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*Plenary sitting*

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**A8-0037/2018**

26.2.2018

**\*\*\*I**  
**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  
(COM(2017)0294 – C8-0180/2017 – 2017/0125(COD))

Committee on Industry, Research and Energy

Rapporteur: Françoise Grossetête

Rapporteurs for the opinion (\*):  
Ioan Mircea Pașcu, Committee on Foreign Affairs  
Esteban González Pons, Committee on Budgets

(\*) Associated committees – Rule 54 of the Rules of Procedure

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

#### **Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

#### **Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

## CONTENTS

	<b>Page</b>
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION.....	5
EXPLANATORY STATEMENT.....	22
MINORITY OPINION .....	24
OPINION OF THE COMMITTEE ON FOREIGN AFFAIRS .....	25
OPINION OF THE COMMITTEE ON BUDGETS.....	59
OPINION OF THE COMMITTEE ON THE INTERNAL MARKET AND CONSUMER PROTECTION .....	76
PROCEDURE – COMMITTEE RESPONSIBLE.....	101
FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE.....	102



## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**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 (COM(2017)0294 – C8-0180/2017 – 2017/0125(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2017)0294),
  - having regard to Article 294(2) and Article 173 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0180/2017),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the opinion of the European Economic and Social Committee of 7 December 2017<sup>1</sup>,
  - after consulting the Committee of the Regions,
  - having regard to Rule 59 of its Rules of Procedure,
  - having regard to the report of the Committee on Industry, Research and Energy and the opinions of the Committee on Foreign Affairs, the Committee on Budgets and the Committee on the Internal Market and Consumer Protection (A8-0037/2018),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

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<sup>1</sup> Not yet published in the Official Journal.

## Amendment 1

### AMENDMENTS BY THE EUROPEAN PARLIAMENT\*

to the Commission proposal

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2017/0125 (COD)

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**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,  
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 173 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,

Having regard to the opinion of the Committee of the Regions<sup>2</sup>,

*Having regard to the Chemical Weapons Convention (CWC) of 3 September 1992,*

*Having regard to the Biological Weapons Convention (BWC) of 10 April 1972,*

*Having regard to Council Regulation (EC) No 1236/2005 of 27 June 2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment<sup>3</sup>,*

Acting in accordance with the ordinary legislative procedure,

Whereas:

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\* Amendments: new or amended text is highlighted in bold italics; deletions are indicated by the symbol **■**.

<sup>1</sup> OJ C [...], [...], p. [...].

<sup>2</sup> OJ C [...], [...], p. [...].

<sup>3</sup> *OJ L 200, 30.7.2005, p. 1.*

- (1) In the European Defence Action Plan, adopted on 30 November 2016, the Commission committed to complement, leverage and consolidate collaborative efforts by Member States in developing defence capabilities to respond to security challenges, as well as to foster a competitive, **innovative and efficient** defence industry *throughout the Union*. It proposed in particular to launch a European Defence Fund to support investment in joint research and the joint development of defence equipment and technologies, *thus fostering synergies and cost-effectiveness, and to promote the Member States' joint purchase and maintenance of defence equipment. This Fund would complement national budgets already used for this purpose and should act as an incentive for Member States to cooperate and invest more in defence*. The Fund would support cooperation during the whole cycle of defence product and technology development.
- (1 a) *In order to establish an efficient European defence equipment market, as well as for this Programme to have a real impact, it is of crucial importance that key regulatory preconditions are fulfilled, especially the full implementation of Directive 2009/81/EC of the European Parliament and of the Council<sup>1</sup>.*
- (2) In order to contribute to the enhancement of the competitiveness, **innovation capacity and efficiency** of the Union's defence industry *and to the Union's strategic autonomy*, a European Defence Industrial Development Programme (hereinafter referred to as the Programme) should be established. The Programme should aim at enhancing the competitiveness of the Union's defence industry, *which will contribute to improving defence capabilities*, inter alia cyber defence by supporting **cooperation between Member States and European** undertakings, *including SMEs and mid-caps*, in the development phase of defence products and technologies. The development phase, which follows the research and technology phase, entails significant risks and costs that hamper the further exploitation of the results of research and adversely impact the competitiveness of the Union's defence industry. By supporting the development phase, the Programme would contribute to a better exploitation of the results of defence research and it would help to cover the gap between research and production as well as to promote all forms of innovation, *as, beyond the results in the defence sector, positive effects can also be expected in the civilian sector*. The Programme should complement activities carried out in accordance with Article 182 TFEU and it does not cover the production of defence products and technologies.
- (3) To better exploit economies of scale in the defence industry, the Programme should support the cooperation between undertakings in the development of defence products and technologies, *thereby promoting the standardisation of defence systems while improving their interoperability. In order to foster an open and fair internal market, the Programme should strongly support the cross-border participation of SMEs and facilitate the development of cooperation between new partners*.
- (4) The Programme should cover a two year period from 1 January 2019 to 31 December 2020 whereas the amount for the implementation of the Programme should be determined for this period.

