles and an unmanned combat air vehicle (UCAV). For the former country, the decision was to proceed with deeper integration of the activities of their respective subsidiaries of the MBDA group, with consequences also for the Italian production line. With reference to the latter signatory, the project was developed by following a more traditional pattern of intergovernmental and industrial cooperation, and represents the only cooperation between the UK and another European country on UCAV. By taking the decision to support a bilateral programme with London, Paris has concluded its experience with the technology demonstrator nEUROn, a project led by the French company Dassault Aviation with the participation of Greece, Italy, Spain, Sweden and Switzerland.

⁴³ To note, UK now represents the second-largest domestic market for the Italian company.

⁴⁴ "Italy-UK: MOD Signed a £271M Deal with Leonardo Helicopters", in *AGI International*, 9 January 2017, https://international.agi.it/international/italy-uk_mod_hsigned_a_271m_deal_with_leonardo_helicopters-1357311/news/2017-01-09.

Minor or sporadic cooperation between the UK and other European countries has also included naval surface-to-air missile systems, transport aircraft and naval demining systems, but without reaching strategic levels.

On a general note, considering that logistic-support activities and the upgrading of systems resulting from past cooperative programmes are meant to continue at least for the next 20 years, close cooperation with the UK is likely to continue on such aspects of the defence sector.

2.2 Assessing Brexit's possible impact on defence-sector industrial cooperation

According to figures released by the ADS, as of 2017 the UK's defence industry encompasses 120,000 jobs across the country and has an annual turnover of 31.8 billion pounds, thus representing one third of the EDTIB, which directly employs 430,000 with a turnover of 102 billion euro per year.⁴⁵ UK industrial strengths within the aerospace, defence and security sector focus particularly heavily on aerospace, naval shipbuilding (including nuclear submarines), engines, electronics and complex weapons, with important firms such as BAE Systems and Rolls Royce.⁴⁶ In the light of such figures, possible changes in the defence sector after Brexit could have broader implications for both British and EU economies.

Many observers assume that Brexit's impact on the defence industry will be marginal because of the still-modest *acquis* of the EU when it comes to defence cooperation, with important programmes developed outside the European institutional frameworks through NATO or *ad hoc* fora. More specifically, European armaments cooperation has thus far been structured according to three different levels,⁴⁷ in chronological order:

1. on governmental initiatives for the development of advanced weapon systems through joint procurement projects, and also under the OCCAR umbrella;
2. also in relation with 1., above, via industrial collaboration on specific projects and joint activities, possibly with mergers and the creation of joint ventures;
3. latterly, through top-down inputs with the EDA and the Commission promoting initiatives aimed at creating a European Defence Industrial Base and reinforcing European military capabilities through collaborative projects.

The last level is the most recent and, thus far, most limited.

Nevertheless, such a view of a marginal Brexit impact underestimates effects deriving from barriers to market access – especially in terms of additional costs,

⁴⁵ ADS Group, *UK Aerospace Outlook Report 2017*, June 2017, <https://www.adsgroup.org.uk/facts/uk-aerospace-outlook-report-2017>.

⁴⁶ James Black et al., "Defence and Security after Brexit", cit., p. 53.

⁴⁷ Antonio Calcara, "Brexit: What Impact on Armaments Cooperation?", in *Global Affairs*, Vol. 3, No. 2 (2017), p. 141.

taxation, the transnational supply chain and skills – should London decide to leave the Customs Union with the EU (as outlined in Scenarios B and C of this study). Such concerns are also mirrored in the results of a survey conducted by ADS in 2015 regarding views on Brexit within the UK defence, aerospace and space industry.⁴⁸ According to the results, 73 per cent of UK firms perceived EU membership as being beneficial for their business and 86 per cent of ADS members reported that they would vote “Remain”. Similar positions were also expressed by representatives of the EU industrial base – most notably, Tom Enders, CEO of Airbus, who in January 2018 declared that while Airbus would seek to mitigate the impact to its business, “whatever we can do, the net result I’m afraid will be negative”.⁴⁹

Also in order to mitigate such a negative net result, it is likely that both the UK Government and British firms will increase their efforts to seek industrial cooperation with both EU and non-EU countries, in order to keep pace with the necessary level of investments, pooling of capabilities, technological innovation and exchanges. This will probably take place on a case-by-case basis, and also in the light of the features of partners’ military spending and DTIBs. It could materialize in bilateral agreements as well as in mini-lateral or multilateral ones – as in the space sector, in which France, Germany and Italy already make significant investments in cooperative efforts within the European Space Agency (ESA) framework.

In this regard, much will depend on the negotiation results and the UK’s decision regarding its possible membership of the Customs Union and/or the nature of the alternative agreement to be achieved with the EU. Based on this assumption, the following analysis will consider three different scenarios, already introduced and outlined in previous paragraphs of this study.⁵⁰

In the case of the UK leaving the Customs Union and not succeeding in achieving an equivalent free-trade agreement, as in Scenarios B and C, Brexit would impact on the effectiveness of the defence sector by introducing different new variables.⁵¹ First of all, on a general basis, some experts highlight the fact that a “hard” Brexit would probably cause an incremental effect to be felt in 10 to 15 years’ time.⁵² For

⁴⁸ Matthew R.H. Uttley and Benedict Wilkinson, “Contingent Choices: The Future of United Kingdom Defence Procurement and Defence Industries in the post-Brexit Era”, in *Global Affairs*, Vol. 2, No. 5 (2017), p. 499.

⁴⁹ Benjamin D. Katz, “Airbus Condemns Brexit, Trump as Double Protectionist Threat”, in *Bloomberg*, 16 January 2018, <https://www.bloomberg.com/news/articles/2018-01-15/airbus-ceo-condemns-brexit-trump-as-double-protectionist-threat>.

⁵⁰ Scenarios are outlined in the first Section of this study as follows: (1) The UK participating in the Customs Union and co-participating in the EU’s R&D activities with the related specific co-fund; (2) The UK not participating in the Customs Union, but co-participating to EU R&D activities with the related specific co-fund; (3) The UK not participating to the Customs Union and not co-participating to EU R&D activities with the related specific co-fund. For further details regarding these scenarios and their impact also on EU R&D activities within the defence sector, please refer to the previous Section.

⁵¹ Such evaluations consider a situation outlined in the scenario B of the previous paragraph.

⁵² Deloitte, *Impact of Brexit on the Manufacturing Industry: Aerospace & Defence*, cit.

instance, in the case of industrial cooperation, major impact would also occur, in terms of higher prices within the supply chain, due to the large amount of components that cross borders many times (e.g. for the Eurofighter programme). In fact, even if tariff levels were to remain relatively low they would add some cost to products regardless. In light of the complexity of products and supply chains, and the frequency of movement of some components across the EU/UK border, non-tariff barriers are also a cause for concern – both in terms of additional costs and time. Due to a UK exit from the Customs Union, for example, the customs operations of EU subsidiaries in the UK and UK suppliers to EU industry would no longer benefit from the current trusted-trader status and favourable treatment.

More broadly, Scenarios B and C also present further risks regarding regulation and overall future interoperability. As for the former risk, with specific reference to Unmanned Aerial Vehicles (UAVs), Brexit could potentially result in the UK being no longer obliged to follow EU regulations on the operation of drones, which are currently established by the Union and the European Aviation Safety Agency (EASA). In this regard, while Brexit could lead to further innovation, as it would enable British drone companies to innovate and devise new products,⁵³ this would also lead to regulatory divergence that could potentially hinder future UK–EU cooperation in this field.

In order to avoid possible difficulties when it comes to interoperability, it is possible that other multilateral frameworks will acquire more importance. For example, OCCAR could enhance its role in the management of cooperative procurements, and even work on the harmonization of standards and requirements. However, this would make it difficult for OCCAR to act as the preferred executive body to bring the Research and Technology (R&T), R&D and pre-procurement projects nurtured by EDF and EDIDP to the stage of effective procurement on behalf of major EU MSs. At the same time, by including the UK, the Letter of Intent (LoI) could become a sort of legal framework to boost consultation on security and defence industrial issues.⁵⁴ It should be noted that EU–UK cooperation on regulation and standardization would, in any case, continue in formats in which both entities retain membership. This would be the case, for example, with the European Committee for Standardization (CEN) and the European Committee for Electrotechnical Standardization (CENELEC).⁵⁵

Furthermore, another additional impact will relate to taxation and, in particular, will derive from the loss of EU tax-simplification rules. After Brexit, VAT will become payable on EU imports – even if it is then recoverable from the taxation authorities

⁵³ Philip Brien and Chris Rhodes, "The Aerospace Industry: Statistics and Policy", in *House of Commons Briefing Papers*, No. 928, 8 November 2017, p. 14, <https://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN00928>.

⁵⁴ To note, further reflections on the role of OCCAR, LoI and other multilateral frameworks will be developed within Section 4 of this study.

⁵⁵ Bastian Giegerich and Christian Mölling, *The United Kingdom's Contribution to European Security and Defence*, London, IISS, February 2018, p.15, <https://dgap.org/en/node/30724>.

– thus introducing another undesirable effect in terms of cash flow.

Similar changes within the economic environment, as well as the effects of possible restrictions to freedom of movement on access to skilled labour, may affect companies' decisions on how to structure their business model. In fact, such considerations could influence the future investment behaviour of the larger defence companies headquartered in Europe but with operations in the UK – namely, Airbus Group, Leonardo and Thales UK. The risk in this case is that these companies could end up considering relocation within EU MSs in order to maintain access to the benefits of the Single Market, EU funds and the EU-wide supply chain.⁵⁶

Conversely, should the UK remain in the Customs Union with the EU and co-participate in EU-funded R&D activities with a specific arrangement – as outlined in Scenario A of this study – the aforementioned concerns over tariffs, barriers and the related costs and time waste would disappear. However, at a political level, London no longer being an EU member would generate some caution and reluctance among EU governments regarding new and ambitious industrial cooperation with the UK. Such caution and reluctance may be well compensated for by the decades-long praxis of defence cooperation across the Channel, as well as by the close relations and absence of legal and fiscal obstacles implied by membership of the same customs union.

2.3 The role of the EDF, EDA and PeSCo in Scenarios A, B and C

At a time when the EU is positioning itself as an important player within defence cooperation, by building up an institutional and financial framework to support future initiatives through the introduction of EDF, EDIDP, PeSCo, and CARD,⁵⁷ Brexit risks undermining these efforts and producing negative effects on the industrial cooperation between the UK and EU MSs.

In particular, future UK–EU industrial cooperation will be influenced by EDIDP regulation. According to such regulation, companies established in the Union and controlled by UK or UK entities, can be eligible as beneficiaries only under specific conditions: “if guarantees approved by the Member State it is established in, in accordance with its national procedures, are made available to the Commission.”⁵⁸ For instance, these guarantees relate to: governance structure, independency from third countries' interference, protection of sensitive information.⁵⁹ Conversely, cooperation with industries located in the UK is subject to limitations and “the costs

⁵⁶ Matthew R.H. Uttley and Benedict Wilkinson, “Contingent Choices”, cit., p. 499.

⁵⁷ Implications on PeSCo, CARD as well as detailed analysis of UK future role within the EDA is presented in Section 5 of this study.

⁵⁸ Council of the European Union, *Proposal for a Regulation establishing the European Defence Industrial Development Programme*, cit., Article 7(4).

⁵⁹ *Ibid.*, Article 7(4).

related to these activities shall not be eligible for funding under the programme”.⁶⁰ It is noteworthy that the potential impact of such provisions on future European industrial cooperation will depend greatly on the concrete implementation of EDIDP and the EDF post-2020 programme.

In this regard, one of the most significant challenges after Brexit will relate to the willingness of both EU MSs and the British Government to collaborate on future joint programmes. This is particularly true for the former should they face the dilemma of whether or not to devote their limited resources to cooperative procurement programmes co-funded by EDF and restricted to EU MSs, or to programmes involving the UK that will not be co-funded by the Union. In this regard, it will be important to strike the right balance between strategic autonomy, beneficial for the EU, and keeping a close link with the UK, which would be positive for all counterparts at the political, military and industrial levels.

Based on these considerations, the three scenarios framed by this study would display different features.

In Scenario A, membership of the Customs Union and a specific agreement to allow British participation in EDF activities – both in terms of contribution and application, according to a sort of “pay-to-play” scheme – would most probably lead to an agreement retaining London within the EDA framework, and establishing modalities for the UK’s financial and industrial involvement in the new PeSCo programmes.

In Scenario B, London would be out of the Customs Union, yet a deal would be reached to make the UK a part of EDF activities – from R&D to pre-procurement. This could be part of the partnership on security and defence to be negotiated in parallel with, or even prior to, the trade agreement, as recently flagged up by the British Government,⁶¹ in order to shield this strategic sector from the negative impact of the UK being out of the Customs Union with no equivalent deep and comprehensive free-trade agreement. Such an agreement might encompass a deal retaining the UK within the EDA framework and establishing modalities for the UK’s involvement in the new PeSCo programmes.

In Scenario C, neither the Customs Union/free-trade agreement nor a deal on EDF participation would materialize. Accordingly, it would be extremely likely that the UK will simply leave EDA and be completely outside of PeSCo projects. Therefore, future cooperation with the UK may be established on a case-by-case basis, through possible intergovernmental deals in either bilateral or mini-lateral formats.

⁶⁰ Ibid., Article 7(6).

⁶¹ UK Department for Exiting the European Union, *Framework for the UK-EU Security Partnership*, 9 May 2018, <https://www.gov.uk/government/publications/framework-for-the-uk-eu-security-partnership>.

It is worth noting that defence-sector industrial cooperation between the UK and other European countries has managed to move forward despite significant political tensions across the Channel – as it did in the early 2000s, with the “War on Terror” and the US-led military intervention in Iraq – thus showing a remarkable resilience. However, such resilience would not be sufficient to mitigate the radical impact of Brexit, particularly in Scenario C.

In particular, within Scenarios A and B the UK will no longer be a member of the EDA but would have succeeded in negotiating a “special” Administrative Arrangement with the Agency, thus ensuring a broader involvement in future EDA initiatives that would go beyond cooperation limited to a case-by-case basis (as is the case for current non-member countries like Norway and Switzerland). It should be noted that, within a similar scenario, other non-member countries (such as Norway) could express their interest in boosting their cooperation with EU MSs through the negotiation of a deeper defence and capability partnership.

In Scenario C, as the UK would leave the EDA without any meaningful agreement the separation caused by being outside both the customs union and EDF/EDIDP activities would be further exacerbated by a closing of the political, military and industrial channels opened up by participation in EDA, CARD and PeSCo. This would imply a loss of expertise, synergies, spill-over and economies of scale – for both the UK and EU MSs.

3. Brexit and the European defence market

3.1 The EU regulatory framework for the defence market: The state of the art

Against a backdrop of market fragmentation along national lines and insufficient industrial collaboration, the European Commission has, since the end of the 1990s, consistently grappled with the need to improve the regulatory framework governing the procurement and sale of military equipment in the EU and struggled to introduce free-market principles within European defence market(s). Specifically, in order to reduce duplication, introduce greater economies of scale and promote increased industrial competition and cross-border cooperation, the Commission has introduced specific regulations for defence procurement and intra-Community transfers.

In particular, since 2009 the European defence market has been regulated by two Directives, the so-called “Defence Package”: Defence Procurement Directive 2009/81/EC of 13 July 2009 on the coordination of procedures for the award of certain work contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amended Directives 2004/17/EC and 2004/18/EC on defence and security procurement;⁶² and Directive

⁶² European Parliament and Council of the European Union, *Directive 2009/81/EC of 13 July 2009 on*

2009/43/EC, adopted on 6 May 2009, simplifying the terms and conditions of transfers of defence-related products within the Community (i.e. Intra-Community Transfers – ICT).⁶³

The adoption of these two norms ended the previous phase, in which, at European level, the only applicable norms in this field were either the regulations on public procurement or their complete derogation through the application of Article 346 TFEU (Article 296 of the previous treaty) for the protection of essential interests of national security. Also worth mentioning in this regard are the European Common Position 2008/944/CFSP, adopted on 8 December 2008,⁶⁴ which defines common rules governing the control of exports of military technology and equipment, and the EU Common Military List including equipment covered by the EU Code of Conduct on Arms Exports.⁶⁵

Notwithstanding the Commission's efforts, according to a report issued by the European Parliament (EP) in 2015 the actual impact of the Defence Directives on EDTIB has so far been "limited or even non-existent", as MSs have often applied them in an incomplete or incorrect manner and continued to procure equipment primarily from national suppliers.⁶⁶

With specific regard to Directive 2009/81, the report states that its application "remains uneven".⁶⁷ In 84 per cent of cases,⁶⁸ the selected supplier is based in the same national territory as the customer. Interestingly enough, during the five-year period under review (2010–15), half of the contracts established under the Directive were issued by UK authorities – even if over 92 per cent of British contracts were awarded to domestic firms, following Germany with 98 per cent, France with 97

the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC, OJ L 216, 20.8.2009, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:32009L0081>.

⁶³ European Parliament and Council of the European Union, *Directive 2009/43/EC of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community*, OJ L 146, 10.6.2009, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:32009L0043>.

⁶⁴ Council of the European Union, *Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment*, OJL 335/99, 13.12.2008, <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:32008E0944>.

⁶⁵ For the latest, see: Council of the European Union, *Common Military List of the European Union adopted by the Council on 26 February 2018*, OJ C 98, 15.3.2018, [https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:52018XG0315\(01\)](https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:52018XG0315(01)).

⁶⁶ Hélène Masson et al., *The Impact of the 'Defence Package' Directives on European Defence*, Brussels, European Parliament, June 2015, p. 6, [http://www.europarl.europa.eu/thinktank/en/document.html?reference=EXPO_STU\(2015\)549044](http://www.europarl.europa.eu/thinktank/en/document.html?reference=EXPO_STU(2015)549044).

