

Submission to the Defence Sub-Committee, Joint Standing Committee on Foreign Affairs, Defence and Trade, *Inquiry into the benefits and risks of a Bipartisan Australian Defence Agreement, as a basis of planning for, and funding of, Australian Defence capability.*

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The need for a Bipartisan Australian Defence Agreement (BADA), whether of the longstanding Danish model or some other, is variously attributed to frequent blowouts in money and time of major defence projects, industry requirements for investment planning, instability in government planning arising from a three year electoral cycle, the interference to government decision-making caused by the 24/7 media cycle, or a shifting of the defence planning goal posts in project mid-cycle for other reasons exterior to the projects themselves. An agreement between government and opposition political parties for defence planning and budgeting for a fixed period is proposed as the solution to these ills, with a central but unspoken proposition that ‘taking the politics out of defence’ will produce better policy outcomes, and ultimately a more effective defence capacity.

There are, however, five sets of problems with the broad BADA proposal:

- the lack of demonstration that the problems of defence planning and budgeting would in fact be solved by claimed by such an approach;
- the fact that there are other, quite distinct, sets of reasons as to why these problems persist and are unlikely to be successfully addressed in this manner;
- the likely exacerbation of already deep-rooted problems with
 - defence policy formulation and implementation, and in democratic accountability and oversight in particular;
 - deficits in breadth, diversity and community engagement with defence policy debate and formulation; and
 - the influence of an already unquestioned level of major party bipartisanship on the historically unprecedented degree of Australian defence integration with the United States.

1. Arguments in search of evidence

While several different reasons have been adduced as rationales for a Bipartisan Australian Defence Agreement, there has been remarkably little well-documented analysis accompanying these claims. Such an agreement would amount to a major change in defence planning arrangements, affecting the conditions under which political debate on a

fundamental responsibility of government is conducted, and equally the conditions under which oversight of defence planning and procurement is conducted by the parliament, the media and the broader community. There is no Australian precedent for such an approach, which amounts to a near-constitutional level of change, in any policy field. Yet, arguments in support of the need for a BADA have rarely progressed beyond generalities about 'waste', 'inefficiencies', and 'political interference' with good planning practice and investment planning horizons, with remarkably little evidence adduced to support these claimed chains of causation.

While the experience of Denmark's multiparty Danish Defence Agreements has sometimes been referred to by BADA proponents, few have explored the substantial English-language literature on the experience of Denmark and Sweden with multiparty defence agreements.¹ That literature, produced by researchers and policy analysts in both the countries concerned and elsewhere, indicates that the viability of establishing and sustaining such agreements greatly depends on the broader political culture of these countries. These cultural foundations especially include a tradition and expectation of substantive and sustained cooperation and consultation between government and opposition in most areas of government policy. That is not characteristic of this country. Moreover, those studies, while illuminating the Danish situation in particular, do not provide evidence-based analysis of the effectiveness of these agreements in substantially reducing waste and inefficiencies and problems of incoherence in strategic guidance.

One of the fundamental problems of Australian defence procurement planning is a lack of evidence-based decision-making, and more importantly, evidence-based decision-making conducted wherever possible in public. The proposal for a Bipartisan Australian Defence Agreement itself appears to be replicating this characteristic Australian policy deficit, with potential effects far greater than those attached to individual procurement decisions. Best practice in policy formulation suggests that decisions on the legal and organisational structures that will shape the process of decision making should at least not add to the deficiencies of the existing arrangements.

2. Other explanations for systemic problems of defence capability development

There are quite distinct sets of reasons as to why major problems of defence planning and procurement persist, besides the lack of a BADA, and which indicate that a BADA in itself is unlikely to achieve the results proponents suggest. Of course, the Defence Department and the ADF are very large and complex organisations, with multiple and often competing goals, demands, and sets of stakeholders. The Defence Department, the service organisations and the Capability Acquisition and Sustainment Group have sought to develop processes to improve procurement outcomes. Moreover, there have been a number of major reviews of

their structure and activities – including the Proust (2003), Mortimer (2008), and Black (2011) reviews, and the First Principles Review (2014).