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<sup>1</sup> *Directive 2009/81/EC of the European Parliament and of the Council 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 (OJ L 216, 20.8.2009, p. 76).*

- (4 a) *In order to finance the Programme from the general budget of the Union, an amount of EUR 500 million in current prices should be earmarked for that purpose. Considering that the Programme is a new initiative that was not foreseen when the multiannual financial framework (MFF) for 2014-2020<sup>1</sup> was established, and to avoid any negative impact on the financing of existing multiannual programmes, that amount should be drawn exclusively from unallocated margins under the multiannual financial framework ceilings and/or through the mobilisation of the relevant MFF special instruments. The final amount should be authorised by the European Parliament and the Council through the annual budgetary procedure.*
- (5) The Programme should be implemented in full compliance with Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council<sup>2</sup>. Funding may take in particular the form of grants. Financial instruments or public procurement may be used where appropriate, *taking into account blending mechanisms*.
- (6) The Commission *should be responsible for* the implementation of the programme *under* Article 58(1) (a) of Regulation (EU, Euratom) No966/2012. █
- (7) In view of the specificities of the sector, in practice no collaborative project between undertakings will be launched if the Member States have not first agreed to support such projects. After having defined common defence capability priorities *particularly in the context of the Capability Development Plan of the Common Security and Defence Policy* and also taking into account where appropriate collaborative initiatives on a regional basis, Member States identify and consolidate *defence* requirements and define the technical specifications of the project. They *should* also appoint a project manager in charge of leading the work related to the development of a collaborative project. *The Commission should consult the project manager on progress made on the action prior to executing the payment to the beneficiary of the eligible action so that the project manager can ensure that the time-frames are respected by the beneficiaries.*
- █ (9) The Union financial support should not affect the export of products, equipment or technologies, and it should not affect the discretion of Member States regarding policy on the export of defence related products. The Union financial support should not affect Member States' export policies on defence related products, *laid down in Council Common Position 944/2008/CFSP*<sup>3</sup>.
- (10) As the objective of the Programme is to support the competitiveness *and efficiency* of the Union defence industry by de-risking the development phase of cooperative projects, actions related to the development of a defence product or technology, namely definition of common technical specifications, design, prototyping, testing, qualification, certification as well feasibility studies and other supporting measures, should be eligible to benefit from it. This will also apply to the upgrade of existing defence products and technologies *developed in the Union, including the interoperability thereof*.

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<sup>1</sup> *Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 (OJ L 347, 20.12.2013, p. 884).*

<sup>2</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

<sup>3</sup> *Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment (OJ L 335, 13.12.2008, p. 99).*



