

Government Response, 9 September 2024

International Agreements Committee's GCAP Convention Scrutiny Report: Collated Conclusions and Recommendations

- A. We welcome the trilateral cooperation between the UK, Japan and Italy to provide efficient delivery of the GCAP. However, each country will have their own priorities and interests, and therefore the Government will need to manage relations with international partners to ensure the timely delivery of the programme and to avoid the messy compromises which have often in the past led to sharp rises in costs and sometimes to failure in such international projects. (Paragraph 10)**

Response: Italy and Japan are jointly committed to the development of a next generation fighter jet, whilst also strengthening our respective defence industries and ensuring national economic benefit. The UK is fortifying its relationship with Japan under the Hiroshima Accord and adding to the longstanding Typhoon partnership with Italy. We are working closely as a partnership to ensure national interests and objectives are supported as far as possible through the programme, and our common strategic objectives will support a single coherent voice into the GCAP agency via the Steering committee.

- B. We welcome Japan's involvement, and ask the Government to set out how it envisions its engagement in this coalition given Japan's relative inexperience in such projects. (Paragraph 11)**

Response: We are delighted to be partnering with both Italy and Japan on GCAP, with all three partners bringing vital skills, expertise, and experience to the programme. The F35 programme, of which all three GCAP nations are operators, the indigenous F2 fighter programme and their successful F-X technology acquisition programme, which spanned over 10 years, are examples of the experience Japan brings to the programme.

At the broadest level, our bilateral relations with Japan continue to strengthen, including through the Hiroshima Accord signed by the UK and Japan in 2023. The UK's bilateral relationship with Italy remains strong, notably in Combat Air where we share 50 years of partnership in the Tornado and Typhoon fighter programmes.

- C. We welcome the consultation which has so far involved industry partners across the three nations in developing the GIGO and the Convention and recommend that it be sustained throughout the duration of the project. We would welcome further information from the Government on how the project intends to engage with supply chains that are not located in the participating nations. (Paragraph 15)**

Response: The GCAP programme will require and seek out the "best in class" suppliers to support this cutting-edge programme and its objectives. The trilateral partners mutually recognise that each nation brings a skilled and capable industry, which will all be critical to the success of the programme. However, it is equally crucial that the supply chain remains agile and open to participation by international suppliers and Small and Midsize Enterprises (SMEs) to ensure that the programme will benefit

from continued innovation and competition. We are keen to involve SMEs through engaging their respective trade bodies.

Accordingly, the programme intends to develop pathways to enable and encourage fair and open competition as far as possible, albeit this will always be subject to necessary security considerations.

This will be implemented alongside the goal of building a supply chain “ecosystem,” which will enable the programme to identify and engage with a wider range of suppliers through increased transparency, as well as allowing for increased monitoring and a more robust supply chain.

- D. We welcome the establishment of a single international entity and industry construct which draws on past experience of other similar projects, involving as it does some novel elements to the arrangements for GIGO. *The Government must ensure that both entities operate efficiently and fully collaborate to ensure that the tight timelines for delivery of the programme are met. The Government should set out how they intend to achieve this.* (Paragraph 25)**

Response: The GCAP International Government Organisation (GIGO) is drawing on lessons learned from similar previous projects such as OCCAR and NETMA to ensure efficient design of the new organisations. Communication has been established between Government and industry teams, with regular joint sessions taking place to progress the development of the new organisations and ways of working together. The GIGO will allow clear contracting and a mandatory requirement of regular reporting, enabling efficiency and full collaboration. Co-location of the GIGO and the JV will further enable this, with the intention of also locating some industrial co-operations nearby.

- E. It is important that there is clarity in how decisions will be taken by the Steering Committee. *We call on the Government to set out further details on decision-making processes within the Steering Committee and to outline how this will work in practice.* (Paragraph 28)**

Response: Given nations must retain control over their programme commitments, the Steering Committee will aim to achieve unanimity and resolve disputes through discussion and negotiation.

- F. We welcome the establishment of the GCAP Agency and the balance of representation between the Parties. (Paragraph 33)**

Response: All partners are committed to the establishment and resourcing of the GCAP Agency. The teams from each nation are working collaboratively to define the size, shape and balance of the GCAP Agency. The design of the leadership of the Agency will have a balanced representation and rotation principles that will ensure this balance is maintained through the life of the Agency.

- G. We welcome the fact that the GIGO’s headquarters will be located in the UK along with any potential benefits such as the creation of highly-skilled jobs and creating inward investment.**

Response: We appreciate and agree with the committee's welcoming of the trilateral decision to locate the GIGO HQ in the UK. The location of the GIGO HQ in the UK means the programme will operate under UK financial and legal jurisdictions; this is an advantage to the overall programme and all parties. GCAP will bring strategic and economic benefit to all partner states regardless of where the HQ is located, with significant GCAP activity continuing in each of the nations.

- H. **We are concerned about the lack of transparency relating to several implementing measures listed in the Convention. We also regret that, since these subordinate documents will not be legally binding agreements, there will be no Parliamentary scrutiny of them under CRAG. We call on the Government to enable appropriate Parliamentary oversight of all measures agreed between the parties to the Convention and to keep us informed by sending regular updates. (Paragraph 42)**

Response: GCAP and its programme structures will need to evolve over the programme lifecycle to meet the needs of each programme phase, and we consequently did not seek to define every element in the Convention. As with previous programmes, there will be a series of international arrangements developing the detail. We acknowledge the benefit of Parliamentary oversight and, where applicable, will ensure Parliament are called upon to provide advice and guidance. Government will provide regular updates on the programme through ministerial channels via command papers, oral evidence and public communications.