Despite these and other efforts, the themes and conclusions of the critique of Australian defence policy and force structure that Desmond Ball articulated a decade ago as ‘Rushing Headlong into Infirmity’ remain salient, despite even greater defence and security spending than in the immediate post 9.11 years.² Ball cited failures in intelligence (particularly relevant to a strategic posture dependent on warning time of shifts in the environment), incoherence and confusion in fundamental strategic guidance (evident in every Defence White Paper subsequently), and resulting questionable capability development decisions. At that time Ball pointed to six examples with costs totaling \$25 bn. (2006-07 dollars) where the resulting capability was deficient, either less than fit for purpose, grossly over-budget, or many years overdue:

- the *Abrams* M-1 tank;
- the C-17 *Globemaster* transport aircraft and the large amphibious landing ships (LHDs) HMAS *Adelaide* and HMAS *Canberra*, the design requirements of which were influenced by the weight of the tanks);
- the F-35 Joint Strike Fighters (late coming, controversial in capabilities, and cost still unknown but certainly multiples of the original estimate);
- the Air Warfare Destroyer (primarily for coalition high intensity warfare); and
- the Headquarters Joint Operations Command at Bungendore.

That was all a decade ago, but Ball’s diagnosis remains correct and relevant. This made clear by subsequent ‘troubled’ capability development projects and a lack of coherence in strategic guidance. Critical examples include the deep irrationalities in the Future Submarine Program decision-making (most importantly concerning the veritable enigma of the actual strategic role intended for the submarines, and hence their design requirements), and the decades-long, largely unscrutinised, ADF deployments in the Middle East and Central Asia.³ The concerns he foreshadowed in 2006 for strategic infirmity and the danger of a potential loss of legitimacy and support for Defence thus generated hang over Australia still.

There is little to support a claim that such problems would be effectively addressed by a BADA. While there are individual elements specific to each capability project listed, they are in fact typical not just of ‘troubled’ defence projects, but of a much larger and wider set of large-scale complex ventures that has become the preferred delivery model in many different fields worldwide, including defence. These are megaprojects, a term used by Oxford University’s Said Business School professor of major project management, Bent Flyvbjerg, that typically cost a billion dollars or more, characterized by heightened levels of technical aspiration, long lead times, and unusual complexity of design, execution, and stakeholder involvement.⁴ All of which, Flyvbjerg argues, create previously unusual, but increasingly common, problems of management. Flyvbjerg and his associates sought to develop a

database of successful megaprojects which would be of sufficient size to permit statistically valid analyses of the sources of success, but failed to build such a database, because of the rarity of cases:

‘If, as the evidence suggests, approximately one out of ten megaprojects is on budget, one out of ten is on schedule, and one out of ten delivers the promised benefits, then approximately one in one thousand projects is a success, defined as “on target” for all three.’

Even if the numbers are wrong by a factor of two, the resulting success rate – eight out of one thousand – is ‘dismal’ – and recognizable in Australian defence procurement experience. Unsurprisingly, Flyvbjerg’s ‘iron law of megaprojects’ – *Over budget, over time, again and again* – is also recognizable: *‘Best practice is an outlier, average practice a disaster in this interesting and very costly area of management.’*

Of course, this sketch of one managerial diagnosis of a large universe of projects, albeit well-founded in research terms and very recognizable, cannot pretend to amount to an adequate analysis of the smaller but still large set of Australian defence capability project problems, but two things are clear and relevant to this BADA inquiry.

Firstly, the institutional and political (or more precisely, de-politicised) arrangements envisaged through BADA or its Scandinavian models offer little to the solution of the Australian problems Ball (and others) have identified or the difficulties of managing the much wider order of megaprojects Flyvbjerg identifies, of which defence projects are one of the most recognizable species. The problems a BADA is intended to address a much more common than suggested by its proponents, and their solutions lie elsewhere. Secondly, there is good reason to think that BADA would exacerbate many of the problems both analysts note. Critically, they both identify a need for very substantial institutional change, in terms of improved accountability and democratisation of governance, wider public and stakeholder involvement in decision-making, and greater transparency in both how decisions are made actually and in the provision of accessible and reliable information. BADA is unlikely to be characterised by either.

