

Defence procurement. Green Paper

2005/2030(INI) - 17/11/2005 - Text adopted by Parliament, single reading

The European Parliament adopted a resolution based on own-initiative report by Joachim **WUERMEILING** (EPP-ED, DE) on the Green Paper on defence procurement. (Please see the document dated 05/10/2005.) The report commanded a majority of 392 members against 77, with 7 members abstaining. Parliament began by pointing out that the hermetic segregation of armaments markets is also the cause of a lack of standardisation and has led to a lack of interoperability between systems in Europe and made cooperation in international operations more difficult. The fact that 25 different sets of rules on procurement are in force constitutes an obstacle to implementation of the European Capabilities Action Plan (ECAP). Relevant armaments purchasers are solely the governments of the 25 Member States, six of which account for 90% of armaments purchases and in some cases even hold stakes in the armaments industry.

Consequently, Parliament called on the Member States and the industry to abandon the reservations which for decades have stood in the way of a European defence market and to set in train a new phase of cooperation based on an innovative strategy. It agreed with the Commission that current policies of *juste retour* and off-setting in the field of military procurement lead to large-scale distortions of competition and artificial divisions of labour between industrial partners, and greatly hinder the efficiency of public procurement. Pressure should be placed on national defence procurement agencies to alter the general practice of taking advantage of the derogation contained in Article 296 and to take measures to ensure that defence procurement is covered to a larger extent by Community legislation rather than by national legislation. Parliament believed that the Commission should both adopt an interpretative Communication reflecting its determination to stop the misuse of Article 296 and start to develop, in parallel, a new directive, tailored to the specific features of defence, for the purposes of the procurement of arms, ammunition and war material subject to Article 296.

Parliament regarded a restrictive interpretation of national security interests as appropriate, given that Member States are already mutually dependent in areas such as monetary affairs and energy. It questioned to what extent any meaningful distinction at all can still be drawn between national and common European security interests.

With regard to a new directive, both mandatory and optional instruments could be considered in connection with procurement procedures. The emphasis should be placed on creating greater transparency and fairness in the award of contracts. Parliament pointed out that, in addition to the actual acquisition of equipment, other aspects will need to be taken into account, such as research and development, offsetting agreements, maintenance, repair, retrofitting and training. There must be intensive consultation with stakeholders in drawing up a directive, and stresses the need for a business impact study and a foreign-relations impact study.

Member States are urged to cooperate actively with the Commission on a new directive and to instruct the European Defence Agency (EDA) to develop, as an initial step, a code of conduct for defence procurement within the meaning of Article 296. This code should apply to contracts covered by Article 296 with the aim of introducing more competition and transparency to the sector.

Parliament went on to offer suggestions on the content of the code of conduct. It should, for example, define preconditions for the exercise of the derogation under Article 296 and ensure the required transparency of reasons for exemption and non-publication of information.

Parliament also urged the Commission to work closely with the EDA so as to establish in parallel a comprehensive action plan with accompanying measures in related areas, such as security of supply, transfer and exports, which are necessary for the creation of a level playing field for fair competition within the EU and to ensure the provision of reliable statistical information about the market.

Parliament moved on to state that it recognised that defence procurement problems in the EU are partly linked to the absence of a genuine 'two-way street' with the United States. It questioned whether European defence procurement agencies should be recommended to make more European purchases in order to reinforce strategically the European defence industry in certain sectors. New EU defence procurement legislation should not be used as an instrument enabling US corporate interests unilaterally to infiltrate European defence procurement markets. At the same time it is indispensable that all Member States observe the Common Military List of the European Union (equipment covered by the European Union Code of Conduct on Arms Exports) adopted by the Council on 25 April 2005. Parliament called on the Commission, together with the EDA, to put forward long-term proposals indicating how closer links between EU procurement markets and those in the United States and also in countries such as Ukraine and, in specific sectors, Russia, could lead to both greater choice and more efficient specialisation.

The opening up of the market is a precondition for strengthening a financially viable EU armaments industry, for developing capabilities. The inevitable concentration of the armaments industry should be subject to greater monitoring and control by the Directorate General for Competition of the Commission as regards the application of Community competition law, so that the advantages of mass production are not jeopardised by sectoral monopolies and the resulting market power of undertakings.