- (11) Given that the Programme aims particularly at enhancing cooperation between undertakings across Member States, an action should be eligible for funding under the Programme only if it is undertaken by a cooperation of at least three undertakings based in at least **three** different Member States.
- (12) Cross-border collaboration in the development of defence products and technologies has often been hampered by the difficulty to agree on common technical specifications **or standards and promote interoperability**. The absence or limited level of common technical specifications **or standards** have led to increased complexity, **duplications**, delays and inflated costs in the development phase. The agreement on common technical specifications **or standards** should be a **primary** condition in order to benefit from the Union's support under this Programme. Actions aiming at supporting the creation of a common definition of technical specifications **or standards** should also be eligible for support under the Programme.
- (13) As the Programme aims at enhancing the competitiveness **and efficiency** of the Union's defence industry, **which will contribute to the Union's strategic autonomy**, only entities established in the Union and effectively controlled by Member States or their nationals should be eligible for support. **Other entities established in the EU and not effectively controlled by Member States or their nationals may be eligible if, for the purpose of an action funded under the Programme, the necessary mechanisms are in place to ensure that the effective control over the undertaking by a third country or a third country entity is removed and their access to sensitive information relating to the action is prevented. The undertaking should provide the Commission with the necessary evidence that the necessary mechanisms are in place. In order to assess the effective control of an undertaking, it is necessary to establish where and how strategic commercial decisions are taken. This requires an analysis of the governance of the undertaking, which should be carried out on the basis of an overview of how it operates. Other aspects which are likely to influence decision-making on strategic economic issues, such as shareholder rights, financial ties and commercial cooperation between the undertaking and any shareholders in third countries, should also be examined.** Additionally, in order to ensure the protection of essential **defence and** security interests of the Union and its Member States, the infrastructure, facilities, assets and resources used by the beneficiaries and subcontractors in actions funded under the Programme, shall not be located on the territory of non-Member States. **Material, non-material and human resources should be free to use and free of restrictions vis-à-vis third countries.**
- (14) Eligible actions developed in the context of Permanent Structured Cooperation in the institutional framework of the Union would ensure enhanced cooperation between undertakings in the different Member States on a continuous basis and thus directly contribute to the aims of the Programme. Such projects, **and especially projects with considerable participation of SMEs and mid-caps, and in particular cross-border SMEs**, should thus be eligible for an increased funding rate.
- (14a) **Eligible actions developed with a considerable involvement of SMEs that support the opening up of the supply chain, directly contribute to the objectives of the Programme.**
- (15) If a consortium of undertakings wishes to participate in an eligible action under the Programme and financial assistance of the Union is to take form of a grant, **a financial instrument or a public contract**, the consortium should appoint one of its members as a coordinator who will be the principle point of contact with the Commission.

- (16) The promotion of innovation and technological development in the Union defence industry should ***allow the maintenance and development of the skills and know-how of the Union's defence industry and contribute to strengthening its technological and industrial independence. It should also*** take place in a manner coherent with the security interests of the Union. Accordingly, the action's contribution to those interests and to the defence capability priorities commonly agreed by Member States should serve as an award criterion. Within the Union, common defence capability priorities are identified notably through the Capability Development Plan. ***The European Council of 19 and 20 December 2013 stressed the importance of delivering key capabilities and addressing critical shortfalls through tangible projects in areas such as remotely-piloted aircraft, air-to-air refuelling, satellite telecommunications and cyberspace. In addition, in its Communication of 30 November 2016 entitled 'European Defence Action Plan', the Commission emphasised the need to maximise civil/military synergies, including in areas such as space policy, cyber security, cyber defence and maritime security.*** Other Union processes such as the Coordinated Annual Review on Defence (CARD) and the Permanent Structured Cooperation will support the implementation of relevant priorities through enhanced cooperation. Where appropriate regional or international cooperative initiatives, such as in the NATO context, may also be taken into account, ***on condition that they serve the Union security and defence interest and do not prevent any Member State from participating.***
- (16 a) ***The Member States work individually and jointly on the development, production and operational use of unmanned aircraft, vehicles and vessels. The operational use comprises carrying out strikes on military targets. The research and development associated with the development of such systems, military and civilian, have been supported with EU funds, and it is planned that this will continue in the future, possibly also under this Programme. Nothing in this Regulation stands in the way of the legitimate use of the technologies or products developed hereunder.***
- (17) In order to ensure that the funded actions are viable, the Member ***States'*** commitment to effectively contribute to the financing of the action should be an award criterion for such actions ***and should be established in writing.***
- (18) In order to ensure that the funded actions will contribute to the competitiveness ***and efficiency*** of the European defence industry, they should be market-oriented and demand driven, ***including for dual-use technologies, with a view to consolidating European defence demand.*** Therefore, the fact that Member States have already committed to jointly produce and procure the final product or technology, possibly in a coordinated way, should be taken into account in the award criteria.
- (19) The financial assistance of the Union under the Programme should not exceed 20% of the total eligible cost of the action when it relates to prototyping which is often the most costly action in the development phase. The totality of the eligible costs should however be covered for other actions in the development phase.
- (20) As the Union support aims at enhancing the competitiveness of the sector and concerns only the specific development phase, the ***Union*** should not have ownership or intellectual property rights over the products or technologies resulting from the funded actions. The applicable intellectual property rights regime will be defined contractually by the beneficiaries. ***Furthermore, the results of actions funded under the Programme should not be subject to any restriction by a third country or a third-country entity.***