3. Potential exacerbation of existing problems

While this parliamentary inquiry is most welcome, the balance of power between the executive and the legislative branches of government in this country strongly favours the executive, and has done so for many decades. Despite the best efforts of parliamentary committees, there is little accountability of government to close parliamentary scrutiny in defence. This has been highlighted recently in the question of war powers, where in both practice and law, restraints on executive power are minimal.⁵ This includes not only decisions to go war, but also questions of exiting from war.

A telling example is the absence of sustained parliamentary scrutiny of Australia's longest war – the ADF deployment in Afghanistan almost continuously from late 2001 to the present. In this context, the implications of a BADA for robust and sustained democratic accountability through parliament are especially concerning. This is particularly the case given the high level of broad bipartisan consensus on strategic policy.

Promises of Defence Department accountability and transparency are vitiated by a consistent pattern of avoidance of serious public consultation by the department – most obviously in the recurring farce of 'Defence White Paper Public Consultation' events. While recognized experts and interested industry groups are usually invited to closed consultation sessions in major cities, community groups that have an expressed interest in the defence matters under discussion in the White Paper process are, in my own experience on occasion as both an 'expert' and as a representative of community groups, normally either not notified of 'public meetings' (even if they have registered for this purpose) or notified in cursory fashion a matter of days – or even a day - before the promised meeting. This recurring practice suggests a deep-rooted Defence attitude of disdain towards community consultation and diversity of involvement in policy development, and a determination to maintain a highly limited circle of acceptable policy consultation. This practice, which is both offensive and inimical to the spirit and practice of democratic accountability, does not suggest that a BADA arrangement, which inherently limits diversity in policy debate and democratic accountability, would improve matters in this regard.

These concerns about the possible introduction of a BADA are amplified by the existing serious deficiencies in the availability and qualities of the information the Australian public needs for assessing the outcomes of defence existing policy and practice.

There is already very limited public space for informed media discussion of defence policy in this country. Australia is notorious for its highly concentrated mass media ownership pattern. The number of employed journalists with experience and expertise in defence and foreign affairs has always been small, but in the face of the challenge of rapid and somewhat chaotic media restructuring, has visibly diminished. Increasing reliance of journalists on repetition of Defence Department media releases and increasing government departmental budgets for 'management' of media coverage deepen the problem.

Public discussion of ADF deployments is severely constrained without extensive and reliable information about the basis of policy and its consequences. There are remarkably few organised and accessible public collections of information about Australian military activities in abroad. There are no collections of contending policy analyses or even of basic documents. This lack of information inhibits informed community discussion, and encourages the incorrect belief that there is no reliable information available to the public. Information that

is not accessible to the public effectively means that there is no information for democratic debate about policy.⁶

The existing high degree of political party bipartisanship on the defence relationship to the United States combines with a restriction of citizen access to informed reporting and commentary in defence and foreign policy to seriously impair the operation of public scrutiny of government policy. This in part explains the disconnect between Australian public opinion on the long running wars the ADF is involved in and the lack of public pressure on government to address these deployments.

The Danish experience with its multiparty defence agreements, beginning in 1989 and continuing through to the present validates these concerns. Danish Defence Agreements, usually covering about five years each, are written agreements between most political parties represented in the Danish parliament, covering in detail virtually all aspects of defence and security policy, strategic guidance, and budgeting, and form the basis for subsequent government defence statements and funding legislation.

The Netherlands Institute for International Affairs has provided the most substantial English-language discussions of the Danish experience in a review of the suitability of the Danish and Swedish examples for the Netherlands.⁷ The Dutch review notes that the Danish Defence Agreements

- are negotiated outside parliament, in talks between the political parties at the Ministry of Defence;
- are neither governmental nor parliamentary agreements'
- use draft texts are drawn up by public servants, since neither the parliament nor the political parties themselves have adequate research staff;
- consequently, reflect high level of Ministry of Defence influence; and
- are not discussed or defended actively and publicly by the parliamentarians who support them.