⁶⁷ European Commission, *Report on the implementation of Directive 2009/81/EC on public procurement in the fields of defence and security, to comply with Article 73(2) of that Directive (COM/2016/762)*, 30 November 2016, p. 94, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:52016DC0762>.

⁶⁸ Percentage calculated considering cases whereby the contracting authorities provided information regarding the successful economic operator.

per cent, Italy and Poland with 96.⁶⁹

Similarly, concerning the 2009/43 Directive the EP report underlines the fact that “the new mechanisms still have to fully come into force in some Member States, and companies are still learning about and evaluating the potential benefits of the ICT Directive”. Although time is needed in order to provide a proper assessment, it also admits that “it is doubtful [...] that Directive 2009/43/EC will reach all its objectives”.⁷⁰ The UK, in particular, had a long tradition of using general licences well before the coming into force of the Directive. Nonetheless, when it comes to its application, no British enterprises have thus far received certification following the Directive,⁷¹ and the British authority has issued only one General Licence.⁷²

Considering that the scope of the “Defence Package” is limited to EU MSs’ markets, its provisions will not directly apply to the UK after Brexit unless London decides to retain current national legislation, which transposes the Directives. Should the UK cease adhering to EU regulations in a post-Brexit scenario, questions arise regarding the potential implications for defence cooperation in terms of market access and competitiveness.

3.2 Assessing Brexit’s potential effects on the European defence-equipment market

The basic assumption behind the following analysis is that the outcome of EU–UK negotiations will be influence how both parties will manage relations between the UK and European defence-equipment markets.

In this regard, it is possible and useful to start the examination with some general considerations. First of all, defence-industry processes and systems will not change quickly since they usually involve long-term contracts.⁷³ Secondly, considering that British defence sales to EU MSs are limited, according to some experts British defence firms will probably be less vulnerable than firms in other sectors in the case of the UK leaving the Customs Union and Single Market.⁷⁴ Thirdly, the real scale of the possible impact will be determined by a range of different factors, including

⁶⁹ Hélène Masson et al., *The Impact of the ‘Defence Package’ Directives on European Defence*, cit., p. 6.

⁷⁰ Ibid., p. 58.

⁷¹ This is one of the tool introduced by the Directive in order to foster mutual trust among member states. For more information, please refer to CERTIDER, the database set up by the Commission (more precisely by the Directorate-General for Enterprise and Industry). See *Certified Enterprises Register*, <http://ec.europa.eu/growth/tools-databases/certider/index.cfm?fuseaction=undertakings.countries>.

⁷² UK Department for International Trade, *Open General Export Licence. Certified Companies*, last updated 11 April 2018, <https://www.gov.uk/government/publications/open-general-export-licence-certified-companies>.

⁷³ Bastian Giegerich and Christian Mölling, *The United Kingdom’s Contribution to European Security and Defence*, cit., p. 8.

⁷⁴ Ibid.

the outcome of the ongoing UK–EU negotiations, the future nature of the UK–EU trading relationship and further advances towards an integration of the European defence-equipment market under the *acquis communautaire*. In this regard, the progressive implementation and application of, and/or possible changes to, the two Directives and the Council Common Position, which will no longer see the active participation of the UK, could lead to a progressive divergence between the EU and the UK.

Defence Procurement Directive 2009/81

The aim of this Directive is to foster and ensure competition in the European defence-equipment market, with specific focus on European companies. As such, it constitutes an important part of the Single Market under the EU's *acquis communautaire*. Therefore, unless its aim is fulfilled (albeit differently) by a future EU/UK partnership on security and defence, after Brexit the UK will no longer be automatically bound to the norm.

Against such a backdrop, within the EU the possibility of excluding British companies would be left to MSs' discretion, while the jurisdiction of the European Court of Justice (ECJ) would probably continue to apply. Conversely, European companies competing in the British market would have to abide by British regulations and jurisdiction. It is worth specifying here that the debate around any future ECJ role and the UK is rather complex – with both short- and long-term implications – and no definitive solution has been agreed thus far.⁷⁵

In such a scenario, Brexit could also impact on Security of Supply protection (Article 23), since the non-EU origin of potential equipment acquired by EU MSs could require specific assurances by British companies. For instance, this would be the case for long-term licences, given that dealing with the UK after Brexit will no longer involve intra-community transfers but imports. As a consequence, should London be outside the EU Single Market and fail to negotiate a comprehensive agreement that *de facto* replicates the Customs Union (Scenarios B and C), the UK could find itself in a situation of structural disadvantage as EU regulations could potentially restrict access to markets for British companies.⁷⁶ Similarly, the British Government could also require EU companies to provide the necessary assurances.

Conversely, Brexit will not have an impact on Security of Information protection (Article 22) as this issue is addressed by a dedicated NATO–EU agreement and/or by bilateral agreements between the UK and other Union MSs.

⁷⁵ Interview with Georgina Wright (Researcher, Chatham House) on Brexit and the UK's relationship with the European Court of Justice, May 2018. For further information regarding the HM Government's proposals, please refer to: UK Department for Exiting the European Union, *Enforcement and Dispute Resolution. A Future Partnership Paper*, 23 August 2017, <https://www.gov.uk/government/publications/enforcement-and-dispute-resolution-a-future-partnership-paper>.

⁷⁶ Olivier de France et al., "The Impact of Brexit on the European Armament Industry", cit., p. 16.

An interesting aspect of this situation relates to the future application of Section 3 of the Directive, regarding “excluded contracts”. Currently, European cooperation programmes involving the UK fall under the Directive’s Article 13 c), provided that they are based on a significant and provable share of R&D activity. After Brexit, these programmes will fall under the exclusion provision of Article 12 c), which does not foresee any specific condition, thus resulting in a simpler application of the clause.

It is noteworthy that, considering that most defence procurement contracts are awarded outside the Directive framework, the short-term impact of Brexit on market access will probably be limited. More significant implications will probably be felt in the long run, and will be largely determined by the future market orientation of both the UK and the EU – in the latter case, with relevant roles played by both the Commission and individual MSs.

After Brexit, governments’ considerations regarding their domestic economies and employment could also impact on defence procurement, thus leading the UK or EU MSs towards the introduction of a more protectionist policy supporting domestic suppliers. Moreover, London could also become more willing to reinforce its transatlantic procurement strands by increasing purchasing from and/or industrial collaboration with the US. In addition, should the UK decide to substantially revisit its regulatory approach to defence procurement, this would also have potential negative side-effects also on its government’s relationship with the national defence industry.⁷⁷ Nevertheless, considering the market-oriented and pro-liberal procurement approach traditionally adopted by London, it is unlikely that the British Government would radically change its procurement philosophy.⁷⁸

From the EU side, much will depend on the future Commission role and efforts in the implementation of the Directive. The UK’s exit from the Union could make it more difficult for EU institutions to promote greater equipment-market liberalization – especially considering the fact that the UK has always been a promoter of open and free competition, while adopting a more protectionist approach in key technology areas such as nuclear, cryptography, shipbuilding.⁷⁹ Therefore, current and future attempts to build an EDTIB risk being marred by protectionist features.⁸⁰ Furthermore, depending on the outcome of EU–UK negotiations, increased Commission efforts to implement the Directive among EU MSs – also characterized by the recently issued infringement procedures against five of them⁸¹ – could lead to progressive regulatory divergence in the procurement domain between the

⁷⁷ Bastian Giegerich and Christian Mölling, *The United Kingdom’s Contribution to European Security and Defence*, cit., p. 9.

⁷⁸ Olivier de France et al., “The Impact of Brexit on the European Armament Industry”, cit., p. 17.

⁷⁹ James Black et al., “Defence and Security after Brexit”, cit., p. 50.

⁸⁰ Olivier de France et al., “The Impact of Brexit on the European Armament Industry”, cit., p. 16.

⁸¹ European Commission, *Defence procurement: Commission opens infringement procedures against 5 Member States*, 25 January 2018, <http://europa.eu/!Ky77jG>.

EU Single Market, wherein the Directives would be increasingly applied, and the British one, which would freely follow its own path.

Directive 2009/43 on intra-EU transfers of defence-related products

The aim of this Directive is to simplify terms and conditions regarding the control procedures of intra-Community transfers of military products, such as components, subsystems and systems. Considering the fact that the EU's legal framework was largely inspired by British regulations, exports from the UK to the Union should not raise any particular issue, with the exception of regular customs controls applying to all products entering the EU. In fact, the UK already has in place simplified licences covering third-country destinations of least sensitivity.⁸²

Conversely, completely different considerations could apply to the export of military products from the EU to the UK. In this regard, the Directive would no longer apply to such exchanges, which would be regarded as exports to a non-EU country rather than intra-community transfers. Nevertheless, considering the fact that the General and the Global Transfer Licences (GTL and GloTL) present only minimal common ground, and that the definition of products subject to the GTL – as well as of possible limitations – are the responsibility of MSs, the consequences of Brexit could be limited (at least, for some MSs). In other countries, in which GTL and GloTL have been introduced only with reference to intra-EU transfers, the implications would be greater as this regulation could not apply to the UK. In addition, as is the case with the Defence Procurement Directive, a further complicating factor is likely to derive from the definition of the competent jurisdiction. EU MSs will continue to abide by the ECJ, while it is unclear how or to what extent the UK will defer to the Court. Even though the UK Government has thus far adopted the British Eurosceptics' stance, foreseeing the end of the ECJ's jurisdiction over the UK in a post-Brexit scenario, the UK has proposed a number of alternatives to address such a complex issue.⁸³ Particularly tricky areas will probably be the enforcement of common rules and settlement of disputes, and the ECJ's position over the island of Ireland (where the Court will probably retain a role).⁸⁴

In the light of the aforementioned considerations, the Letter of Intent/Framework Agreement (LoI/FA)⁸⁵ – adopted in 2000 and encompassing France, Germany, Italy, Spain, Sweden and the UK – could be seen as a tool for mitigating possible negative side-effects. It could indeed provide a forum in which the UK could

⁸² As for greater sensitivity goods individual licence are required with subsequent increasing administration costs. UK Parliament, *Defence Sector Report*, December 2017, p. 13, <https://www.parliament.uk/documents/commons-committees/Exiting-the-European-Union/17-19/Sectoral%20Analyses/11-Defence-Report.pdf>.

⁸³ UK Department for Exiting the European Union, *Enforcement and Dispute Resolution*, cit.

⁸⁴ Interview with Georgina Wright, cit.

⁸⁵ Possible implications of Brexit on LoI are presented in Section 4.

continue to discuss with its main defence-industry partners in the EU issues related to market access. In addition, it also contains provisions that could ease cooperative programmes among the partner nations.⁸⁶ In fact, by building on this legal framework, LoI countries issued the Global Project Licence to manage intergovernmental and industrial cooperation programmes. Therefore, such a simplified procedure for export controls could continue to apply within these programmes and for other LoI countries.⁸⁷

Far more difficult will be the issue of indirect handling towards the UK. In fact, being limited to the EU context, GTL and GloTL will not apply in these cases. In this regard, it is sufficient to consider the following examples: (1) intra-community transfers with a UK destination and final export towards a non-EU third country; (2) export towards the UK with a following return into the EU, before final export towards a non-EU third country.

According to Directive 2009/43, a GTL – aimed at a more “Europeanized” supply chain – is based on the identification of certified undertakings trusted to receive components through a significantly simplified procedure. Nevertheless, this might no longer apply to recipient British companies – e.g. system integrators – and therefore EU suppliers (particularly SMEs) would risk becoming less competitive. It should be noted that, considering that the UK has a more consolidated tradition in the application of simplified procedures, it would be transfers from the EU to the UK that suffered the most in the case of London leaving the Customs Union without negotiating a comprehensive free-trade agreement. In such a scenario, administrative burdens and extra costs could hamper the competitiveness of European suppliers. Furthermore, taking into account the fact that it could take years for the UK to agree on the terms of exiting the EU, possible additional costs and negative side-effects could also derive from uncertainty regarding the final results of negotiations, as companies would have to elaborate new strategies and prepare for different possible Brexit outcomes.⁸⁸

Interestingly enough, and with specific regard to the British aerospace industry – a net exporter with low WTO tariffs – Brexit could potentially have a positive impact as it could benefit from sterling’s depreciation and lower UK tax rates. Some experts estimate a possible profit increase from 4 to 8 per cent, as shown by Table 3.⁸⁹

⁸⁶ UK Parliament, *Defence Sector Report*, cit., p. 18.

⁸⁷ The LoI/FA role will be further discussed in Section 4 of this report.

⁸⁸ Thomas Kwasniok, Peter Guarraia and Michael Garstka, “Is Your Supply Chain Ready for Brexit?”, in *Bain Briefs*, 6 February 2017, <http://www.bain.com/publications/articles/is-your-supply-chain-ready-for-brexit.aspx>.

⁸⁹ Ibid.

Table 3 | The impact of a “hard” Brexit on net profits, across industries

		Sector	Total UK sales	Profit pool	Impact of Brexit on profits		
					No Brexit or soft Brexit	Moderate scenario	Hard Brexit
Negative ↑ Impact of hard Brexit ↓ Positive	Retail	Food (grocery)	£158B	£1B–£2B	-	-£6.1B (to be offset by price increases)	-£19.8B (to be offset by price increases)
		Automotive	£36B	£1B	-	-£50M (-5%)	-£2B (-300%)
	Manufacturing	Technology	£25B	£2B	-	-£320M (-20%)	-£660M (-35%)
		Chemical	£30B	£2B	-	-£80M (-4%)	-£170M (-8%)
		Pharma	£39B	£4B	-	£70M (2%)	£130M (3%)
		Aerospace	£30B	£1B	-	£40M (4%)	£80M (8%)
		Total	£318B	£11B–£12B	-	-£0.3B (-3%)	-£3B (-30%)

Note: Profit pool is defined as profit after tax, based on margins of the top four or five players by industry
Sources: ONS; S&P Capital IQ; World Trade Organization; company annual reports; literature search; Bain analysis

Source: Thomas Kwasniok, Peter Guarraia and Michael Garstka, “Is Your Supply Chain Ready for Brexit?”, cit.

Moreover, the non-application of the Directives could also impact on the operational side of defence. In fact, capability cooperation has thus far benefited from rules that have contributed to facilitate armaments cooperation and have guaranteed security of supply.

Finally – similarly to what was stated for the 2009/81 Directive – considering that more effort will also probably be devoted to strengthening the functioning of the 2009/43 Directive towards a more integrated EU defence-equipment market, the exclusion of the UK could impact on its future implementation by introducing greater competition and/or divisive dynamics between the two sides of the Channel.

Council Common Position 2008/944/CFSP

Through the Council Common Position 2008/944/CFSP – formalizing the commitments previously assumed by the Code of Conduct adopted on 8 June 1998 – the Union’s MSs committed to coordinate exports to non-EU countries by introducing a mechanism for the mutual exchange of information and enhanced accountability in the case of diverging assessments.

While the Council Common Position did not lead to a common export policy – that would firstly imply far more integration of national foreign and defence policies than is currently the case – it has at least limited cases whereby some EU MSs would

be fully free to profit from others' denial of licence to a third country (meaning a refusal to authorize exports to that country). It is worth noting that the system applies only in cases in which destination countries present very serious risks. Conversely, it does not work in cases of the simple divergence of MSs' political evaluations regarding specific export opportunities.

The EU Common Military List (Article 12) builds on this basis to define the precise perimeter of application of the Council Common Position.

Unless a decision to the contrary is taken during negotiations, after Brexit the UK will no longer be automatically involved in the exchange of information concerning export licenses and the updating of the EU Common Military List. In this regard, possible implications could vary from the short to the long term. In the near future, it is unlikely that observers will notice any relevant change – especially given that the criteria in the Common Position have been strongly influenced by UK national practices dating back to the 1990s. However, in the longer term the possible exclusion of London from processes of dialogue and exchanges of information could potentially lead to an exacerbation of already-existing divergent perspectives regarding the interpretation of the Common Position. In fact, there is no guarantee that the UK and EU will retain the current alignment on criteria and other elements contained in the document. First of all, on an operational level the UK will no longer have the right to participate in the EU Council of Ministers Conventional Arms Working Group (COARM).⁹⁰ Furthermore, even British participation in denial-notification and consultation mechanisms could be questioned. This will depend on the outcome of EU–UK negotiations as well as the respective perception of costs and benefits.

It is noteworthy that the potential exclusion of the UK would also have an impact on the continued application of the aforementioned Directive 2009/43 to transfers (i.e. exports) between EU MSs and the UK in a post-Brexit scenario. Needless to say, such a possibility would presuppose the achievement of a specific agreement between the UK and the EU. For instance, in a post-Brexit scenario in which the UK continued to apply the 2009/43 Directive, the publication of a GTL – with no subsequent limitations on the export of new products that integrated components under the licence – would, as a matter of course, assume compliance with the Common Council Position in order to ensure that further export activities towards non-EU countries would be conducted in accordance with EU standards. Otherwise, there would be a risk involved in continuing to apply limitations to exports, with subsequent negative effects on future cooperation and integration involving the UK. In this sense, potential effects deriving from London's possible continued application of Directive 2009/43 will also depend on its future alignment with the Common Position.

⁹⁰ Elizabeth Kirkham and Roy Isbister, "Brexit and the Future of UK Arms Transfer Controls", in *Saferworld Reports*, July 2017, p. 43, <https://www.saferworld.org.uk/resources/publications/1128>.

4. Brexit and multilateral frameworks

Limiting analysis of the potential effects of Brexit to the EU institutional framework only would fail to address other relevant aspects of the issue. This is especially the case considering that, when it comes to defence, EU countries have built different layers and channels for cooperation – often before and/or outside the perimeter of the Union's treaties. Therefore, for a comprehensive assessment of potential Brexit implications, intergovernmental cooperation within multilateral fora is worth considering. In this light, the following paragraphs will focus on: OCCAR, the LoI/FA, ESA and NATO.