- (21) *The power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission with respect to the adoption of a two-year work programme in line with the objectives of the Programme, in particular the objective of enhancing competitiveness. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>1</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.* In light of the Union policy on Small and Medium Enterprises (SMEs) as key to ensuring economic growth, innovation, job creation, and social integration in the Union and the fact that the supported actions will typically require trans-national collaboration, it is of importance that the work programme will reflect and enable *open, non-discriminatory and transparent* cross-border participation of SMEs and that therefore *at least 15%* of the overall budget will benefit such action, *which will allow SMEs to be included in the value chains of the actions. This proportion of the overall budget should also benefit mid-cap companies. A category of projects should be specifically dedicated to SMEs.*
- (21a) *All actions under the Programme involve entities from at least three Member States. The use of a system of general transfer licenses for the purposes of the Programme would significantly reduce the administrative overhead arising from transfers among the participants. The Member States should therefore publish general transfer licenses relating to this Programme. Where necessary for the performance of the Programme, Union institutions, bodies and agencies as well as the project managers should be included in such licenses.*
- (21b) *To ensure the success of the Programme the Commission should endeavour to maintain dialogue with a broad spectrum of Europe's industry, including SMEs and non-traditional suppliers to the defence sector.*
- (22) In order to benefit from its expertise in the defence sector, the European Defence Agency will be given the status of an observer in the committee of Member States. The European External Action Service should also assist in the committee of Member States.
- (22a) *Observer status should be accorded to the European Parliament in the committee of Member States.*
- (23) For the selection of actions to be funded by the Programme, the Commission should organise competitive calls *for proposals* as provided for by Regulation (EU, Euratom) No 966/2012. After evaluation of the received proposals with the help of independent experts, *who should be selected on the basis of a transparent process*, the Commission will select the actions to be funded under the Programme. *With regard to the experts, the Commission should ensure that its relevant rules on avoiding conflicts of interest are applied strictly. In addition, it should endeavour to ensure that the experts are drawn from as broad a range of Member States as possible.* In order to ensure uniform conditions for the implementation of this Regulation implementing powers should be conferred on the Commission as regards the adoption and the implementation of the

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<sup>1</sup> OJ L 123, 12.5.2016, p. 1.

work programme, as well as for awarding the funding to selected actions. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.

- (24) The examination procedure should be used for the adoption of the above-mentioned implementing acts taking into account their substantial implications for the implementation of the basic act.
- (25) The Commission should draw up an implementation report at the end of the Programme, examining the financial activities in terms of financial implementation results and where possible, impact. This report should also analyse the cross border participation of SMEs *and mid-caps* in projects under the Programme as well as the participation of SMEs *and mid-caps* to the global value chain. *It should include information on the origin of beneficiaries and distribution of funding between undertakings and Member States under the Programme, if technically feasible. Finally, in connection with the research section of the European Defence Fund, it should propose solutions for reducing the Union's dependence on the products and technologies of third-country entities, in particular those identified during implementation of this Regulation.*
- (25a) *In the context of the negotiations on the multiannual financial framework of the European Union post-2020, a stable framework should be provided for such actions, including through the establishment of a separate budget line and tailored implementing measures.*
- (25 b) *The Commission and the Member States should ensure the widest possible promotion of the Programme in order to increase its effectiveness and thus to improve the competitiveness of the defence industry and defence capabilities of the Member States,*

HAVE ADOPTED THIS REGULATION:

#### *Article 1*

A European Defence Industrial Development Programme (hereinafter referred to as the Programme) for Union action covering the period from 1st January 2019 to 31 December 2020 is hereby established.