One consequence is that 'because the drafting of Defence Agreements is a delicate political process and takes place outside the public domain, this creates a lack of transparency towards the general public.' Such parliamentary debate as does take place is at the margins of policy, with quarterly closed briefings of parliamentary representatives in the Defence Agreement process by the Ministry of Defence reportedly engendering additional risks to the parliament's oversight role.

One example of what the Dutch review describes as the 'depoliticisation' of Danish security and defence policy was that the issue of the replacement of F-16 fighter aircraft flagged in 2008 'has hardly been touched upon' in successive Defence Agreements – and up to

publication in 2015, 'the issue has been depoliticized and handed to the experts' as one respondent put it.

The subsequent Danish government decision to acquire, like a number of other US allied countries, Lockheed Martin F-35 Joint Strike Fighters, was somewhat controversial, with the losing competitor Boeing taking the unusual step of challenging the impartiality of the process in Danish courts in 2016.⁸ If substantiated, the implications of this claim regarding the impartiality and robustness of democratic accountability under the Danish process clearly have commercial and political significance well beyond a small European country.⁹

In contemporary Australia any consideration of novel political arrangements to ensure bipartisanship in defence policy needs to recognize the consequences of the now unprecedented level of military and intelligence integration with the United States which now receives largely unquestioned support from both major political parties.¹⁰ This is one primary source of incoherence in strategic doctrine as expressed in successive recent Defence White Papers, with follow-on consequences for capability development as mentioned already. The high tempo deployment of the ADF since 2001 in the Middle East and Central Asia in coalition wars of dubious strategic interest to Australia – and indeed are arguably highly counter-productive to the national interest – is another consequence of this combination of bipartisanship and strategic incoherence.

At root, this is an indication that the Australian body politic, and its security deliberation process in particular, lacks the political space and processes to generate necessary sustained public consideration of when Australian interests align with those of the United States and when they do not.¹¹ Such capacity for systematic consideration of how Australian strategic interests are to be formulated and fostered should be the foundation of Australian defence debate, both in the security community and in the public sphere at large.

Not only does the existing degree of bipartisanship inhibit this capacity developing, but a formal Bipartisan Australian Defence Agreement would create a policy environment even more inimical to democratic accountability of government based on public consideration of the interests of Australian people. The proposal should be rejected.

¹ The *Danish Defence Agreement, 2013-2017*, (Danish Ministry of Defence, 30 November 2012) is available at <http://www.fmn.dk/eng/allabout/Documents/TheDanishDefenceAgreement2013-2017english-version.pdf>; and the Ministry of Defence's proposed text for its successor is *A strong defence of Denmark: Proposal for new defence agreement 2018 – 2023*, (Danish Ministry of Defence, October 2017), at <http://www.fmn.dk/temaer/forsvarsforlig/Documents/proposal-for-new-danish-defence-agreement-2018-2023.pdf>. Useful materials in English include Margriet Drent and Minke Meijnders, *Multi-year Defence Agreements: A Model for Modern Defence?* (The Hague: Netherlands Institute of International Relations, Clingendael Report, September 2015), pp. 6-15, at https://www.clingendael.org/sites/default/files/pdfs/Clingendael_Report_Multi-year_%20Defence_%20Agreements_September2015.pdf; *An Analysis of Conditions for Danish Defence Policy – Strategic Choices 2012*, (Copenhagen: Centre for Military Studies, University of Copenhagen, 2012), at http://cms.polsci.ku.dk/publikationer/enanalyseafvilkaarfordanskforsvarspolitik/Danish_Defence_english.pdf; 'Denmark - Defense Policy', *Global Security.org*, [accessed 31 October 2017], at <https://www.globalsecurity.org/military/world/europe/dk-policy.htm>; Kristoffer Breindal, *Driving Danish Defence Towards Political Goals*, (Fort Leavenworth, Kansas: U.S. Army Command and General Staff College, 2016); Gary Schaub Jr., 'Denmark: Defense Woes in the Little U.S. Ally That Could', *War on the Rocks*, 6 August 2015, at <https://warontherocks.com/2015/08/denmark-defense-woes-in-the-little-u-s-ally-that-could/>; and 'Denmark's new defence agreement renews focus on protecting the Baltic', *Eye on the Arctic*, 16 October 2017, at <http://www.rcinet.ca/eye-on-the-arctic/2017/10/16/denmarks-new-defence-agreement-renews-focus-on-protecting-the-baltic/>.