One of the major challenges in assessing the possible impact of Brexit on these frameworks is that, over time, they have become increasingly intertwined with the EU's institutional dimension without being formally included in the Union's treaty provisions. As a consequence, while the current Brexit negotiations will not deal with aspects outside of the EU regulatory perimeter, their outcome will probably affect the functioning of these organizations as well as having an effect on the broader European defence landscape.

Overall, the extent of the impact will mostly depend on two different variables:

1. The effects of Brexit on subsequent political relations between the UK and the EU. Considering their intergovernmental nature, future cooperation within OCCAR, LoI/FA, ESA and NATO will be influenced by the political environment resulting from the negotiations (and deal) themselves.
2. The extent of progress achieved in the EU defence-integration process. Advancements and concretization of initiatives such as PeSCo, EDF and CARD could result in an evolution of both OCCAR and LoI/FA and their relations with EU institutions, as well as impacting on the roles of ESA and NATO.

4.1 The Organisation for Joint Armament Cooperation (OCCAR)

OCCAR was established by an *ad hoc* administrative agreement between Italy, France, Germany and the United Kingdom, signed in Farnborough (UK) on 9 September 1998. Later on, in 2003 and 2005 respectively, Belgium and Spain also joined OCCAR.

In legal terms, OCCAR is not an EU body and Union membership is not a prerequisite for joining it. As with similar institutions, like ESA, it is in theory perfectly possible for a non-EU country to obtain OCCAR membership. In fact, according to Article 53 of the OCCAR Convention, "Once this Convention has entered into force, a European State which wishes to become a Member State may be invited by the BoS [Board of Supervisors] to accede to this Convention".⁹¹ It is worth noting that the

⁹¹ OCCAR, *Convention on the Establishment of the Organisation for Joint Armament Cooperation*, Farnborough, 9 September 1998, http://www.occar.int/sites/default/files/downloads/OCCAR_Convention.pdf.

term “European State” retains a rather generic meaning, which would therefore allow a non-EU MS to join the organization and, more relevantly, permit the UK to retain OCCAR membership after Brexit.

Nevertheless, the text of the Convention contains several references to the EU and to European defence-sector integration. For instance, the preamble states that

Deeming it necessary, in cooperative programmes, in order to improve the competitiveness of the European defence technological and industrial base, to take advantage of their industrial poles of excellence, to promote links between companies, and for competition to be organised in accordance with uniform rules adopted in accordance with the provisions of this Convention, Convinced that a strengthening of their co-operation in defence equipment will contribute to the establishment of a European security and defence identity and is a practical step towards the creation of a European Armaments Agency,⁹² Wishing to associate other European states which accept all the provisions of this Convention [...]⁹³

Noticeably, Article 5, referring to OCCAR goals, states, “To enable a strengthening of the competitiveness of European defence technological and the industrial base [...]”.

According to these considerations, it is clear that even with no, or very limited, immediate consequences in legal terms Brexit would probably have more significant effects on the political level, especially in the long run.

Indeed, Brexit probably will not have any disruptive effect in the short term with specific reference to the three OCCAR programmes involving the UK – namely: the A400M transport aircraft, the Maritime Mine Counter Measures (MMCM) system and the Next Generation of Surface-to-Air Anti-Missile Systems (Famille des systèmes Surface-Air Futurs - Principal Anti Air Missile Systems, FSAF-PAAMS).⁹⁴ Disruptive effects could take place only if negotiations turn out to be so disastrous that any future cooperation between the UK and the EU MSs would be hampered. It should be noted that this could be the case in the aforementioned Scenario C, with London out of the Customs Union and completely excluded from the Union’s R&D activities and joint-procurement initiatives – a scenario in which EU–UK relations would be characterized by open competition.⁹⁵

⁹² In this regard, it is worth noticing that a kind of European Armaments Agency, as it is called here, was founded in 2004 as European Defence Agency, and only then the EU membership was set as an essential condition to join the Agency itself.

⁹³ OCCAR, *Convention on the Establishment of the Organisation for Joint Armament Cooperation*, cit.

⁹⁴ For more information, see OCCAR website: *Our Work: Programmes*, <http://www.occar.int/our-work-programmes>.

⁹⁵ This scenario, introduced in the first Section of this study, foresees: an EU-UK deal with the UK not participating to the Customs Union and not co-participating to EU R&D activities with the related specific co-fund. In such a scenario, an agreement, which makes the UK an associate country for the EDA may occur or not.

Longer-term developments, however, may pose several, multifaceted political challenges to the UK's role in OCCAR, depending also on London's relations with EDA as well as recently launched EU initiatives such as PeSCo and EDF.

OCCAR is managed by a BoS (Article 15), composed of the six Ministers of Defence of the participating states or duly appointed delegates,⁹⁶ which gathers at least twice a year according to Article 14 of the Convention. The BoS' decisions are taken on the basis of the following voting rights: ten for each of the founding members, France, Germany, Italy and the UK; eight for Spain; and five for Belgium. Any new participating states could be assigned from one to nine voting rights, according to evaluation by OCCAR members. Decisions on the most important matters are taken by a reinforced qualified majority, i.e. one with less than ten votes cast against it – which means a *de facto* veto power for any of the founding members. This rule applies in the case of votes on new admissions, new programme assignation, norms, regulations, organization, and the designation of directors and deputy directors.⁹⁷

It is precisely for these reasons that Brexit could pose some issues in the future – for instance, in the case of the appointment of the Director of the Executive Administration (EA). At the time of writing, OCCAR is headed by a Spanish director who replaced the British predecessor in February 2017. For the period starting in Summer 2019 and finishing at the end of 2020, an Italian successor has already been appointed. According to Article 16, the director's mandate can be extended by a maximum of six years. In this regard, having a post-2020 director from the UK at the top of an organization that wishes to be increasingly involved in European defence integration would be an issue that would probably need to be addressed – especially if negotiations fell short in addressing the UK's participation in EU defence initiatives, and the nature of its partnership with the EDA (Scenario C).

Currently, OCCAR and EDA already work together very closely. EDA focuses on the planning phase of projects, starting from the definition of requirements up to the promotion of multilateral initiatives and projects. OCCAR can take over the implementation and delivery of projects initiated by the Agency when they move towards the procurement stage. The two organizations' linkage is, in fact, formally established in detail through a number of administrative and security agreements. Therefore, the prospect of the UK leaving the EU and EDA but retaining OCCAR

⁹⁶ To note, national ministers have designated on a permanent basis the corresponding National Armaments Directors (NADs) or other top executives/directors in charge in the armaments sector to participate to the BoS.

⁹⁷ It is worth noticing here that in 2014, Annex IV of the Convention (on "Decision-making process") was amended with the aim of increasing the number of multinational cooperation programmes and ease third states' participation. Such provision aims also at enlarging overhead contributions. See OCCAR, *Decision of the Board of Supervisors modifying Annex IV to the Convention...*, Rome, 10 June 2014 (entered into force on 15 March 2017), http://www.occar.int/sites/default/files/downloads/Annex_IV_amendment_2017_as_ratified_EN_web.pdf.

membership could have important repercussions on the effectiveness of their cooperation.

Besides legal considerations, the problem also touches on the role that OCCAR could potentially play in the future within the EU framework – especially with reference to PeSCo and EDF. In the case of the former, the organization’s “List of ambitious and more binding common commitments in the five areas set out by article 2 of Protocol No 10”, specifies “[c]ommitment to the use of EDA as the European forum for joint capability development and [consideration of] the OCCAR as the preferred collaborative program managing organisation”.⁹⁸ According to such a provision, the organization could therefore become increasingly aligned with PeSCo and EU institutions in the near future. Similarly, within the framework of EDIDP, OCCAR could have an executive role in the management of development programmes, based on a Commission mandate.⁹⁹

In this sense, the UK presence on the OCCAR BoS with a veto power and the possibility of having a British director designated in the future are issues that need to be handled with some caution after Brexit. While not representing a serious problem for the upcoming two-year period from 2019 to 2020, they could have significant consequence for the implementation of the defence funding provided by the EU Multiannual Financial Framework running from 2021 to 2027.

The situation could become even more problematic considering that, in the future, some EU MSs could decide to allow OCCAR to additionally act as a management agency for national programmes. For example, this was the case for two Italian programmes: Pattugliatori Polivalenti d’Altura (PPA) and Logistic Support Ship (LSS) – although the latter is now falling again into the scope of bilateral cooperation, with French participation. This OCCAR function, as management body of national programmes open to European cooperation, could be further enhanced in order to favour those EU MSs with less ability and experience to manage acquisition programmes and/or willing to keep the initiatives attractive to other European partners.

Nevertheless, such a development would require MSs to better define the applicability of Directive 2009/81/EC to these cases; in January 2018, an infringement procedure was opened against Italy regarding the two aforementioned maritime programmes. It is worth noting that, at the time of writing, the Commission seems unlikely to accept the employment of OCCAR for national initiatives, as its involvement would

⁹⁸ See Point 18 of the Notification on Permanent Structured Cooperation (PeSCo) to the Council and to the High Representative of the Union for Foreign Affairs and Security Policy, 13 November 2017. See Council of the European Union, *Council Decision (CFSP) 2017/2315 of 11 December 2017 Establishing Permanent Structured Cooperation (PESCO) and Determining the List of Participating Member States*, OJ L 331, 14.12.2017, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:32017D2315>.

⁹⁹ On this specific aspect, positions among Commission, Parliament and the Council are rather different. For more details in this regard, please refer to: Olivier Jehin, “Un accord en vue sur le programme de recherche de défense (EDIDP)”, in *Bruxelles2Pro*, 18 May 2018.

exclude them from the scope of the Directive: there is the risk of creating a breach that could be used by the MS to evade the regulation itself.

Furthermore, in view of a possible alignment with the EU's institutional framework, OCCAR's configuration also presents another sensitive issue: that of the Global Balance principle. This is related to the management of cooperative programmes and it consists of enabling, as Article 5 of the Convention states, "a strengthening of the competitiveness" of the European defence technological and industrial base, adding, "the Member States renounce, in their cooperation, the analytical calculation of industrial *juste retour* on a programme-by-programme basis, and replace it by the pursuit of an overall multi-programme/multi-year balance".¹⁰⁰

Even if this principle has never been fully applied – and also because it assumes the simultaneous subsistence of various significant programmes in order to assess their global balance – it clearly operates outside the purpose of the Directive. However, the Directive foresees an exclusion clause for programmes managed by international organizations (IOs) (Article 12 c), or for cooperation initiatives involving at least two EU MSs (Article 13 c) – thus allowing some room for manoeuvre in combining bilateral/multilateral cooperation within the OCCAR framework in accordance with EU regulations.

Provided that these obstacles are removed, OCCAR's possible role as a reference body to manage future European cooperation programmes will also depend on the definition of the UK's future role within the organization.

In any case, as of the time of writing, OCCAR clearly represents the most stable institutional bridge between the EU and the UK, as Brexit will not have any direct legal implications on it.

4.2 The Letter of Intent/Framework Agreement (LoI/FA)

The Framework Agreement (FA) between France, Germany, Italy, Spain, Sweden and the UK "concerning measures to facilitate the restructuring and operation of the European defence industry" was signed in Farnborough (UK) on 27 July 2000, following the signature of the Letter of Intent (LoI) by the relevant Ministers of Defence on 6 July 1998. The Implementing Arrangements, providing further practical details on how to implement the key terms of the Agreement were adopted between 2003 and 2004 and relate to the following:

- transfer and export procedures;
- security of supply;
- security of classified information;
- defence-related research and technology;
- treatment of technical information; and

¹⁰⁰ OCCAR, *Convention on the Establishment of the Organisation for Joint Armament Cooperation*, cit., p. 5.

- harmonization of military requirements.

The FA is an intergovernmental agreement, whose instruments of ratification are deposited with the government of the United Kingdom. While EU membership is not a legal prerequisite, the political links with the European institutional framework deserve a specific assessment.

For instance, besides the full scope of the LoI/FA “designed to facilitate the restructuring of the European aerospace and defence electronics industries”,¹⁰¹ the preamble to the agreement also refers at various points to the process of European defence-industry integration.¹⁰² In particular, EU membership of the participating states seems to be taken for granted in the following sentence: “Acknowledging that any activity undertaken under this Agreement shall be compatible with the Parties’ membership of the European Union and their obligations and commitments resulting from such membership”.

Furthermore, considering the objectives of the FA,¹⁰³ it clearly emerges that it is primarily aimed at facilitating the formation of a European market in which new transnational defence companies can operate as if it were a single market – albeit remaining *de facto* a sum of several national ones – by introducing common rules and promoting a coordinated political process.

In the last decade, the LoI’s relevance has been gradually downgraded because of two distinctive processes within the EU. First, the increasing consolidation and recognition of EDA’s role within the Union’s institutional framework, especially with the coming into force of the Lisbon Treaty. Second, and more recently, the Commission’s renewed activism epitomized by the presentation of the European Defence Action Plan (EDAP) in November 2016, after having moved forward the regulation of the European defence market through Directives 2009/81 and 2009/43. Therefore, the FA has progressively assumed the role of coordinating between participating countries’ positions in order to better steer EDA activities. With the preparation of the “Defence Package” Directives, this role has also

¹⁰¹ *Framework Agreement concerning measures to Facilitate the Restructuring and Operation of the European Defence Industry*, Farnborough, 27 July 2000, <https://www.gov.uk/government/publications/framework-agreement-concerning-measures-to-facilitate-the-restructuring-and-operation-of-the-european-defence-industry-farnborough-2772000>.

¹⁰² To note, according to the document: the “creation of Transnational Defence Companies [...]. Noting in this connection that a degree of interdependency already exists in Europe as a result of current co-operation on major defence equipment; Wishing to create the political and legal framework necessary to facilitate industrial restructuring in order to promote a more competitive and robust European defence technological and industrial base in the global defence market and thus to contribute to the construction of a common European security and defence policy; [...] Recognising that European armed forces must be of a sufficient quality, quantity and level of readiness”. See *Framework Agreement concerning measures to Facilitate the Restructuring and Operation of the European Defence Industry*, cit., Preamble.

¹⁰³ For instance: “(a) establish a framework to facilitate restructuring of the defence industry in Europe; (b) ensure timely and effective consultation over issues arising from the restructuring of the European defence industrial base”. Ibid., Article 1.

increasingly grown vis-à-vis the Commission – again, to foster convergence between participating MSs with respect to the Commission.

As a result of this evolution within the EU, the FA Implementing Arrangements never really applied and were gradually frozen. Also, the working groups and committees, which had been intensively engaged at the beginning, have now been suspended, thus reducing LoI/FA activities to about three executive committee meetings per year. These meetings are set up by the rotating presidency (held on an annual basis, from summer to summer) and are prepared by the relevant working group. During these meetings, the LoI's representatives meet with representatives of the Commission; the EDA; and, more rarely, with those of the industry. However, due to the rapid development of the European defence-integration process, keeping pace with the European institutional framework has become increasingly difficult; this is also the case because the LoI remains characterized by too formal approaches and procedures. Furthermore, the lack of a provision ensuring a political level of coordination as well as National Armaments Directors' (NADs') participation has further contributed to reduce LoI effectiveness. Over the past 18 years, there have been only a few NAD meetings and, due to the scarce results, national institutions have shown diminishing interest and commitment.

Interestingly enough, in February 2015, during an informal NAD meeting in Rome, the Italian representative proposed a reform plan for the FA. The logic behind such a proposal was to adapt the FA to the new scenario by transforming it into a strategic coordination group. Other participating countries rejected the proposal, mainly in order to avoid opening national (and potentially detrimental) debates on the initiative.¹⁰⁴

Against such a backdrop, Brexit opens up various options regarding the future of the framework. On the one hand, it could be the occasion to renovate the FA as a forum for consultation and coordination between the six participating European countries. On the other hand, this format risks being further marginalized due to the increasing EU role within the defence domain.

With regard to the first option, and depending also on the outcome of negotiations, the FA could even foster a more efficient cooperation between various levels and actors. Firstly, it could do so between governments, mainly regarding management of research, development and acquisitions programmes, as well the exchange of military products, export policy, security of supply, etc. Secondly, FA consultation could help at the industrial level, especially in supporting the functioning of transnational defence companies, by also considering undertakings controlled by EU groups located in the UK and vice versa.

¹⁰⁴ In fact, considering its limited usefulness and effectiveness, government and parliamentary representatives could have even opted for a complete cancellation of the initiative.

From a British perspective, revitalizing the LoI could be a way of compensating for the UK's exit from EU decision-making relevant to the defence sector. In fact, in the absence of a specific agreement between the EU and UK on defence and security, LoI could provide a useful political and legal framework for continuing consultation and possibly cooperation.

Nevertheless, considering the fact that the initiative was created as part of a move to consolidate the European defence industry, and that the EU today has greater responsibilities and impact in this regard, LoI members could end up prioritizing a general EU–UK deal and, eventually, bilateral agreements with the UK. In other words, LoI could become the “last resort” as MSs would probably give more prominence to EU settings in order to satisfy their own interests.

Once again, the future of the FA would depend heavily on the course of EU–UK negotiations. In the case of a favourable outcome – like that of Scenario A, above – with the UK participating in the Customs Union and co-participating in the EU's R&D activities, a reformed FA could also help improving EU–UK cooperation by bridging any eventual gaps in the agreement between London and Brussels. Otherwise, in the event of a negative outcome of Brexit negotiations – like in Scenario B¹⁰⁵ or, above all, Scenario C – the FA could be reformed with the aim of maintaining the closest possible cooperation between the UK and the EU, both at governmental and industrial level. Should the EU further increase its role in capability development through EDF, PeSCo and CARD, the LoI's relevance for EDTIB risks being further reduced, but it could still remain a relevant political “bridge” across the Channel.