#### *Article 2*

##### Objectives

The Programme shall have the following objectives:

- (a) to foster the competitiveness, *efficiency* and innovation capacity of the defence industry *throughout the Union, which contributes to the Union's strategic autonomy*, by supporting actions *carried out in the Union* in their development phase;
- (b) to support and leverage cooperation between *Member States and cooperation, including across borders, between* undertakings, including small and medium-sized enterprises *and mid-caps*, in the development of technologies or products in line with defence capability priorities commonly agreed by Member States within the Union, *particularly in the context of the Capability Development Plan of the Common Security and Defence Policy, in order to avoid duplication and to strengthen defence industry value chains, thereby*

*contributing to the creation of new cross-border cooperation between undertakings;*

- (c) to foster better exploitation of the results of defence research and contribute to closing the gaps between research and development, *thereby supporting the competitiveness of the Union defence industry on the internal market and the global marketplace, including by consolidation where appropriate;*
- (ca) *to promote the standardisation of defence systems and their interoperability, allowing the Member States to benefit from substantial economies of scale.*

*For the purposes of this Regulation, “mid-caps”, as referred to in point (b), means undertakings that are not SMEs and that employ 3 000 or fewer persons. The staff headcount shall be calculated in accordance with Articles 3, 4, 5 and 6 of Title I of the Annex to Commission Recommendation 2003/361/EC<sup>1</sup>.*

### Article 3

#### Budget

The amount for the implementation of the Programme for the period 2019-2020 is set at EUR 500 million in current prices, *to be drawn exclusively from the unallocated margins under the 2014-2020 multiannual financial framework (MFF) ceilings and/or through the mobilisation of the relevant MFF special instruments.*

### Article 4

#### General financing provisions

1. The Union's financial assistance may be provided through the types of financing envisaged by Regulation (EU, Euratom) No 966/2012, **■** in particular *grants and, in appropriate cases, financial instruments and public procurement, including through blending mechanisms.*  
**■**
2. The types of financing referred to in paragraph 1 of this Article and the methods of implementation, shall be chosen on the basis of their ability to achieve the specific objectives of the actions and to deliver results, taking into account, in particular, the costs of controls, the administrative burden and the risk of conflict of interests.
3. The Union's financial assistance shall be implemented by the Commission as provided for *in Article 58(1)(a) of Regulation (EU, Euratom) No 966/2012* **■** .
4. *Member States shall appoint a project manager* **■** . *The Commission shall consult the project manager on the progress achieved in connection with the action before executing the payment to the eligible beneficiaries* **■** .

### Article 5

#### Types of financial instruments

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<sup>1</sup> *Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ C 124, 20.5.2003, p. 36).*

1. Financial instruments set up in accordance with Title VIII of Regulation (EU, Euratom) No 966/2012 may be used to facilitate access to finance by entities implementing actions in accordance with Article 6.
2. The following types of financial instruments may be used:
  - (a) Equity or quasi-equity investments;
  - (b) Loans or guarantees;
  - (c) Risk sharing instruments.

#### *Article 6*

#### Eligible actions

1. The Programme shall provide support for actions by beneficiaries in the development phase covering both new and the upgrade of existing products and technologies ***developed in the Union***, in relation to:
  - (a) the design of a defence product, tangible or intangible component or technology as well as the technical specifications on which such design has been developed;
  - (b) the prototyping of a defence product, tangible or intangible component or technology. A prototype is a model of a product or technology that can demonstrate the element's performance in an operational environment;
  - (c) the testing of a defence product, tangible or intangible component or technology;
  - (d) the qualification of a defence product, tangible or intangible component or technology; qualification is the entire process of demonstrating that the design of a product/component/technology meets the specified requirements. This process provides objective evidence by which particular requirements of a design are demonstrated to have been achieved;
  - (e) the certification of a defence product or technology. Certification is the process according to which a national authority certifies that the product/component/technology complies with the applicable regulations;
  - (f) studies such as feasibility studies and other accompanying measures.
2. The action shall be undertaken in a cooperation of at least three undertakings which are established in at least ***three*** different Member States. ***At least three*** undertakings which are beneficiaries shall not effectively be controlled, directly or indirectly, by the same entity or shall not control each other.
3. For the purposes of paragraph 2, 'effective control' means a relationship constituted by rights, contracts or any other means which, either separately or jointly and having regard to the considerations of fact or law involved, confer the possibility of directly or indirectly exercising a decisive influence on an undertaking, in particular by:
  - (a) the right to use all or part of the assets of an undertaking;
  - (b) rights or contracts which confer a decisive influence on the composition, voting or decisions of the bodies of an undertaking or otherwise confer a decisive influence on the running of the business of the undertaking.