² Desmond Ball, 'Rushing Headlong to Infirmity: Australian Defence Policy and Force Structure Development', *Security Challenges*, Vol. 3, No. 4 (November 2007).

³ Richard Tanter, 'The \$40 billion submarine pathway to Australian strategic confusion', *Nautilus Institute, NAPSNet Policy Forum*, 20 April 2015, at <https://nautilus.org/napsnet/napsnet-policy-forum/the-40-billion-submarine-pathway-to-australian-strategic-confusion/>

⁴ Bent Flyvbjerg, 'What You Should Know About Megaprojects and Why: An Overview', *Project Management Journal*, Vol. 45, No. 2, pp. 6–19. See also his comments on the implications of megaprojects for democratic accountability in his *Truth and Lies About Megaprojects*, Inaugural speech, Aalborg University, Denmark, 26 September 2007, at <http://flyvbjerg.plan.aau.dk/Publications2007/InauguralTUD21PRINT72dpi.pdf>.

⁵ This is of course not a purely Australian concern as recent Congressional debate in the United States demonstrates. On Australia see the work of the group now titled, Australian for War Powers Reform, chaired by former Secretary of Defence Paul Barratt, including in Alison Broinowski (ed.), *How does Australia go to war? A Call for Accountability and Change*, (Melbourne: Australians for War Powers Reform, June 2015).

⁶ See speeches by Hugh White and Tom Hyland at the launch of the Nautilus Institute's *Australian Forces Abroad* and *Australian Defence Facilities* Briefing Books, 29 June 2009, at <https://nautilus.org/publications/books/australian-forces-abroad/>

⁷ Margriet Drent and Minke Meijnders, *Multi-year Defence Agreements: A Model for Modern Defence?* (The Hague: Netherlands Institute of International Relations, Clingendael Report, September 2015), pp. 6-15, at https://www.clingendael.org/sites/default/files/pdfs/Clingendael_Report_Multi-year_%20Defence_%20Agreements_September2015.pdf.

⁸ 'Boeing sues Denmark over lack of access to documents in combat jet dispute', *Reuters*, 2 March 2017, at <https://www.reuters.com/article/us-boeing-denmark-lawsuit/boeing-sues-denmark-over-lack-of-access-to-documents-in-combat-jet-dispute-idUSKBN1691IV>

⁹ The controversial Danish F-35 decision had been prefigured by a parallel controversy over Norway's decision to buy F-35 aircraft which was subsequently revealed by documents released through WikiLeaks and subsequent research to have been both substantially influenced by covert United States government interference in the procurement process, and by an unspoken and otherwise hidden bias of a significant group of high-level government officials. See Srdjan Vucetic and Rebecka S. Rydberg, 'Remnants of Empire: Tracing Norway's F-35 Decision', *Contemporary Security Policy*, Vol.36, No.1, 2015, p. 72.

¹⁰ Richard Tanter, 'North Korea necessitates a reassessment of Australia's US intelligence bases', *East Asia Forum*, 13 October 2017, at <http://www.eastasiaforum.org/2017/10/13/north-korea-necessitates-a-reassessment-of-australias-us-intelligence-bases/>.

¹¹ In this respect, recent scrutiny of the Australian response in 1965-66 to the United States request to establish Pine Gap shows a measure of concern to discern and protect Australian interests by some Defence Department

officials both previously undocumented and uncharacteristic of their successors today. See Desmond Ball, Bill Robinson and Richard Tanter, *Australia's participation in the Pine Gap enterprise*, Nautilus Institute Special Report, 8 June 2016, at <https://nautilus.org/napsnet/napsnet-special-reports/australias-participation-in-the-pine-gap-enterprise/>.