If, after Brexit, the UK continued to participate in EDA activities with a special status, a reformed FA could act as a forum for further coordination between LoI countries towards the Agency. However, from an EU viewpoint, strengthening the link between EDA and LoI could be risky, as it could weaken the Agency. Another, even greater, risk would derive from a gradual externalization of defence decision-making processes, outside the EU cooperative framework.¹⁰⁶ Whatever the results of negotiations, Brexit introduces the need to establish a new balance of cooperation between LoI and EU institutions. In any case, the FA as such needs to be deeply reformed in order to ensure that the EDA's participating Member States (pMSs) continue to work towards further European defence integration, coordinating between themselves and also engaging the UK – especially for decisions in areas of shared interest.¹⁰⁷

¹⁰⁵ Scenario B, described in detail in the Section 1 of this study, foresees an EU-UK deal which does not keep the UK in the Customs Union, but foresees the co-participation of the UK to the EU's R&D activities with the related specific co-funding. In this scenario an association agreement between the UK and EDA may materialize or not.

¹⁰⁶ Nick Witney, “Brexit and Defence: Time to Dust Off the ‘Letter of Intent’?”, in *ECFR Commentaries*, 14 July 2016, https://www.ecfr.eu/article/commentary_brexit_and_defence_time_to_dust_off_the_letter_of_intent7075.

¹⁰⁷ Alessandro Riccardo Ungaro and Daniele Fattibene, “L’impatto della Brexit per la difesa europea

4.3 The European Space Agency (ESA)

ESA certainly represents the most prominent example of multilateral and intergovernmental cooperation within the space sector involving the UK. As is the case for OCCAR and LoI, ESA constitutes an important element of analysis when seeking to draw a comprehensive picture of possible Brexit implications on EDTIB. In this case, possible consequences could arise at various levels, from the higher institutional layer of cooperation between ESA and the Commission down to the management and follow-up of specific projects such as the Galileo Navigation System and the Copernicus Earth Observation programmes.

ESA is an intergovernmental organization that was created outside the EU framework. In fact, the text of the ESA Convention was approved by the Conference of Plenipotentiaries held in Paris on 30 May 1975, ahead of the European Space Conference of April 1975.¹⁰⁸

The EU and ESA are indeed different in nature, with diverging memberships and procedures. ESA has 22 MSs, and only two of them – namely, Norway and Switzerland – are not part of the EU. The UK will, of course, become the third. It should be noted that ESA retains cooperation agreements with all EU MSs that are not yet members of the Agency, and Slovenia signed an association agreement with it in 2016.¹⁰⁹ Beyond Europe, Canada is the only non-European cooperating state.¹¹⁰

Table 4 summarizes the main differences between ESA and the EU in relation to the space sector.

Table 4 | The European Space Agency and the European Union compared

	European Space Agency	European Union
Space focus	Space activities with exclusively peaceful purposes: science, exploration, R&D, commercial support.	EU competences over space matters are based on Article 189 of the Lisbon Treaty, and include: promotion of scientific and technical progress, industrial competitiveness and implementation of its policies; supporting research and technological development.

e transatlantica: tanti dubbi e poche certezze”, in *Approfondimenti dell’Osservatorio di Politica Internazionale*, No. 123, November 2016, p. 14, <http://www.iai.it/en/node/7082>.

¹⁰⁸ ESA, *ESA Convention*, https://www.esa.int/About_Us/Law_at_ESA/ESA_Convention.

¹⁰⁹ ESA, *Slovenia Signs Association Agreement*, 5 July 2016, http://www.esa.int/About_Us/Welcome_to_ESA/Slovenia_signs_Association_Agreement.

¹¹⁰ Canadian Space Agency website: *The European Space Agency*, last update 28 March 2018, <http://www.asc-csa.gc.ca/eng/funding-programs/canada-esa/about-esa.asp>.

Looking Through the Fog of Brexit: Scenarios and Implications for the European Defence Industry

Budget arrangements	Small core of mandatory elements (basic research, facilities, salaries, etc.) with optional programmes designed to meet the needs of MSs.	Programmes funded from the EU budget; EU MSs cannot decide to stop funding a specific programme.
Membership	22 European states.* All of them are EU countries except for Switzerland and Norway. Additional EU MSs on course to join.	28 MSs, pending Brexit.
Procurement	<i>Juste retour</i> policy, returning to MSs about 93 per cent of their contributions to ESA. The focus is on growing industrial capabilities in Europe.	Free-market oriented and open procurement. Some space procurements are limited to EU MSs on security grounds.

Note: * ESA member states include: Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Luxembourg, The Netherlands, Norway, Poland, Portugal, Romania, Spain, Sweden, Switzerland and the UK. Canada and Switzerland retain the status of Associated States.

Source: IAI elaborating on data from UK Parliament, *Space Sector Report*, June 2017, p. 18, <https://www.parliament.uk/documents/commons-committees/Exiting-the-European-Union/17-19/Sectoral%20Analyses/34-Space-Report.pdf>.

ESA retains a strong European dimension, which is underlined not only by the name itself but also throughout its constitutional convention. For instance, Article II of the document reports, "The purpose of the Agency shall be to provide for and to promote, for exclusively peaceful purposes, cooperation among European States in space research and technology and their space applications [...]".¹¹¹ According to the document, in a longer-term perspective this effort should be complemented by the elaboration of a "European space policy" and "by coordinating the European space programme and national programmes".¹¹²

Following these guidelines, over the years the EU and ESA have sought to strengthen their links through progressive, institutional steps. In May 2004, the Framework Agreement (FA) between the European Union and the ESA entered into force with the aim of better defining principles and mechanisms in order to improve cooperation between the two entities.¹¹³ For instance, a Joint Secretariat

¹¹¹ ESA, *Convention for the Establishment of a European Space Agency*, Article II, https://www.esa.int/About_Us/Welcome_to_ESA/Articles. To note, the reference to "exclusively peaceful purposes" in ESA statute is an important point that differentiates the Agency from the EU competences over space matters. In fact, TFEU limitations regarding activities in the defence sector are less rigid. For an historical overview of ESA-EU relations over space matters, please refer to: Klaus Becher et al., *Space and Security Policy in Europe*, Rome, IAI, November 2003, http://www.iai.it/sites/default/files/2003_space-and-security-in-europe.pdf.

¹¹² ESA, *Convention for the Establishment of a European Space Agency*, Article II.

¹¹³ European Community and ESA, *Framework Agreement between the European Community*

with the Commission was established to assist the implementation of the FA and ensure common understanding on related issues.¹¹⁴ Other mechanisms and tools to facilitate cooperation and coordination include: the “Space Council”, which ensures meetings at ministerial level, and ESA’s maintaining of a liaison office in Brussels to facilitate relations with EU institutions.¹¹⁵ Nonetheless, the FA has not been well applied thus far and these entities are currently not very active.¹¹⁶

Later on, further attempts were made to reinforce the Agency’s relationship with the EU, as well as the Union’s involvement in space,¹¹⁷ through the approval of the EU’s space policy in 2007¹¹⁸ and the adoption of the Lisbon Treaty, establishing the EU’s competencies over space matters. In 2016, the two organizations also tried to align their respective space strategies, but the outcome was a compromise solution: the EU published its own European Space Strategy in 2016,¹¹⁹ with several references to the need for increased coordination and cooperation with ESA.

Against this backdrop, and with specific reference to Brexit’s possible implications, although the UK will retain ESA membership even after leaving the Union, cooperation dynamics could actually be affected. In fact, depending on the outcome of the negotiations and the future of integration within the industrial aerospace sector in the Union, ESA could become more reluctant to build closer relations with the Commission in order to retain control over specific programmes and activities. The Union, instead, might be more willing to increase its role within the space sector in order to ensure EU “ownership” of certain technologies and capabilities, especially considering the declared commitment towards strategic autonomy. In this regard, the possibility that the Commission could increase its contribution to ESA – now standing at 30 per cent of ESA total budget– could

and the European Space Agency, OJ L 261, 6.8.2004, [https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:22004A0806\(03\)](https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:22004A0806(03)).

¹¹⁴ Ibid., Article 8.

¹¹⁵ ESA, *ESA and the EU*, last update 1 June 2011, https://www.esa.int/About_Us/Welcome_to_ESA/ESA_and_the_EU.

¹¹⁶ Alan Smith and Ian Scott, *Potential UK Withdrawal from European Union Membership (“Brexit”). Policy and Regulatory Considerations for the Space Sector*, Report of the ISPL UCL joint workshop “Brexit and the UK Space Sector”, London, 23 March 2017, p. 6, <http://iris.ucl.ac.uk/iris/publication/1293123/1>.

¹¹⁷ To note, beyond the main steps mentioned in the paragraph, other important decisions include the Commission Communication on *Establishing Appropriate Relations between the EU and the European Space Agency* (COM/2012/671), 14 November 2012, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:52012DC0671>; and the subsequent *Progress Report on Establishing Appropriate Relations between the European Union and the European Space Agency (ESA)* (COM/2014/56), 6 February 2014, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:52013DC0056>.

¹¹⁸ The EU space policy provides a common political framework for space activities in Europe as it seeks to unify the approach of the Agency with those of the individual EU MS. The text was drafted through a joint effort by the Commission and the ESA’s General Director and adopted by the Space Council of ESA and EU ministers. See: Council of the European Union, *Resolution on the European Space Policy*, Brussels, 22 May 2007, http://www.copernicus.eu/sites/default/files/library/Resolution_EU_Space_Policy.pdf.

¹¹⁹ European Commission, *Space Strategy for Europe* (COM/2016/705), 26 October 2016, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:52016DC0705>.

cause increasing tensions, as it would imply the need for the Agency to adapt to the interests and guidelines of what is already its main funder.¹²⁰ It is worth noting that this could be the case if Scenario C materializes, whereby EU–UK relations would be characterized by open competition.¹²¹

But major consequences will probably arise at a lower level, too, by affecting UK participation in some of ESA's programmes. The activities of the Agency fall under two different categories: mandatory and optional programmes.

The first category includes programmes that are carried out under the General Budget and Space Science Programme and are focused on more basic activities such as research on technologies, studies for future projects, training, shared technical investments and information systems.¹²² While all ESA MSs are contributing to these programmes according to their national Gross Domestic Product (GDP) levels, participation in optional programmes is left to the discretion and interest of national governments, which can freely decide their level of involvement. Within this second category, ESA runs some important programmes on behalf of the EU. For instance, the Galileo Navigation System and the Copernicus Earth Observation programmes, which are two flagship EU space initiatives.

The former is part of the Horizon 2020 strategy for R&D, and aims to develop a global earth-observation capability in order to improve management of the environment, understanding and mitigating the effects of climate change and ensuring civil security by providing accurate, timely and easily accessible information.¹²³ The Galileo programme, instead, is the European global navigation satellite system, able to provide an accurate global positioning service under civilian control.¹²⁴ It gained initial operational capability in December 2016.

Continued UK participation in these two programmes will be affected by Brexit, especially taking into account the considerable involvement of the Commission in their funding and management. In this sense, the UK's future role will need to be negotiated with the EU.

¹²⁰ Alan Smith and Ian Scott, *Potential UK Withdrawal from European Union Membership ("Brexit")*, cit., p. 6.

¹²¹ This scenario, introduced in the first Section of this study, foresees an EU-UK deal with the UK not participating to the Customs Union and not co-participating to EU R&D activities with the related specific co-fund. In such scenario, an agreement, which makes the UK an associate country for the EDA may occur or not.

¹²² ESA website, *Funding*, last update 17 January 2018, https://www.esa.int/About_Us/Welcome_to_ESA/Funding.

¹²³ ESA website, *Copernicus: Overview*, https://www.esa.int/Our_Activities/Observing_the_Earth/Copernicus/Overview3.

¹²⁴ ESA website, *What is Galileo?*, last update 2 November 2017, https://www.esa.int/Our_Activities/Navigation/Galileo/What_is_Galileo.

First of all, major hurdles relate to procurement regulation and security. In fact, some security elements of EU space programmes are restricted to EU MSs only – namely, the Copernicus security and emergency management services, Galileo’s Public Regulated Service¹²⁵ and the manufacturing rights of specific receivers for Galileo signals.¹²⁶ Therefore, EU-funded ESA contracts require companies who bid for them to be based within an EU country. In this sense, uncertainty is already producing negative effects as it is turning away some contracts from the British industry¹²⁷ in the areas of research and development because of concerns about the future role of UK suppliers.

It is worth noting that the possible implications are not limited to British industrial players but could also affect the participation of EU industries with a significant technological footprint in the UK. For instance, major EU industrial stakeholders fear that they will have to shift work to the Union’s MSs in order to be considered for the upcoming tenders for the renewal of Galileo’s ground-services contract.¹²⁸ As a matter of fact, the timescale for the conclusion of bespoke bilateral agreement alone contributes to limiting the possibility of the government delivering in time and supporting the UK industry’s participation in the 2018 rounds of contracts.¹²⁹ In this regard, it is worth recalling here the communication by the Commission to the United Kingdom’s Permanent Representative to the EU, which states that it is no longer appropriate to share with it information regarding long-term plans for the Galileo system after 2019. It should be noted that this communication is in line with the provisions of the UK–EU Withdrawal Agreement, which states that even within the transition period London can be excluded from the sharing of sensitive information within procedures or programmes that continue to be implemented or that begin after the end of 2020.¹³⁰ Since Britain will become a third country, it would need a security agreement in order to be able to exchange sensitive data.

Potential delays associated with the exclusion of the UK from these programmes should not be underestimated, as the EU would have to find alternatives in order to substitute industrial players retaining a specific technical expertise. The risk is of losing access to important engineering skills.¹³¹ In particular, this would be the case

¹²⁵ Public Regulated Service (PRS) are the military-grade, high-precision navigation capability of Galileo, which is reserved to the militaries and governmental agencies of EU MS.

¹²⁶ UK Parliament, *Space Sector Report*, cit., p. 16.

¹²⁷ Nicholas Fearn, “Brexit Could Hinder Britain’s Space Technology Capabilities, Warn Experts”, in *v3 News*, 7 March 2018, <https://www.v3.co.uk/3027968>.

¹²⁸ Peggy Hollinger, “Airbus Says UK Participation in Galileo after Brexit Is Critical”, in *Financial Times*, 28 March 2018.

¹²⁹ Monica Horten, “Galileo Satellites Illuminate EU-UK Divorce Tensions. British Industry Is Likely to End Up in a Weaker Position”, in *LSE Brexit Blog*, 25 April 2018, <http://blogs.lse.ac.uk/brexit/?p=11216>.

¹³⁰ European Commission, *Draft Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community*, 19 March 2018, Article 122(7), <http://europa.eu/!DN34my>.

¹³¹ UK House of Lords EU Internal Market Sub-Committee, *Corrected Oral Evidence: Brexit: Space*, 15 March 2018, <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/eu-internal-market-subcommittee/brexit-space/oral/80627.html>.

for Surrey Satellite Technology Ltd (SSTL), which has a key role in the construction of the Galileo satellites.¹³² Similarly, the most recent satellite launched for the Copernicus programme was Sentinel 5P, whose prime was Airbus with three sites involved in the development and manufacturing of satellites and components: Stevenage (UK – prime), Toulouse (France) and Friedrichshafen (Germany).¹³³ Furthermore, should the aforementioned Scenario C materialize, concerns arise regarding processing problems and delays due to extra paperwork; the possible need to install new software; and, consequently, the need for additional staff and training.¹³⁴

Another critical issue that will require specific negotiation concerns financial considerations that will have to account for all past, current and future funding to projects by the UK. It should be noted that the British Government has funded roughly 12 per cent of the Galileo programme's annual budget, and that UK-based companies are estimated to have benefitted from 14 per cent of the associated work-share.¹³⁵

Furthermore, mobility of people has also been indicated as a crucial issue, according to several experts. ESA has centres located in the major European countries – including the UK, with its Harwel Campus in Oxfordshire, which concentrates on telecommunications, integrated applications, science and technology.¹³⁶ About 100 people belonging to 22 nationalities are employed at this centre, and hundreds of UK nationals are working for ESA in different locations. Brexit could have an impact on their ability to continue their work within the Agency.¹³⁷

Overall, Britain's continued participation in European cooperation initiatives in the space sector – and, more specifically, in significant programmes such as Copernicus and Galileo – will probably also influence the negotiation and shape of a future UK partnership with the EU on security and defence. In this sense, the risk is that rising tensions over these issues¹³⁸ could end up poisoning the political environment and jeopardizing profitable cooperation linkages in other formats and sectors – such as defence.

¹³² The contract was awarded to a consortium led by prime contractor OHB, with Surrey Satellite Technology Ltd overseeing their navigation platforms.

¹³³ Airbus, *Airbus-built Sentinel-5 Precursor Satellite Ready for Launch*, 20 July 2017, <http://www.airbus.com/newsroom/press-releases/en/2017/07/airbus-built-sentinel-5-precursor-satellite-ready-for-launch.html>.

¹³⁴ UK House of Lords EU Internal Market Sub-Committee, *Corrected Oral Evidence: Brexit: Space*, cit.

¹³⁵ Peggy Hollinger and George Parker, "UK Cries Foul Over Exclusion from EU Satellite Plan", in *Financial Times*, 26 March 2018.

¹³⁶ UK House of Lords EU Internal Market Sub-Committee, *Corrected Oral Evidence: Brexit: Space*, cit.

¹³⁷ Alan Smith and Ian Scott, *Potential UK Withdrawal from European Union Membership ("Brexit")*, cit., p. 5.

¹³⁸ For further information, please see: George Parker and Peggy Hollinger, "Philip Hammond Seeks to Sabotage EU's Galileo Satellite Project", in *Financial Times*, 2 May 2018.