- I. **We welcome the role of the National Audit Office as the UK's designated independent auditor for the GIGO. Nevertheless, despite careful budgeting, very large cost overruns have historically not been uncommon on major projects. We therefore recommend that the Government carefully monitors the UK's share of the GIGO's operating costs. (Paragraph 47)**

Response: We support the IAC's recommendation around careful monitoring, noting this will be one of the primary roles of the Finance Division, which will monitor and control costs on behalf of all the participating nations. The National Audit Office have been invited as the UK's national audit authority to combine forces with their Japanese and Italian equivalents as designated auditors for GIGO as a single entity and carry out an external audit of the annual accounts. This will provide further confidence to the control and monitoring of programme costs, along with the GIGO Audit function, permanently embedded within the Agency, to perform internal audit functions & Value for Money analysis.

- J. **The prospects for exports to third countries will crucially affect the net cost of the project to the three partners. It is important therefore to have a process to address this issue at an early stage and to try to iron out any damaging disagreements. We recommend the Government take this up with its partners without delay. We would also welcome commentary on the assessment of potential markets and number of aircraft sales from the Government. (Paragraph 48)**

Response: Exportability is a core part of this programme and we have been working closely with our GCAP partners to fully realise its potential. The principle of export success has been included within the Convention and provides a common point of reference for the UK, Japan and Italy. The assessment of market potential is under continuous evaluation.

- K. The slightly unusual feature of the privileges and immunities conferred on GIGO, as compared with many international organisations is that it is an organisation which is operating in the commercial rather than public policy sphere. Considering the industrial nature of the activities which will be carried out at the GIGO premises in the UK it is important that these privileges and immunities do not lead to a loss of protection for GIGO staff. We note in this context that Article 43 of the Convention requires the GIGO and its personnel to cooperate at all times with the competent authorities of the host state, in particular to “facilitate the proper administration of justice, secure the observance of laws and regulations concerning police, fire prevention, public health and labour inspection and other similar legislation and prevent the occurrence of any abuse”. We welcome this provision but call on the Government to report to Parliament periodically on any incidents of non-compliance by the GIGO with UK laws and regulations. (Paragraph 50) [Drafted by FCDO, cleared at their 1* level]**

Response: The Foreign, Commonwealth and Development Office reports annually to Parliament on all serious or significant offences allegedly committed by people entitled to diplomatic or international organisation-related immunity in the United Kingdom. Any non-compliance by the GIGO will be included in that annual statement.

- L. We note that the GIGO and its personnel will benefit from wide-ranging privileges and immunities but note these are comparable to the privileges and immunities conferred on OCCAR. (Paragraph 52) [Tom Franey FCDO]**

Response: Privileges and immunities for all international organisations in the UK are agreed in accordance with their functional needs. Although privileges and immunities conferred on OCCAR and the GIGO are similar, they are bespoke to each organisation in accordance with their functional needs.

- M. We call on the Government to explain why, unlike for OCCAR programme, it decided a binding dispute settlement was unnecessary between the parties to the Convention. (Paragraph 56)**

Response: The decision for non-binding dispute settlement was a joint policy decision between the trilateral partnership. Most MOD international arrangements are binding but not legally binding, with a similar approach to disputes. The reason is that with an independent third-party arbiter, it is likely that sensitive details may be put in front of a party who may be not appropriately security cleared, or in fact may need to be placed in the public domain.

- N. The Explanatory Memorandum sets out the Government’s view that the Convention gives rise to no significant human rights implications. The Explanatory Memorandum notes the existence of the death penalty in Japan, but**

it does not appear that the UK's obligations under the Convention would require any UK personnel being posted to Japan. The Committee considered the implications of the death penalty in Japan in our Report on the UK-Japan Reciprocal Access Agreement. The terms of that Agreement were very different to the Convention. *We agree that the Convention does not raise significant human rights concerns.* (Paragraph 57)

Response: We appreciate the Committee's agreement with our findings that the Convention does not raise significant human rights concerns. The Convention allows for the establishment of branches in the territories of the Parties. In addition to travel to Japan by UK personnel, as directed by business requirements, there is also a possibility of UK postings to these satellite branches if they are established. In these cases, the privileges and immunities provided for within the Treaty will be applicable in relation to the GIGO's personnel and representative of the Parties, as well as the organisation itself, including the premises of the headquarters, its branches and any other facilities used for its official purposes.

- O. We welcome the need for unanimous consent by the Steering Committee to admit new countries to the GIGO who wish to participate in the GCAP programme. *We call on the Government to confirm that any amendment to the Convention to admit new members would be subject to Parliamentary scrutiny under CRAG.* (Paragraph 60)**

Response: Any amendment to the Convention, including for the accession of a new party to the Convention, would require Parliamentary scrutiny under CRAG. However, there may be methods for new nations to participate in elements of the programme without becoming a party to the Convention, and in such cases no amendment would be needed. The various methods of joining or participating in the programme have yet to be trilaterally agreed.

- P. A defence project on this scale is a major commitment for the UK. *It follows from that, for good reason, once the commitment has been made, the UK cannot withdraw except at significant cost.* (Paragraph 62)**

Response: GCAP continues to be an important programme for the UK. As laid out within the GCAP Convention, if one of the Parties wishes to withdraw from the Treaty, a consultation between the Parties shall be held. The Convention itself does not commit the UK to any financial or commercial commitment. UK financial and commercial commitments to the GCAP programme will be approved under normal MOD and Treasury procedures and made under subsequent international programme agreements.