4.4 NATO

The Atlantic Alliance is, for a variety of reasons, structurally different from the previous multilateral formats considered in this paper. First, its membership includes non-European powers such as the US and Turkey. Second, it envisages an integrated military command as well as a number of agencies and bodies, which make it a unique example of an institutionalized military alliance. Third, it constitutes both the bedrock of Europe's collective defence and the main tool for European contribution to large-scale and prolonged expeditionary operations, such as those seen recently in the Balkans and Afghanistan. An account of NATO's role and possible evolution falls beyond the scope of this study. However, in order to complement the analysis undertaken thus far and achieve a comprehensive overview of Brexit's impact on the European defence landscape, it is necessary to consider the Brexit implications for NATO. In fact, these implications could indirectly also affect EDTIB.

Over the last four decades, Britain's defence policy has successfully relied on its participation in both NATO and the EU, as well as on a number of bilateral and mini-lateral formats. Leaving the Union will structurally change London's room for manoeuvre, by excluding the British Government from EU policy-making regarding foreign, security and defence policies. Such an exclusion may be mitigated to a certain extent according to the nature of post-Brexit relations between London and Brussels – particularly if the two parties agree on the UK's presence in a custom union, its participation in EU R&D activities and the achievement of a specific security partnership, as previously discussed in relation to the three aforementioned scenarios. Yet, even in the best-case scenario, whereby the UK will remain in the Customs Union and will participate in the EDF, the British Government will not have a fully-fledged role in EU policy-making when it comes to foreign, security and defence policy.

Therefore, even the best-case scenario outlined above would probably lead to a greater British role in NATO, the Atlantic Alliance being the only multilateral organization in which a post-Brexit London will be able to engage with most European countries – as well as the US – on a regular basis, at various levels and on different dossiers. UK activism in NATO has already increased from 2017, when it secured the appointment of the British Air Force Chief of Staff, Marshall Stuart Peach, as Chairman of the Military Committee vis-à-vis other candidates from Continental Europe. The Government of the United Kingdom is increasingly active in the preparation of the 2018 NATO summit on various dossiers, including those covering Russia and NATO enlargement.

Against this backdrop, an important question mark hangs over the potential impact of such an increased role on EU–NATO cooperation. The two actors signed the Warsaw Joint Declaration a few weeks after the Brexit referendum,¹³⁹ giving a

¹³⁹ NATO, *The Warsaw Declaration on Transatlantic Security*, 9 July 2016, <https://www.nato.int/cps/>

strong political mandate to cooperate on the following seven areas:

1. countering hybrid threats;
2. broadening and adapting operational cooperation, including at sea and on migration;
3. cyber security and defence;
4. developing coherent, complementary and interoperable defence capabilities as well as multilateral projects;
5. facilitating a stronger defence industry and greater defence research and industrial cooperation within Europe and across the Atlantic;
6. coordinating on exercises, including on hybrid threats; and
7. build the defence and security capacity of partners in the East and South.

Accordingly, in December 2016, the North Atlantic Council and the European Council approved a joint set of 42 concrete actions to implement such a mandate, followed by further 34 by the end of 2017.¹⁴⁰

However, at the 2018 Munich Security Conference, NATO Secretary General Jens Stoltenberg expressed a number of concerns about PeSCo and EDF, which in his view risk either duplicating NATO activities or weakening the Atlantic Alliance. Such concerns echoed criticism put forward by the US Administration's officials, mainly linked to the possible exclusion of US defence industries from EDF. In this context, it remains to be seen whether UK will or will not support further US and NATO critical positions towards those initiatives, which, in different ways, are meant also to enhance EDTIB and its competitiveness with respect to Russian, Chinese or North American industries.

London's position in this regard may well depend on the different scenarios for EU–UK relations post-Brexit. If Britain remains part of the Customs Union and EDF, reaches an association agreement with EDA, and even finds ways in which to participate in PeSCo projects and eventually concludes a security partnership with the Union – Scenario A – then it will probably support European defence cooperation. Conversely, the more the UK is kept out by joint EU initiatives and the worse the post-Brexit settlement is – as would be the case in Scenarios B and C – the more London will lean towards Washington in criticizing and eventually opposing the path undertaken by the Union and its MSs. In this second case, an Anglo-American push within NATO could potentially also lead the Atlantic Alliance to criticize European defence cooperation. After all, Britain has consistently opposed the creation of a politico–military bloc in Continental Europe for about five centuries – in particular since the 1900s, through a strong alliance with the US – and this attitude resonates well within the current nationalistic political debate in England. In turn, a stronger opposition by the Anglo–Americans and NATO will probably influence the attitude of a number of EU members in northern and Eastern

ie/natohq/official_texts_133168.htm.

¹⁴⁰ European External Action Service (EEAS), *EU and NATO Cooperation to Expand to New Areas...*, 6 December 2017, <http://europa.eu/!vq89hM>.

Europe, including Sweden, Poland and the Baltic states. Notably, all these countries participate in PeSCo (albeit without being overly enthusiastic about it), and its governance – based on unanimity – gives each of them the possibility of exercising veto powers. A scenario of open competition between the UK and EU – Scenario C – with its politico-strategic implications, may be favoured by the perception in London of an EU making unfair impositions on the Brexit negotiations, as well as by a possible successful Scottish independence referendum followed by Scotland's demand to enter the EU.

In this context, the increased linkage between trade policy and defence policy worldwide should not be underestimated: suffice it to mention the US Trump Administration's trade threats against China, based on the assumption that its Chinese counterpart is both exploiting unfair commercial relations and posing a security threat to the US by stealing technology – thus closing the gap with the American military. Considering the Trump Administration's concerns about the US trade deficit with Germany, as well as its disregard for the EU and for multilateral institutions and alliances generally, increasing tensions between the US and EU on trade cannot be ruled out. Here again, the UK may lean more towards the US and against the EU – or find a way to maintain cooperation with Continental Europe and somehow balance the US position. As of March 2018, the British Government had sided with its French and German counterparts, as well as with Brussels' institutions, in order to discourage the Trump Administration from imposing trade tariffs on EU products. However, this alignment should not be taken for granted if the UK is out of the Customs Union after 2020.

Such possible developments of the British position with regard to Washington and Brussels have an important, albeit indirect, impact on EDTIB. First, should the relationship between the Union on the one side and the US, NATO and UK on the other side worsen, this would probably make it more difficult for EU-based defence industries to access the British and US markets, as well as those of non-EU European allies such as Norway. Also, cooperative programmes and technology transfer across the Atlantic and the Channel would be negatively affected. Third, in a context of troubled transatlantic and trans-Channel relations, or even some form of all-out trade war, European industries with significant US or British shareholders may suffer from a negative perception in the EU, with dangerous implications in terms of EU funding and regulations. At the same time, the political pressure to consolidate defence industries within the Union in order to face stiffer competition from the Anglo-Americans would increase, thus removing obstacles and/or creating incentives for more ambitious choices not realized so far.

Generally speaking, the strategic implications of Brexit for the European defence landscape should not be underestimated. It is not by chance that experts have already called for greater NATO-EU alignment after Brexit, in order to build enhanced cooperation and mutual reassurance with those European countries that are not members of both organizations. Similarly, former NATO Secretary General Anders Fogh Rasmussen and others have begun to argue in favour of negotiating a security treaty between the UK and EU immediately, without waiting for the

conclusion of Brexit negotiations. Actually, since 1973, when the UK entered the European Economic Community, economic integration and defence cooperation have proceeded hand in hand in western Europe, within the EU and NATO and between these two organizations. Such a double convergence – economic and military – has, in fact, been the bedrock for the gradual enlargement of both the Union and the Alliance over the last 45 years, up to the point at which a Europe “whole and free” seemed at hand. The very same facts attending EU enlargement are reversed by Brexit, and the consequent decoupling of economic integration and defence cooperation on both sides of the Channel will have structural and long-term implications. Should the UK decide to leave the Customs Union, the subsequent full “repatriation” of British trade policy would change the calculus for foreign and defence policy too, by encouraging London to look elsewhere than the EU for a strategic partnership – towards the US or the Commonwealth. At the same time, with a customs border on the island of Ireland and in the Channel, the EU and some of its MSs will increasingly see the UK as a strategic competitor rather than as a strategic partner. By changing the nature of UK–EU relations, such a strategic reorientation in both London and Brussels will also change the British role in NATO, NATO–EU relations and the UK’s relationship with the US vis-à-vis the European Union. The exact nature of such a change remains unclear, but it will be quite unlikely to bring with it increased cooperation across either the Channel or the Atlantic.

5. Brexit, EDA and other EU initiatives

In the timescale of Brexit, possible implications on cooperative dynamics between the UK and the EDA have been, and continue to be, a matter of great discussion among experts and practitioners. The Treaty of Lisbon, Article 42 Paragraph 3 and, in particular, Article 45 Paragraph 2 establish that only EU MSs can be members of the EDA.¹⁴¹ Therefore, the UK exiting the Union will imply London no longer being an EDA member. Against this backdrop, possible effects include more straightforward and practical issues concerning budgetary and staffing aspects, as well as potential broader implications. For instance, the UK leaving the EU and being no longer part of EDA deliberations could also impact on future UK participation in ongoing EU defence initiatives that rely on the Agency’s role for their implementation – namely, PeSCo and CARD.

5.1 EDA and possible Brexit implications

The UK’s commitment to EDA seems to have undergone two phases: the first, from the establishment of the European defence market until the approval of the

¹⁴¹ European Union, *Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community*, 13 December 2007, OJ C 306, 17.12.2007, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:12007L/TXT>.

“Defence Package” in 2009;¹⁴² the second, in the following decade. During the first phase, with the appointment of a British national as the first-ever chief executive of the newly established Agency in 2004, the United Kingdom contributed to steering the activity of the Agency towards the integration of the European defence market according to an intergovernmental approach, and also in order to limit possible interventions by the European Commission and avoid the application of a communitarian approach in this domain. In the second phase, the British strategy of supporting a predominant role for MSs led London to shut down EDA initiatives that seemed to be more and more integrated into the broader EU institutional and political framework. After the issuing of the “Defence Package” Directives by the Commission, the UK probably realized that EDA could no longer be used to contain the growing role of the Commission in the defence field. Since then, therefore, London has taken an adversarial stance and exercised strong opposition to any new initiative aimed at expanding EDA activities and budget. Indeed, for several years, the UK vetoed the increase of the EDA budget proposed by other MSs – which then materialized in 2017 because of the Brexit referendum. British contribution and participation to R&D projects within the EDA have thus far been limited. It suffices to highlight the fact that the United Kingdom is not participating in any *ad hoc* category A project or programme and is currently participating in only 12 Category B programmes or projects.¹⁴³

However, the United Kingdom being the second-largest contributor to the EDA general budget, with a national contribution of 5.8 million euros in 2018, its influence has not been marginal. Furthermore, as previously mentioned in this paper, the UK is undoubtedly among the European countries with the most significant military (including nuclear-power status), technological and industrial capabilities in the defence sector. Against this backdrop, Brexit will have a number of straightforward implications on the sector.

First of all, the UK’s financial contribution will cease and, therefore, it will need to be covered on a proportional basis by the other pMSs or, alternatively, the scale of EDA activities would need to be revised downwards. Actually, national contributions to the EDA general budget are a limited amount, and, generally speaking, reducing EDA resources would not seem appropriate at a time when

¹⁴² The so-called “Defence package” includes two European directives: directive 2009/43/EC on intra-European Union transfers of defence-related products and directive 2009/81/EC on defence and security procurement. See Section 3.1 in this study.

¹⁴³ According to articles 19 and 20 of the Council Decision (CFSP) 2015/1835, Category A and B projects and programmes are cooperative instruments at the Agency’s disposal. Category A projects are *ad hoc* activities that usually involve a large number of EDA pMSs. Funding for each programme usually amounts to over 10 million euros and it is provided on a voluntary basis by the contributing MSs. Category B projects usually have a smaller size, being worth from 3 to 4 million euros. They are initiated by a minimum of two contributing MSs, but the other pMS retain can be invited to join. As for Category A projects, funding is provided by MSs on a voluntary basis. See Council of the European Union, *Council Decision (CFSP) 2015/1835 of 12 October 2015 defining the statute, seat and operational rules of the European Defence Agency*, OJ L 266, 13.10.2015, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:32015D1835>.

the European integration process in the defence domain is gaining substance. In fact, with the gradual definition of the governance mechanisms for the various EU defence initiatives “on the table” – including PeSCo, CARD and EDF – EDA could play a bridging role between the needs of the different European national armed forces and the Commission – the latter having the financial availability but no specific experience or competencies in this field.

Another immediate effect relates to staff composition: after Brexit, British nationals will leave the Agency’s personnel, with the subsequent loss of workforce that, over the history of EDA, have proved to be competent and effective besides being an unquestionable linguistic advantage and, interestingly, motivation in supporting a European defence dimension. Moreover, since some of these personnel have also acquired high competence levels and hold rather important positions, replacing them will not be easy. The Steering Board will have to decide how to deal with the contracts already in place, be they for Temporary Agents (TAs) or Seconded National Experts (SNEs).¹⁴⁴ Interestingly enough, Article 11 of the Council Decision (CFSP) 2015/1835 of 12 October 2015 on the Statute and the role of the Agency¹⁴⁵ foresees the possibility of third countries’ personnel being employed at the expense of these very same countries.¹⁴⁶ However, the British staff reduction is already under way, by avoiding recruitment of new personnel as well as renewals or extensions of the contracts already in place. From 2017 to 2018, the British personnel contribution has been considerably reduced: the UK has dropped from third place, with 13 units, to tenth place, with five units.¹⁴⁷

Additional, major effects of the UK leaving EDA would also relate to the radical change of political balance between the larger and more influential European countries that have so far been part of the Union – France, Germany and the UK – thus requiring all EU MSs (and particularly the smaller ones) to revise their diplomatic, military and industrial strategies for reaching alliances and alignments within EDA committees and other EU formats.¹⁴⁸

Finally, concerning ongoing programmes, the related agreements will need to be reviewed, and should continued British participation be confirmed a formal change of status will also be necessary. However, the 2015 Council Decision provides for the possibility of collaboration with third countries (as well as with organizations and entities), based on specific administrative agreements. In order to safeguard MSs’ interests, these agreements should be “concluded by the Steering Board upon approval by the Council acting by unanimity” (Article 26).¹⁴⁹ Moreover, the Council Decision also envisages the possibility of third states participating in the Agency’s

¹⁴⁴ At present a TA has a 4 years + 4 extension contract formula and SNE a 3 year + 1 extension.

¹⁴⁵ Council of the European Union, *Council Decision (CFSP) 2015/1835*, cit.

¹⁴⁶ To note, this indication was taken from Articles 1 and 2 of the SNE rules.

¹⁴⁷ Three TAs, one SNE and one Ad-hoc SNE.

¹⁴⁸ James Black et al., “Defence and Security after Brexit”, cit., p. 46.

¹⁴⁹ Council of the European Union, *Council Decision (CFSP) 2015/1835*, cit.

programmes provided that the Steering Board so decides, on a qualified majority vote (Article 23).

Hitherto, Administrative Arrangements (AA) have been signed with Norway, Switzerland, Serbia and Ukraine. Therefore, there is sufficient experience in third-countries' cooperation to assume the possibility of a specific agreement with the UK, thus allowing the continuation of close collaboration in the defence sector. For instance, obviously bearing in mind the unique character of the UK as military power, a good reference model could be the AA signed in December 2015 with Ukraine – it being the most updated and complete one. According to this agreement, Ukraine may be invited to participate in the Steering Boards with a specific topic on the agenda and has the possibility to join any *ad hoc* project or programme, Category A or B, with the same rights as the other participating countries.¹⁵⁰ The conclusion of a similar arrangement with the UK would allow the maintenance of close cooperation on EDA activities both on a political and military level, as well as on technological and industrial aspects – obviously provided that an adequate British financial commitment in this regard was forthcoming.

At the EDA Steering Board of 28 February 2018, the UK representative made it clear that London was willing to continue working with EU MSs to develop defence capabilities, through the design of a “deep and special partnership”¹⁵¹ with the EU. According to the British perspective, existing models of EU collaboration with third countries in the defence field are not appropriate to deal with a relationship of this depth.

Should this stance be confirmed, “downstream” of the current negotiations, the UK would still need to clarify its position vis-à-vis EDA. Excluding the possibility of retaining full membership, the creation of a Special Administrative Arrangement could represent a feasible solution. Thus, London could participate in the Steering Board activities in a more structured and systematic way, with the exclusion of issues concerning the strategic autonomy of the EU. Such an option would represent a significant recognition of the will of the other European countries to maintain a close partnership with the UK even if it would also imply an additional effort, as they would have to identify, on a case-by-case basis, which issues on the agenda would have to be discussed only between MSs and which ones could be addressed with the British partner.

¹⁵⁰ EDA, *EDA and Ukraine Sign Administrative Arrangement*, 7 December 2015, <https://www.eda.europa.eu/info-hub/press-centre/latest-news/2015/12/07/eda-and-ukraine-sign-administrative-arrangement>.

¹⁵¹ The expression is taken over by UK Prime Minister's speech at the Munich Security Conference. For further details, please refer to: UK Government, *PM Speech at Munich Security Conference: 17 February 2018*, <https://www.gov.uk/government/speeches/pm-speech-at-munich-security-conference-17-february-2018>.

5.2 PeSCo, CARD and possible implications of Brexit

As previously mentioned, a further implication of the UK no longer being an EDA member could be that its participation in other EU initiatives, such as PeSCo and CARD, would be affected. This is especially true considering the fact that the Agency will act as secretariat in both cases.

According to Articles 42(6) and 46 of the Treaty on the European Union (TEU)¹⁵² – and the related Protocol 108 – PeSCo is the tool to pursue a closer cooperation for those member states who are willing and able to undertake greater efforts in the realm of military capabilities. Within this framework, EDA has the role, among other things, of assessing contributions of pMSs.

CARD, instead, has been designed to support a better identification of shortfalls in capability development, to ensure greater transparency and coherence between national defence-spending plans, and therefore to create possibilities for further defence cooperation. To this end, EDA will collect information from MSs on their defence plans, as well as on the priorities for capability development resulting from the Capability Development Plan (CDP). In view of the first full CARD implementation in autumn 2019, the Council has envisaged starting with a “trial run” for MSs over the course of 2018 in order to test, adapt and validate the overall approach.¹⁵³ Interestingly, the UK is currently participating in a trial run and, if London were to strike an agreement with the EDA it could be able to participate in the first full CARD cycle,¹⁵⁴ foreseen in 2019.¹⁵⁵

Against this backdrop, the exclusion of London from EDA and from these initiatives risks marginalizing the UK with respect to significant developments within the EU defence domain, as it will not be able either to share the military plans of 27 other European countries or to contribute to the collective reflection and decision about the design and prioritisation of cooperative projects – unless specific mechanisms of consultation were to be set up.

With reference to PeSCo, the notification document foresees the possibility for pMSs to invite third states to join specific projects, but “they would need to provide substantial added value to the project, contribute to strengthening PeSCo and the CSDP [Common Security and Defence Policy] and meet more demanding

¹⁵² European Union, *Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union*, OJ C 202, 7.6.2016, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:12016ME/TXT>.

¹⁵³ Council of the European Union, *Council Conclusions on Security and Defence in the Context of the EU Global Strategy (9178/17)*, 18 May 2017, par. 22, <http://data.consilium.europa.eu/doc/document/ST-9178-2017-INIT/en/pdf>.

¹⁵⁴ Sophia Besch, “Plugging in the British: EU Defence Policy”, in *CER Policy Briefs*, April 2018, p. 7, <https://www.cer.eu/node/6812>.

¹⁵⁵ For further information regarding CARD, please refer to: EEAS, *Coordinated Annual Defence Review on Defence (Factsheet)*, 29 November 2017, <http://europa.eu/!CU34Hg>.

commitments".¹⁵⁶ In this regard, it also specified that they will not have any decision-making rights within the governance of PeSCo. Specific conditions for third countries' invitation are yet to be determined, and will be established by a Council decision, to be adopted by the end of 2018. It should be noted that the work to develop this setting should start once a common set of governance rules for the projects and the sequencing of the fulfilment of commitments are in place – i.e. by June 2018.¹⁵⁷ Obviously, the UK is perfectly able to provide substantial added value to the PeSCo projects and meet their more demanding commitment. The question is whether the UK will be regarded by other EU MSs as able to contribute to strengthening an initiative like PeSCo, which London has opposed for seven years. In other words: is it possible to decouple the contribution to single projects from the PeSCo intrinsic logic of further defence integration within the EU?

Moreover, PeSCo should be considered in relation to EDF too. Should it be confirmed that PeSCo projects will enjoy an additional 10 per cent of co-funding from EDF in comparison with other projects submitted to the Fund, the link between intergovernmental and EU level will be stronger. It is difficult to envisage British participation in PeSCo projects without solving the issue of the eligibility of British actors for EDF, and therefore of London's economic contribution to the latter.

Generally speaking, although institutional tools exist to allow for UK participation in both CARD and PeSCo, its future involvement will very much depend on the outcomes of the Brexit negotiations. It will probably be more limited or even non-existent in Scenarios B and C – which range from the definition of a tailored partnership linked to a FTA to a no-deal situation – while it could be broader in the case of Scenario A, foreseeing an open and comprehensive partnership based on UK participation in a customs union with the EU.¹⁵⁸

UK exclusion from such initiatives opens the door to a varied range of implications. First of all, by excluding London, pMSs would lose the support of significant budgetary and military resources. This could be particularly crucial for the implementation of the most ambitious and expensive PeSCo projects, especially considering that, so far, the two largest defence spenders in Europe, France and Germany, have not participated in any of the first-batch projects more closely related to capability development.

¹⁵⁶ Council of the European Union, *Council Decision (CFSP) 2017/2315*, cit., p. 76.

¹⁵⁷ Council of the European Union, *Defence Cooperation: Council Adopts an Implementation Roadmap for the Permanent Structured Cooperation (PeSCo)*, 6 March 2018, <http://www.consilium.europa.eu/en/press/press-releases/2018/03/06/defence-cooperation-council-adopts-an-implementation-roadmap-for-the-permanent-structured-cooperation-pesco>.

¹⁵⁸ Scenarios are outlined in the first Section of this study as follows: (1) The UK participating in the Customs Union and co-participating in the EU's R&D activities with the related specific co-fund; (2) The UK not participating in the Customs Union, but co-participating to EU R&D activities with the related specific co-fund; (3) The UK not participating to the Customs Union and not co-participating to EU R&D activities with the related specific co-fund.

More generally, besides losing expertise and assets, excluding the UK from the Union's defence structures could also give more prominence to other non-institutional fora for cooperation that include the UK – thus potentially (and paradoxically) undermining the EU's efforts towards further defence integration. Indeed, the exclusion of the UK from the programmes developed within these frameworks could represent a risk factor and/or a net loss in terms of military-budget, industrial and technological assets. Thus, some programmes will most likely continue to be developed through bilateral and multilateral arrangements that include London. This probably contributes to explaining why neither the EuroMale programme nor the programmes agreed during the Franco–German Summit in July 2017 have been listed within the first round of 17 PeSCo projects. In fact, such bilateral and multilateral frameworks would represent potential bridges over the Channel. For instance, this could also be the case for the French European Intervention Initiatives (E2I) that could potentially overshadow PeSCo.¹⁵⁹

Nonetheless, Brexit could also be a blessing in disguise to a certain extent. In fact, such an exclusion could also support a greater strategic alignment between the militaries of EU MSs, with additional, positive spill-over effects on other forms of cooperation and integration within the Union – from CSDP to trade policy, from Schengen to the Eurozone. In this sense, British participation could constitute a limitation to the overall logic of the new defence initiatives, aiming at increasing the level of integration between EU MSs.

6. Brexit and bilateral frameworks

The UK has a well-established tradition of bilateral cooperation with other European countries, in line with London's pragmatic approach to defence and foreign policy. In the majority of cases – i.e. with Germany, Sweden and Italy – such cooperative relations have not materialized in legal frameworks. The only noticeable exception in this regard are the Lancaster House Treaties with France, which showed strong political will from both London and Paris to give a more solid and legal grounding to an exclusive and comprehensive bilateral partnership on nuclear and conventional capabilities, including both operational and industrial aspects.

6.1 Beyond the Lancaster House Treaties: Towards renewed bilateralism?

The Lancaster House Treaties comprise two agreements between the United Kingdom and France in the field of security and defence – the Defence and Security Treaty and the Nuclear Treaty – signed by the UK's Prime Minister, David Cameron, and by the French President, Nicolas Sarkozy, on 2 November 2010.¹⁶⁰

¹⁵⁹ Sophia Besch, "Plugging in the British: EU Defence Policy", cit., p. 2.

¹⁶⁰ Claire Taylor, "Franco-British Defence Co-operation", in *House of Commons Briefing Papers*, No.

In the context of this study, which does not deal with nuclear issues, only the first Treaty deserves attention as it foresees closer military cooperation and “extending bilateral co-operation on the acquisition of equipment and technologies, for example in unmanned aerial systems, complex weapons, submarine technologies, satellite communications and research and technology” and “developing a stronger defence industrial and technology base”.¹⁶¹ The Treaty was complemented by a separate Letter of Intent and a Package of Joint Measures meant to “create a new framework for specific co-operation between each country’s Armed Forces on operational matters”.¹⁶²

The Package of Joint Measures that have been agreed established among others that:

France and [the] UK will work together on the next generation on medium-altitude, long endurance unmanned air surveillance systems. A jointly funded, competitive assessment phase will be launched in 2011, with a view to the delivery of new platforms between 2015 and 2020.

A 10-year strategic plan for the British and French complex weapons sector has been agreed. Under that agreement both countries will work towards a single European prime contractor and the achievement of efficiency savings of up to 30%. A series of complex weapons programmes will be launched in 2011. Co-operation in this industrial sector is expected to serve as a test case for initiatives in others.¹⁶³

The two points above are the ones that impact the most on the European defence market. The first one, concerning unmanned combat air systems, relaunched a strategic cooperation between the two major European military powers in the arena of what is probably the most sensitive technological challenge of this century. The second one launched a comprehensive integration between the two (British and French) components of MBDA, named “MBDA Project One”. Notably, the European missile-systems company created in 2001, including also an Italian component, is controlled by BAE Systems (37.5 per cent), Airbus (37.5 per cent) and Leonardo (25 per cent), and represents the most advanced example of a transnational company in the defence domain.

Italy had shown interest in joining both initiatives, but there was, in the event, no openness in this sense – either from the United Kingdom or France – on the grounds that including a third country would have complicated the starting phase

SN057508, 8 November 2010, <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN057508>.

¹⁶¹ UK Ministry of Defence, *UK-France Defence Co-operation Treaty Announced*, 2 November 2010, <https://www.gov.uk/government/news/uk-france-defence-co-operation-treaty-announced--2>.

¹⁶² Claire Taylor, “Franco-British Defence Co-operation”, cit., p. 11.

¹⁶³ Ibid., p. 12.

regarding the definition of requirements. According to this perspective, Italy's participation could be eventually reconsidered in the future. It is worth noting that a European programme under French leadership had been ongoing since 2003 for the development of a unmanned combat air vehicle (UCAV) technological demonstrator – the nEUROn – that was close to its first launch (which then occurred in 2012), and that Italy has financed 22 per cent of this programme.¹⁶⁴

The closer cooperation mandated by the Lancaster House Treaty began to materialize in the following years. In 2012, the two countries announced an increase in the number of officer exchanges as well as a UCAV development programme. In 2014, they agreed "to initiate a feasibility study for a Future Combat Air System [FCAS], that will involve Dassault and BAE Systems. This has received £120m in joint funding for the period 2014–16, with the potential for follow-on development and eventual procurement of an unmanned system."¹⁶⁵ The FCAS project has, indeed, been pursued with the utmost determination for the past six years. At the Franco–British summit of March 2016, it was decided to entrust Dassault and BAE Systems with the task of building a demonstrator with an envelope of 2 billion euros.¹⁶⁶ Noticeably, FCAS has led the two countries to engage in a dialogue on the strategic technologies at stake in this project.¹⁶⁷

Nevertheless, this flagship project has been affected by Brexit and could be affected even more in the future. The uncertainties over the future British position vis-à-vis the EU, which may span across the three scenarios considered by this study, has cooled Paris' cooperative attitude towards London. Meanwhile, France has relaunched its cooperation with Germany in development programmes in the defence field, in parallel with the developments of EU defence that followed the Brexit referendum – EDF, PeSCo and CARD. It is not by chance that during the Franco–German Summit of 13 July 2017, the French President, Emmanuel Macron, and German Chancellor, Angela Merkel, signed a new, ambitious bilateral-cooperation agreement to develop a European air-combat system, under the leadership of the two countries, to replace their current combat-aircraft fleets in the long term. The two partners wish to finalize a joint roadmap by mid-2018.¹⁶⁸

Germany has already begun to work on a future combat-aircraft project under the banner of its air force's Next Generation Weapon System/Future Combat Air

¹⁶⁴ The industrial consortium saw the participation of the then Alenia Aeronautica, which is currently the Aircraft division of Leonardo Company.

¹⁶⁵ Jeremy Ghez et al., "Defence and Security after Brexit. A Snapshot of International Perspectives on the Implications of the UK's Decision to Leave the EU", in *RAND Perspectives*, No. 225 (2017), p. 5, <https://doi.org/10.7249/PE225>.

¹⁶⁶ Jean-Pierre Maulny, "The French/UK Defence Relationship", in *Tribune*, 22 June 2016, <http://www.iris-france.org/78591-the-frenchuk-defence-relationship>.

¹⁶⁷ Ibid.

¹⁶⁸ Douglas Barrie, "New Franco-German Combat-Aircraft Programme: A Reminder of UK's Uncertain Position", in *Military Balance Blog*, 14 July 2017, <https://www.iiss.org/blogs/military-balance/2017/07/new-franco-german-combat-aircraft>.

System (NGWS/FCAS) programme, as an option to replace its Tornado around 2035, and this work will now feed into the cooperation with France.¹⁶⁹ The French Air Force may well look to replace its Mirage 2000D aircraft in a similar timeframe. Should the Franco–German combat-aircraft project come to fruition, the type would operate initially alongside each air force’s “legacy” platforms, the French Dassault Rafale and the German Eurofighter. Alongside the combat-aircraft tie-up, the Franco–German communiqué also reinforced other areas for increased defence/aerospace cooperation, including examining the potential for a European maritime-patrol aircraft; moving ahead with an intelligence, surveillance and reconnaissance medium-altitude, long-endurance, unmanned aerial vehicle; jointly defining the next standard of the Tiger attack helicopter; and establishing a binational C-130J unit from 2021.¹⁷⁰ Interestingly enough, the next phase of the joint UCAV programme – an element of the FCAS project – has been delayed and the project put on hold mainly due to British reasons, related to Brexit uncertainties as well as budgetary constraints.¹⁷¹

In the missile sector, in 2015 both the UK and France agreed to integrate their industries around multinational manufacturer MBDA, including the joint Anglo–French development of a Future Cruise/Anti-Ship Weapon.¹⁷² The Lancaster House agreement was, indeed, envisaged to develop over the following three years a long-range weapon system for the navies and air forces of France and the UK, with a 50 million euro contribution from each country. First, the Future Cruise/Anti-Ship Weapon programme is meant to improve the current weapon systems of the navies and air forces during the next decade. This phase would contribute to the missile’s design engineering/planning and would mitigate possible risks in the next phase of the programme. In addition, the cooperation will proceed by including the technological innovation of the missile (Materials & Components for Missiles Innovation & Technology Partnership – MCM-ITP), the development and production of the Future Air-to-Surface Guided Weapon (FASGW) and the mid-term update programme of SCALP/Storm Shadow missile systems.

After the Brexit referendum, the French approach remains flexible and inclusive, as was confirmed by the Franco–British summit in Sandhurst on 18 January 2018. Its final communiqué states that the prime minister and French president have agreed on a range of measures to strengthen defence cooperation between the UK and France, including an agreement on the importance of the ability of the UK’s defence industry to continue to be able to engage in European defence research and capability-development programmes.¹⁷³ The two leaders also agreed

¹⁶⁹ Ibid.

¹⁷⁰ Ibid.

¹⁷¹ Pierre Tran, “UK Was the One to Put the Brakes on Drone Demo Project, Industry Says”, in *Defense News*, 12 April 2018, <https://www.defensenews.com/global/europe/2018/04/12/uk-was-the-one-to-put-the-brakes-on-drone-demo-project-industry-says>.

¹⁷² Jeremy Ghez et al., “Defence and Security after Brexit”, cit., p. 5.

¹⁷³ UK Ministry of Defence, *UK and France Commit to New Defence Cooperation*, 18 January 2018, <https://www.gov.uk/government/news/uk-and-france-commit-to-new-defence-cooperation>.

to establish a UK–France Defence Ministerial Council, and that the UK will support the synergic deployment of European military troops through the French-led E2I. They also stated their intention to let the UK continue to participate in European defence research and capability-development programmes.

Generally speaking, Brexit's impact on Franco–British cooperation will depend to a great extent on the results of the EU–UK negotiations. The closer the two parties agree to stay, the more minor the impact and consequences will be on the bilateral agreement. Notably, considering the status of MBDA, an integrated company including UK components, the management of certain activities will become more difficult – namely, the tax regime, customs union, legal aspects, intra-company products and technologies exchange as well as people mobility. Considering the current stop in further joint activities, the fate of the FCAS will be negatively affected by Brexit as it would be considered not as an “EU/European” programme but as an intergovernmental one with a non-EU country, with all the political, military and strategic implications stemming from that designation. Some authors have suggested that Brexit would contribute to aligning British and French strategic outlooks because it will remove the frictions due to the UK's current block on further steps towards European defence integration, like the creation of permanent headquarters for CSDP missions.¹⁷⁴ Since France is already the UK's closest partner in the security and defence domain – and since France has, from 2009 onwards, reintegrated itself into the NATO military command – there is room for further cooperation within the Atlantic Alliance, through the European Intervention Initiative launched by Paris out of the EU institutional framework, or in other formats.¹⁷⁵

From Paris' point of view, the aforementioned Sandhurst agreement is an expression of the Macron Presidency's concern about drifting apart from the UK at a moment when the help of the US concerning the effective deployment of military operations is unlikely to be forthcoming.¹⁷⁶ It is also part of a renewed French effort to relaunch bilateral cooperation with other European countries, as proven by the initiative to sign a “Quirinale Treaty” with Italy by the end of 2018, along the lines of the 1963 Elysée Treaty with Germany.¹⁷⁷ In other words, it seems that France wants to play a pivotal role in the field of European defence cooperation through a “net” of bilateral agreements with both EU and non-EU relevant countries. It remains

¹⁷⁴ Interview with Hans Kundnani (Senior Research Fellow, Europe Programme, Chatham House) on “The UK's Relationship with France, Germany and Italy after Brexit”, May 2018.

¹⁷⁵ Ibid.

¹⁷⁶ David Keohane, “The Ambiguities of Franco-British Defense Cooperation”, in *Judy Dempsey's Strategic Europe*, 18 January 2018, <http://carnegieeurope.eu/strategieurope/75298>. See also Vincent Wood, “EU Army NEEDS Britain or It Will Fail Say Macron's Advisers in French Military”, in *Express*, 15 January 2018, <https://www.express.co.uk/news/uk/904803>.

¹⁷⁷ Jérôme Gautheret, “A Rome, Macron fait l'éloge de Gentiloni à moins de deux mois des élections italiennes”, in *Le Monde*, 11 January 2018, https://www.lemonde.fr/europe/article/2018/01/11/a-rome-macron-fait-l-elogue-de-gentiloni-a-moins-de-deux-mois-des-elections-italiennes_5240610_3214.html.

to be seen how such an à la carte approach will interact with the Franco–German “engine” as well as with EU initiatives such as PeSCo, CARD and EDF.

In this context, the Lancaster House Treaty provides a solid foundation for Anglo–French bilateral defence cooperation by sheltering, to a certain extent, military and industrial cooperation from changes within the political sphere. However, it does not ensure *per se* that such cooperation will take place in a meaningful way; nor does it guarantee a certain level of ambitions, commitment and resources from both parties. Since bilateral cooperation does not take place in a vacuum, France’s à la carte approach may imply that if the future legal, institutional and political context will incentivize bilateral cooperation with Germany and/or Italy – or mini-lateral cooperation within PeSCo and/or EDF, wherein the UK is not present by default – relations with London will enjoy a lesser priority in Paris than they do today. The example of FCAS confirms this flexibility of French commitment in the Lancaster House Treaty. If, after years of joint investments on technology demonstrators and feasibility studies, France has chosen to commit to an alternative project with Germany that *de facto* puts an end to an Anglo–French FCAS, nothing prevents Paris doing the same on other conventional-capability development programmes – while nuclear cooperation obviously remains a Franco–British “exclusive”. For instance, if we look to the maritime domain, the positive momentum triggered by STX’s acquisition by Fincantieri, and the following cooperative roadmap with Naval Group, favours Franco–Italian cooperation over Franco–British. Similarly, when it comes to main battle tanks, the merger between Nexter and Krauss Maffei Wagen points towards enhanced Franco–German cooperation in this domain.

In the meantime, the UK has begun setting up other, bilateral cooperation agreements in the defence sector with some EU MSs. In particular, in recent years London has sought to improve its bilateral relations with Berlin because of the British assessment of Germany’s growing role in European economics, politics and security.¹⁷⁸ This tendency is likely to continue after Brexit, despite possible friction about economic and monetary issues.¹⁷⁹ It is noteworthy that negotiations on future defence cooperation activities with Germany¹⁸⁰ are currently under way. Any UK agreement with Germany should concern cooperation at a strategic level between the two countries, leaving “room for manoeuvre” for possible industrial agreements too. However, the fact that the agreement is still under discussion points to some uncertainty about its prospects. When it comes to Italy, the future of bilateral relations is less clear than in the French and German cases. Although Rome is an important economic partner, albeit less so than in the 1990s, and a security partner, particularly in the Mediterranean, London has not prioritized this relationship. Brexit could create an opportunity to revitalize it, although the

¹⁷⁸ Interview with Hans Kundnani, cit.

¹⁷⁹ Ibid.

¹⁸⁰ Andrew Chuter and Sebastian Sprenger, “Amid Brexit, Germany and UK to Expand Defense Cooperation”, in *Defense News*, 21 July 2017, <https://www.defensenews.com/global/europe/2017/07/21/amid-brexit-germany-and-uk-to-expand-defense-cooperation>.

political situation in Italy complicates this development.¹⁸¹ Finally, London has increased its reach out to other European capitals by enhancing its diplomatic footprint, including defence attachés, from the Nordic region to central–eastern and southeastern Europe, with the declared goal of developing bilateral relations. In other words, Brexit is already fuelling a revamping of bilateral relations in the defence domain, which will continue over the following few years because of London’s renewed and long-term efforts in this direction.

However, the lack of a general legal framework for economic and industrial relations between the UK and the EU seems to strongly condition any development at bilateral level between London and each member state of the Union. In fact, it is hard to design new cooperation initiatives without certainties about the UK’s relationship with the European defence market, EU R&D activities, EDA, EDF or PeSCo. While the Lancaster House Treaty pre-exists Brexit and will survive it, where there is no such existing institutionalized framework it is difficult to create it from scratch at a time when London is detaching itself from a union that is accelerating on intra-EU defence cooperation and integration. The only other meaningful and institutionalized framework for military cooperation in Europe that involves both EU and non-EU members is NORDEFECO, which includes Denmark, Iceland, Finland, Norway and Sweden. However, this is a unique case, especially considering three main aspects: the geographic and historical proximity of Scandinavian countries to each other, the fact that Norway already has an association agreement with the EU, and the NORDEFECO’s gradual development over more than 20 years before the EU took its recent steps in the defence domain.

In contrast, the current times are characterized by uncertainties over the Brexit negotiations, a transition period set to last at least until the end of 2020, and significant developments in intra-EU cooperation and integration. In this context, even EU countries with a favourable attitude towards the UK in political, military or industrial terms would probably prioritize engagement with the Franco–German “driver” for defence cooperation, and/or participation with industrial partners eligible for EDF funding, and/or the pooling and sharing of military capabilities via PeSCo. This is not to say that bilateral cooperation with the UK is going to end. On the contrary, it will continue and probably become an important political bridge over the Channel in order to mitigate the possible negative effects of Brexit. In some cases – particularly, but not only, in Scandinavia and central–eastern Europe – such cooperation might even increase because of a British will to invest in bilateral relations. However, even in the more positive cases of important deals with countries like Germany, it would not constitute a panacea by which the UK could replace its net loss of EU membership when it comes to European defence cooperation.

¹⁸¹ Interview with Hans Kundnani, cit.

Conclusions

By looking “through the fog” of Brexit, the present analysis has sought to highlight what could be its major implications on the European defence landscape while acknowledging that, given the complexity and uniqueness of the situation, drawing a clear picture of future EU–UK relationships would be a guessing game at this stage. This is even more true considering the negotiations timetable, on the one hand, and further political dynamics affecting both the UK and the EU, on the other.

In fact, although the British have repeatedly made clear their intention to remain closely involved with the EU when it comes to defence and security, negotiations on this plank only started in April 2018, and it seems difficult to envisage their conclusion by the end of March 2019 when UK should enter the transition period.¹⁸² In addition, the future relationship between London and the EU in the defence domain could also be shaped and influenced by other factors, namely:

- the UK political situation;
- the political climate in Europe resulting from negotiations;
- advancements in the EU defence-integration process; and
- the outcomes of EU parliamentary elections, as well as the behaviour of the new EU Commission.

First of all, as discussed in the introduction, following its Brexit referendum the UK has entered a period of political instability and uncertainty that has also deeply affected its stance within the negotiations. The weakness of the British Government and the complexity and variety of the issues at stake have caused considerable delays in the negotiation process. In fact, because of important internal divisions, London has thus far had to follow the lead of a stronger and more coherent EU. In this context, several experts have pointed out that the transition period currently envisaged by the withdrawal agreement will probably be insufficient for the negotiation of a satisfying agreement. This difficult situation in the UK could lead to another referendum specifically addressing the question of membership within the EU Single Market, and/or to a political crisis and subsequent general election. Both these eventualities would deeply affect the pace of negotiations and their outcomes.

Secondly, the depth and comprehensiveness of future EU–UK cooperation will also depend on the political environment resulting from the negotiations. In fact, as highlighted within Scenario C in this study, particularly troubled negotiations risk hampering any future cooperation between the UK and EU MSs in various areas. This would have repercussions not only for British involvement in the EU framework but also, more broadly, for collaborative dynamics both at multilateral

¹⁸² It is worth mentioning here that the UK position paper on security and defence was recently presented to EU negotiators in Brussels: UK Department for Exiting the European Union, *Framework for the UK-EU Security Partnership*, cit.

and bilateral levels. In this regard, rising tensions within specific dossiers could end up poisoning the political environment and even jeopardizing cooperation opportunities in other fora or domains. Interestingly enough, the UK Government has recently warned the EU that exclusion from the Galileo Navigation System would compromise the trust needed for a full security partnership that included defence cooperation.¹⁸³

Thirdly, rapid advancements within the EU defence-integration process, as well as the concept of EU strategic autonomy, will also influence the nature of future EU–UK relations. As already mentioned, the matter of how these issues will be addressed will depend on the attitudes of both actors. On the one hand, the UK has to show its willingness and ability to remain a “European” country in political and strategic terms, even without being part of the EU. On the other hand, the Union’s MSs have to accept this and act accordingly in order to retain and develop a fruitful partnership with London. In this regard, the level of openness of the EU defence-integration process will be shaped according to the evolution of London’s stance over time. Especially in the case of initiatives such as EDF and PeSCo, which are meant as tools to serve the objective of a European strategic autonomy, the future degree of UK participation will vary according to the country’s commitment to such a purpose. Considering the fact that negotiations and the transition period will imply at least three years of uncertainty, British stakeholders risk finding themselves disconnected from accelerating EU developments within the defence sector. The possible UK exclusion from EDF, PeSCo, CARD – all of which aim at greater EU defence cooperation and integration, with the potential harmonization of needs of MSs’ armed forces – risks producing diverging views and needs on either side of the Channel. Of course, the result will also depend on the success and outcomes of these EU initiatives.

Finally, in the light of the upcoming European Parliament (EP) elections and the subsequent appointment of a new Commission President and commissioners, 2019 could be a pivotal year for the EU. These elections are foreseen for May 2019 and, considering the pace of negotiations thus far, EU–UK relations might not have reached a definitive setup by that time. In this sense, the rising power of Eurosceptic parties across the EU could alter the current equilibrium within the EP, which currently sees pro-EU parties holding an absolute majority. Furthermore, this outcome could also impact on the composition of the new Commission, which could become politically weaker by comparison with the current Juncker one.¹⁸⁴ As a consequence, the EU’s negotiating position could be negatively affected by increasing internal divisions and diverging national political views and priorities.

¹⁸³ UK Department for Exiting the European Union, *Technical Note on UK’s Participation in Galileo*, 24 May 2018, <https://www.gov.uk/government/publications/technical-note-on-uks-participation-in-galileo>.

¹⁸⁴ Federico Santopinto, *CSDP after Brexit: The Way Forward*, cit., p. 36.

In the light of these considerations – and considering the frequent twists and turns of negotiations thus far – this analysis has been built on the assumption that at present no single option for the future of EU–UK relations can be totally ruled out. Against this backdrop, stakeholders should consider different scenarios, ranging from best to average, to worse-case – or, as described in this study, “A deep and comprehensive partnership”, “A tailored and complicated partnership” and “Open competition”. Notably, in the last-named eventuality no deal would be achieved, with negative consequence on EU–UK cooperation in the defence sector as elsewhere.

Such a scenario would be neither in the interest nor to the benefit of either party. Should the EU completely exclude the UK from its defence setup, it would not only lose Britain’s significant defence expertise and capabilities but also produce broader, economic repercussions by affecting industrial-cooperation dynamics. Similarly, a fracture between the UK and the EU would damage London in a deep and multifaceted way.

In this sense, as previously mentioned, the UK Government has repeatedly reaffirmed its interest in continuing to cooperate closely with the EU in the areas of defence and security. In particular, more recently this year, at the Munich Security Conference (February 2018), Theresa May reiterated the concept of a “deep and special partnership” between the UK and the EU in order to retain the cooperation built thus far and to go even further.¹⁸⁵ In addition, she introduced the idea of separating the economic dossier from the defence and security ones through the negotiation of specific agreements for internal security and for external security and defence. Such a position has been further detailed within the “Framework for the UK-EU Security Partnership” proposed by London on 9 May 2018, which is structured in two parts: precisely those of “internal security” and “external security”.¹⁸⁶ This document outlines different proposals to maintain a close relationship with the EU, including regular structured consultation; a reciprocal secondment programme; an agreement for sharing and protecting classified information; continuing to contribute to CSDP missions and operations with personnel, expertise and assets; continuing consultation and coordination on the development of defence capabilities with the EDA; and the participation of the UK Government and/or entities in EU initiatives such as EDF, EDIDP and PeSCo.¹⁸⁷

The EU, in turn, has thus far also maintained a firm stance on the security-and-defence dossier. While the reasons behind such a posture are easily understandable, as they touch upon the future of the European integration process, the EU should also recognize that defence is a rather peculiar dossier, deserving of specific treatment. In the light of these considerations, retaining a flexible and pragmatic approach by meeting some of London’s requests could prove to be more beneficial

¹⁸⁵ UK Government, *PM Speech at Munich Security Conference: 17 February 2018*, cit.

¹⁸⁶ UK Department for Exiting the European Union, *Framework for the UK-EU Security Partnership*, cit.

¹⁸⁷ Ibid.

than drawing definitive “red lines”. For instance, by assuming a comprehensive and forward-looking perspective, the EU could:

- Set up *ad hoc* cooperation mechanisms in order to ensure UK involvement in R&D activities, particularly crucial for the implementation of the most ambitious and expensive programmes that would benefit from the support of the British significant budgetary and military resources.
- Establish a regular information exchange regarding the EU decision-making process and agenda in order to keep the UK well connected with accelerating EU developments within the defence sector. This will also be crucial to avoid negative effects in terms of standardization and interoperability within the NATO framework.
- Take advantage of non-EU institutional frameworks as “bridges” over the Channel. Multilateral formats such as LoI and OCCAR could become useful fora for consultation and coordination that include the UK, and could foster efficient cooperation between governments as well as at industry level. NB: this should not lead to undermining EU efforts towards greater defence integration, which should remain a priority for EU MSs.
- Clearly define its level of ambition and the concept of strategic autonomy. This will be important in order to decide on the appropriate depth and scale of a security-and-defence partnership with the UK, so that it will not challenge EU efforts in the defence domain but rather support them.

Overall, it is important to stress the fact that Brexit represents an unprecedented situation and its consequences will probably take many years to be fully understood. Therefore, the EU should stand ready to move beyond bureaucratic technicalities and change its positions if and when needed, in order to ensure an adequate and efficient level of defence cooperation with the UK in the years to come. In other words, Brexit and its impact on European defence and security should be considered as a strategic issue, requiring an extra effort in terms of creativity, adaptability and resilience. Ultimately, cooperation between the EU and UK is in the interest of both the United Kingdom and the European Union – and, generally speaking, of the security of Europeans themselves.

Updated 8 June 2018

References

ADS Group, *UK Aerospace Outlook Report 2017*, June 2017, <https://www.adsgroup.org.uk/facts/uk-aerospace-outlook-report-2017>

Kamal Ahmed, "Philip Hammond Favours EU 'Customs Partnership'", in *BBC News*, 1 May 2018, <https://www.bbc.com/news/business-43964990>

Airbus, *Airbus-built Sentinel-5 Precursor Satellite Ready for Launch*, 20 July 2017, <http://www.airbus.com/newsroom/press-releases/en/2017/07/airbus-built-sentinel-5-precursor-satellite-ready-for-launch.html>

Anne Bakker, Margriet Drent and Dick Zandee, "European Defence: How to Engage the UK after Brexit?", in *Clingendael Reports*, July 2017, <https://www.clingendael.org/node/8304>

Douglas Barrie, "New Franco-German Combat-Aircraft Programme: A Reminder of UK's Uncertain Position", in *Military Balance Blog*, 14 July 2017, <https://www.iiss.org/blogs/military-balance/2017/07/new-franco-german-combat-aircraft>

Klaus Becher et al., *Space and Security Policy in Europe*, Rome, IAI, November 2003, http://www.iai.it/sites/default/files/2003_space-and-security-in-europe.pdf

Sophia Besch, "Plugging in the British: EU Defence Policy", in *CER Policy Briefs*, April 2018, <https://www.cer.eu/node/6812>

James Black et al., "Defence and Security after Brexit. Understanding the Possible Implications of UK's Decision to Leave EU. Compendium Report", in *RAND Research Reports*, No. 1786 (2017), <https://doi.org/10.7249/RR1786>

Philip Brien and Chris Rhodes, "The Aerospace Industry: Statistics and Policy", in *House of Commons Briefing Papers*, No. 928, 8 November 2017, <https://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN00928>

Antonio Calcara, "Brexit: What Impact on Armaments Cooperation?", in *Global Affairs*, Vol. 3, No. 2 (2017), p. 139-152

Andrew Chuter and Sebastian Sprenger, "Amid Brexit, Germany and UK to Expand Defense Cooperation", in *Defense News*, 21 July 2017, <https://www.defensenews.com/global/europe/2017/07/21/amid-brexit-germany-and-uk-to-expand-defense-cooperation>

Council of the European Union, *Common Military List of the European Union adopted by the Council on 26 February 2018*, OJ C 98, 15.3.2018, [https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:52018XG0315\(01\)](https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:52018XG0315(01))

Council of the European Union, *Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment*, OJL 335/99, 13.12.2008, <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:32008E0944>

Council of the European Union, *Council Conclusions on Security and Defence in the Context of the EU Global Strategy (9178/17)*, 18 May 2017, <http://data.consilium.europa.eu/doc/document/ST-9178-2017-INIT/en/pdf>

Council of the European Union, *Council Decision (CFSP) 2015/1835 of 12 October 2015 defining the statute, seat and operational rules of the European Defence Agency*, OJ L 266, 13.10.2015, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:32015D1835>

Council of the European Union, *Council Decision (CFSP) 2017/2315 of 11 December 2017 Establishing Permanent Structured Cooperation (PESCO) and Determining the List of Participating Member States*, OJ L 331, 14.12.2017, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:32017D2315>

Council of the European Union, *Defence Cooperation: Council Adopts an Implementation Roadmap for the Permanent Structured Cooperation (PeSCo)*, 6 March 2018, <http://www.consilium.europa.eu/en/press/press-releases/2018/03/06/defence-cooperation-council-adopts-an-implementation-roadmap-for-the-permanent-structured-cooperation-pesco>

Council of the European Union, *Proposal for a regulation establishing the European Defence Industrial Development Programme aiming at supporting the competitiveness and innovation capacity of the Union's defence industry – Confirmation of the final compromise text with a view to agreement (First reading)*, 4 June, http://www.consilium.europa.eu/register/en/content/out/?&typ=ENTRY&i=ADV&DOC_ID=ST-9262-2018-REV-1

Council of the European Union, *Resolution on the European Space Policy*, Brussels, 22 May 2007, http://www.copernicus.eu/sites/default/files/library/Resolution_EU_Space_Policy.pdf

Olivier de France et al., "The Impact of Brexit on the European Armament Industry", in *Ares Group Reports*, No. 19, August 2017, <http://www.iris-france.org/notes/the-impact-of-brexit-on-european-armament-issues>

Deloitte, *Impact of Brexit on the Manufacturing Industry: Aerospace & Defence*, 2017, <https://www2.deloitte.com/content/dam/Deloitte/uk/Documents/manufacturing/deloitte-uk-brexit-ad-sheet.pdf>

Sylvia de Mars and Dominic Webb, "Brexit: Customs and Regulatory Arrangements", in *House of Commons Briefing Papers*, No. 8309 (22 June 2018), <https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-8309>

Mure Dickie, "Scottish Parliament Backs Second Independence Referendum", in *Financial Times*, 28 March 2017

Jessica Elgot, "Pro-Brexit MPs Urge PM to Drop 'Deeply Unsatisfactory' Customs Model", in *The Guardian*, 2 May 2018, <https://gu.com/p/8gqt9>

European Commission, *Defence procurement: Commission opens infringement procedures against 5 Member States*, 25 January 2018, <http://europa.eu/!Ky77jG>

European Commission, *Draft Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community*, 19 March 2018, <http://europa.eu/!DN34my>

European Commission, *Establishing Appropriate Relations between the EU and the European Space Agency (COM/2012/671)*, 14 November 2012, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:52012DC0671>

European Commission, *On the State of Progress of the Negotiations with the United Kingdom under Article 50 of the Treaty on European Union (COM/2017/784)*, 8 December 2017, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:52017DC0784>

European Commission, *Progress Report on Establishing Appropriate Relations between the European Union and the European Space Agency (ESA) (COM/2014/56)*, 6 February 2014, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:52013DC0056>

European Commission, *Report on the implementation of Directive 2009/81/EC on public procurement in the fields of defence and security, to comply with Article 73(2) of that Directive (COM/2016/762)*, 30 November 2016, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:52016DC0762>

European Commission, *Space Strategy for Europe (COM/2016/705)*, 26 October 2016, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:52016DC0705>

European Community and ESA, *Framework Agreement between the European Community and the European Space Agency*, OJ L 261, 6.8.2004, [https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:22004A0806\(03\)](https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:22004A0806(03))

European Defence Agency (EDA), *EDA and Ukraine Sign Administrative Arrangement*, 7 December 2015, <https://www.eda.europa.eu/info-hub/press-centre/latest-news/2015/12/07/eda-and-ukraine-sign-administrative-arrangement>

European External Action Service (EEAS), *Coordinated Annual Defence Review on Defence (Factsheet)*, 29 November 2017, <http://europa.eu/!CU34Hg>

European External Action Service (EEAS), *EU and NATO Cooperation to Expand to New Areas...*, 6 December 2017, <http://europa.eu/!vq89hM>

European Parliament and Council of the European Union, *Directive 2009/43/EC of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community*, OJ L 146, 10.6.2009, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:32009L0043>

European Parliament and Council of the European Union, *Directive 2009/81/EC of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC*, OJ L 216, 20.8.2009, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:32009L0081>

European Space Agency (ESA), *ESA and the EU*, last update 1 June 2011, https://www.esa.int/About_Us/Welcome_to_ESA/ESA_and_the_EU

European Space Agency (ESA), *ESA Convention*, https://www.esa.int/About_Us/Law_at_ESA/ESA_Convention

European Space Agency (ESA), *Slovenia Signs Association Agreement*, 5 July 2016, http://www.esa.int/About_Us/Welcome_to_ESA/Slovenia_signs_Association_Agreement

European Union, *Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union*, OJ C 202, 7.6.2016, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:12016ME/TXT>

European Union, *Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community*, 13 December 2007, OJ C 306, 17.12.2007, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:12007L/TXT>

Nicholas Fearn, "Brexit Could Hinder Britain's Space Technology Capabilities, Warn Experts", in *v3 News*, 7 March 2018, <https://www.v3.co.uk/3027968>

Framework Agreement concerning measures to Facilitate the Restructuring and Operation of the European Defence Industry, Farnborough, 27 July 2000, <https://www.gov.uk/government/publications/framework-agreement-concerning-measures-to-facilitate-the-restructuring-and-operation-of-the-european-defence-industry-farnborough-2772000>

Jérôme Gautheret, "A Rome, Macron fait l'éloge de Gentiloni à moins de deux mois des élections italiennes", in *Le Monde*, 11 January 2018, https://www.lemonde.fr/europe/article/2018/01/11/a-rome-macron-fait-l-elogue-de-gentiloni-a-moins-de-deux-mois-des-elections-italiennes_5240610_3214.html

Jeremy Ghez et al., "Defence and Security after Brexit. A Snapshot of International Perspectives on the Implications of the UK's Decision to Leave the EU", in *RAND Perspectives*, No. 225 (2017), <https://doi.org/10.7249/PE225>

Bastian Giegerich and Christian Mölling, *The United Kingdom's Contribution to European Security and Defence*, London, IISS, February 2018, <https://dgap.org/en/node/30724>

Françoise Grossetête, *Report on the proposal for a regulation of the European Parliament and of the Council establishing the European Defence Industrial Development Programme aiming at supporting the competitiveness and innovative capacity of the EU defence industry (A8-0037/2018)*, 26 February 2018, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A8-2018-0037+0+DOC+XML+V0//EN>

Peggy Hollinger, "Airbus Says UK Participation in Galileo after Brexit Is Critical", in *Financial Times*, 28 March 2018

Peggy Hollinger and George Parker, "UK Cries Foul Over Exclusion from EU Satellite Plan", in *Financial Times*, 26 March 2018

Monica Horten, "Galileo Satellites Illuminate EU-UK Divorce Tensions. British Industry Is Likely to End Up in a Weaker Position", in *LSE Brexit Blog*, 25 April 2018, <http://blogs.lse.ac.uk/brexit/?p=11216>

Olivier Jehin, "Un accord en vue sur le programme de recherche de défense (EDIDP)", in *Bruxelles2Pro*, 18 May 2018

Benjamin D. Katz, "Airbus Condemns Brexit, Trump as Double Protectionist Threat", in *Bloomberg*, 16 January 2018, <https://www.bloomberg.com/news/articles/2018-01-15/airbus-ceo-condemns-brexit-trump-as-double-protectionist-threat>

David Keohane, "The Ambiguities of Franco-British Defense Cooperation", in *Judy Dempsey's Strategic Europe*, 18 January 2018, <http://carnegieeurope.eu/strategieurope/75298>

Elizabeth Kirkham and Roy Isbister, "Brexit and the Future of UK Arms Transfer Controls", in *Saferworld Reports*, July 2017, <https://www.saferworld.org.uk/resources/publications/1128>

KPMG IFRS Institute, *Brexit – An Impact Analysis. How Brexit May Affect US Companies Established in the United Kingdom*, February 2017, <http://www.kpmg-institutes.com/institutes/ifrs-institute/articles/2017/03/brexit-an-impact-analysis.html>

Thomas Kwasniok, Peter Guarraia and Michael Garstka, "Is Your Supply Chain Ready for Brexit?", in *Bain Briefs*, 6 February 2017, <http://www.bain.com/publications/articles/is-your-supply-chain-ready-for-brexite.aspx>

Leonardo, *Leonardo-Finmeccanica establishes Leonardo MW Limited, the new single entity to oversee its UK operations*, 4 August 2016, <http://www.leonardocompany.com/en/-/leonardo-mw-ltd>

Hélène Masson et al., *The Impact of the 'Defence Package' Directives on European Defence*, Brussels, European Parliament, June 2015, [http://www.europarl.europa.eu/thinktank/en/document.html?reference=EXPO_STU\(2015\)549044](http://www.europarl.europa.eu/thinktank/en/document.html?reference=EXPO_STU(2015)549044)

Jean-Pierre Maulny, "The French/UK Defence Relationship", in *Tribune*, 22 June 2016, <http://www.iris-france.org/78591-the-frenchuk-defence-relationship>

Sam Morgan, "Chief EU Negotiator Urges More Clarity, Speed from UK As Brexit Talks Resume", in *Euractiv*, 28 August 2017, <https://www.euractiv.com/?p=1169858>

NATO, *The Warsaw Declaration on Transatlantic Security*, 9 July 2016, https://www.nato.int/cps/ie/natohq/official_texts_133168.htm

Organisation for Joint Armament Cooperation (OCCAR), *Convention on the Establishment of the Organisation for Joint Armament Cooperation*, Farnborough, 9 September 1998, http://www.occar.int/sites/default/files/downloads/OCCAR_Convention.pdf

Organisation for Joint Armament Cooperation (OCCAR), *Decision of the Board of Supervisors modifying Annex IV to the Convention...*, Rome, 10 June 2014 (entered into force on 15 March 2017), http://www.occar.int/sites/default/files/downloads/Annex_IV_amendment_2017_as_ratified_EN_web.pdf

George Parker and Peggy Hollinger, "Philip Hammond Seeks to Sabotage EU's Galileo Satellite Project", in *Financial Times*, 2 May 2018

Anne Perkins, "EU Withdrawal Bill: 14 Defeats in the Lords for the Government", in *The Guardian*, 8 May 2018, <https://gu.com/p/8tv9q>

Anne Perkins, "EU Withdrawal Bill: What Happens Next After Lords Votes?", in *The Guardian*, 9 May 2018, <https://gu.com/p/8t3cy>

Tim Ross, Robert Hutton and Kitty Donaldson, "Cabinet Brexiters Outgun May on Her Customs Plan", in *Bloomberg*, 2 May 2018, <https://www.bloomberg.com/news/articles/2018-05-02/may-s-core-cabinet-still-split-on-post-brexite-customs-plan>

Federico Santopinto, *CSDP after Brexit: The Way Forward*, Brussels, European Parliament, May 2018, [http://www.europarl.europa.eu/thinktank/en/document.html?reference=EXPO_STU\(2018\)603852](http://www.europarl.europa.eu/thinktank/en/document.html?reference=EXPO_STU(2018)603852)

Alan Smith and Ian Scott, *Potential UK Withdrawal from European Union Membership ("Brexit"). Policy and Regulatory Considerations for the Space Sector*, Report of the ISPL UCL joint workshop "Brexit and the UK Space Sector", London, 23 March 2017, <http://iris.ucl.ac.uk/iris/publication/1293123/1>

Andrew Sparrow, "Labour Backs Staying in EU Customs Union, Keir Starmer Confirms", in *The Guardian*, 25 February 2018, <https://gu.com/p/86gv9>

Jon Stone, "Brexit: EU and UK Agree Deal on Transition Period", in *The Independent*, 19 March 2018, <https://www.independent.co.uk/news/uk/politics/brexit-transition-period-deal-agreement-eu-uk-david-davis-barnier-latest-updates-a8263211.html>

Claire Taylor, "Franco-British Defence Co-operation", in *House of Commons Briefing Papers*, No. SN057508, 8 November 2010, <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN05750>

Pierre Tran, "UK Was the One to Put the Brakes on Drone Demo Project, Industry Says", in *Defense News*, 12 April 2018, <https://www.defensenews.com/global/europe/2018/04/12/uk-was-the-one-to-put-the-brakes-on-drone-demo-project-industry-says>

UK Department for Exiting the European Union, *Enforcement and Dispute Resolution. A Future Partnership Paper*, 23 August 2017, <https://www.gov.uk/government/publications/enforcement-and-dispute-resolution-a-future-partnership-paper>

UK Department for Exiting the European Union, *Framework for the UK-EU Security Partnership*, 9 May 2018, <https://www.gov.uk/government/publications/framework-for-the-uk-eu-security-partnership>

UK Department for Exiting the European Union, *Technical Note on UK's Participation in Galileo*, 24 May 2018, <https://www.gov.uk/government/publications/technical-note-on-uks-participation-in-galileo>

UK Department for International Trade, *Open General Export Licence. Certified Companies*, last updated 11 April 2018, <https://www.gov.uk/government/publications/open-general-export-licence-certified-companies>

UK Government, *PM Speech at Munich Security Conference: 17 February 2018*, <https://www.gov.uk/government/speeches/pm-speech-at-munich-security-conference-17-february-2018>

UK House of Lords EU Internal Market Sub-Committee, *Corrected Oral Evidence: Brexit: Space*, 15 March 2018, <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/eu-internal-market-subcommittee/brexit-space/oral/80627.html>

UK Ministry of Defence, *Britain Set to Launch Combat Air Strategy, Defence Secretary Announces*, 21 February 2018, <https://www.gov.uk/government/news/britain-set-to-launch-combat-air-strategy-defence-secretary-announces>

UK Ministry of Defence, *UK and France Commit to New Defence Cooperation*, 18 January 2018, <https://www.gov.uk/government/news/uk-and-france-commit-to-new-defence-cooperation>

UK Ministry of Defence, *UK-France Defence Co-operation Treaty Announced*, 2 November 2010, <https://www.gov.uk/government/news/uk-france-defence-co-operation-treaty-announced--2>

UK Parliament, *Brexit Sectoral Analyses Published by Committee*, 21 December 2017, <https://www.parliament.uk/business/committees/committees-a-z/commons-select/exiting-the-european-union-committee/news-parliament-2017/sectoral-analyses-published-evidence-17-19>

UK Parliament, *Defence Sector Report*, December 2017, <https://www.parliament.uk/documents/commons-committees/Exiting-the-European-Union/17-19/Sectoral%20Analyses/11-Defence-Report.pdf>

UK Parliament, *Space Sector Report*, June 2017, <https://www.parliament.uk/documents/commons-committees/Exiting-the-European-Union/17-19/Sectoral%20Analyses/34-Space-Report.pdf>

Alessandro Riccardo Ungaro and Daniele Fattibene, "L'impatto della Brexit per la difesa europea e transatlantica: tanti dubbi e poche certezze", in *Approfondimenti dell'Osservatorio di Politica Internazionale*, No. 123, November 2016, <http://www.iai.it/en/node/7082>

Matthew R.H. Uttley and Benedict Wilkinson, "Contingent Choices: The Future of United Kingdom Defence Procurement and Defence Industries in the post-Brexit Era", in *Global Affairs*, Vol. 2, No. 5 (2017), p. 491-502

Kate Westbrook, "Brexit and Defence, Aerospace and Advanced Engineering", in *Thrings*, 26 August 2016, <https://thrings.com/?p=2367>

Nick Witney, "Brexit and Defence: Time to Dust Off the 'Letter of Intent'?", in *ECFR Commentaries*, 14 July 2016, https://www.ecfr.eu/article/commentary_brexit_and_defence_time_to_dust_off_the_letter_of_intent7075

Vincent Wood, "EU Army NEEDS Britain or It Will Fail Say Macron's Advisers in French Military", in *Express*, 15 January 2018, <https://www.express.co.uk/news/uk/904803>

Looking Through the Fog of Brexit: Scenarios and Implications for the European Defence Industry

Istituto Affari Internazionali (IAI)

Founded by Altiero Spinelli in 1965, IAI does research in the fields of foreign policy, political economy and international security. A non-profit organisation, IAI aims to further and disseminate knowledge through research studies, conferences and publications. To that end, it cooperates with other research institutes, universities and foundations in Italy and abroad and is a member of various international networks. More specifically, the main research sectors are: European institutions and policies; Italian foreign policy; trends in the global economy and internationalisation processes in Italy; the Mediterranean and the Middle East; defence economy and policy; and transatlantic relations. IAI publishes an English-language quarterly (*The International Spectator*), an online webzine (*Affarinternazionali*), two book series (*Quaderni IAI* and *IAI Research Studies*) and some papers' series related to IAI research projects (*Documenti IAI*, *IAI Papers*, etc.).

Via Angelo Brunetti, 9 - I-00186 Rome, Italy

T +39 06 3224360

F + 39 06 3224363

iai@iai.it

www.iai.it

Latest DOCUMENTI IAI

- 18 | 16 Paola Sartori, Alessandro Marrone and Michele Nones, *Looking Through the Fog of Brexit: Scenarios and Implications for the European Defence Industry*
- 18 | 15 Francesco Paron, *Realizing Youth Potential in the Mediterranean: Unlocking Opportunities, Overcoming Challenges*
- 18 | 14 Mihaela Luchian, *The EU and Latin America: Political and Economic Trends in Times of Global Uncertainty*
- 18 | 13 Sinan Ekim, *Europe in an Uncertain World: Values vs. Security Interests*
- 18 | 12 Mihaela Luchian, *Il futuro dell'integrazione europea tra forze centrifughe e nuove forme di cooperazione*
- 18 | 11 Luca Barana, *Avoiding the Sandstorm in the Sahel: A Reflection on Security, Migration and Development*
- 18 | 10 Olimpia Fontana e Bernardo Venturi, *I beni pubblici europei nel bilancio dell'Unione*
- 18 | 09 Fabrizio De Filippis, *Il futuro della Politica agricola comune nel prossimo Quadro finanziario pluriennale*
- 18 | 08 Fabrizio Barca, *Politica di coesione: tre mosse*
- 18 | 07 Cesare Pinelli, *I temi della condizionalità nel negoziato sul Quadro finanziario pluriennale 2021-2027*