4. When it relates to actions defined under point (b) to (f) of the first paragraph, the action must be based on common technical specifications, ***thereby strengthening the standardisation and interoperability of systems.***
- 4 a. ***Product related actions in relation to weapons of mass destruction and related warhead technologies, product related actions in relation to banned weapons and munitions, weapons not compliant with international humanitarian law such as cluster munitions in accordance with the Convention on Cluster Munitions, anti-personnel landmines in accordance with the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and their Destruction, incendiary weapons in accordance with Protocol III of the Convention on Certain Conventional Weapons, as well as fully autonomous weapons that enable strikes to be carried out without human control over the targeting and engagement decisions shall not be eligible.***

#### *Article 7*

##### Eligible Entities

1. Beneficiaries ***and their subcontractors*** shall be ***public or private*** undertakings established in the Union ***which are not effectively controlled by a third country or a third country entity*** within the meaning of Article 6(3), whether directly or indirectly through one or more intermediate undertakings. In addition, all infrastructure, facilities, assets and resources used by the participants, including subcontractors and other third parties, in actions funded under the Programme shall ***be located on the territory of the Union*** during the entire duration of the action. ***The use of such infrastructure, facilities, assets and resources shall not be subject to any control or restriction by a third country or a third-country entity.***
- 1a. ***In the event of a change, during the implementation of the action, in the effective control of the undertaking within the meaning of Article 6(3), the undertaking shall inform the Commission, which shall assess whether the eligibility criteria are still met.***
- 1b. ***By derogation from paragraph 1, an undertaking established in the Union and effectively controlled by a third country or a third country entity within the meaning of Article 6(3), whether directly or indirectly through one or more intermediate undertakings, may be eligible if, for the purpose of an action funded under the Programme, the necessary mechanisms are in place to ensure that in particular all the following conditions are met:***
  - (a) ***the effective control over the undertaking by a third country or a third country entity is removed;***
  - (b) ***access to sensitive information relating to the action is prevented; and***
  - (c) ***ownership of the intellectual property arising from, and the results of, the action remain with the beneficiary during and after the completion of the action and are not subject to any control or restriction by a third country or a third-country entity.***

***The undertaking shall provide the Commission with the necessary evidence that the mechanisms have been put in place.***

2. If the beneficiary, as defined in paragraph 1, is developing an action, as defined in Article 6, in the context of Permanent Structured Cooperation, it shall be eligible for the increased funding referred to in Article 11(2) in respect of that action.

**2b. *If 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 Member States, beneficiaries and their subcontractors may use assets, infrastructure, facilities and resources located or held outside the territory of Member States or controlled by third countries.***

***When performing an eligible action, beneficiaries and their subcontractors may also cooperate with undertakings established outside the territory of Member States or exclusively controlled by third countries or third country entities if this would not contravene the security and defence interests of the Union and the Member States. The costs related to these activities shall not be eligible for funding under the Programme.***

#### Article 8

##### Declaration by applicants

Each applicant shall declare, by written statement, that it is fully aware of and compliant with applicable national and Union legislation and regulations relating to activities in the domain of defence, ***including Common Position 2008/944/CFSP, the Community regime for the control of exports, transfer, brokering and transit of dual-use items and the relevant national legislation on export controls.***

#### Article 9

##### Consortium

1. Where the Union's financial assistance is provided through a grant, the members of any consortium wishing to participate in an action shall appoint one of them to act as coordinator, which shall be identified in the grant agreement. The coordinator shall be the principal point of contact between the members of the consortium in relations with the Commission or the relevant funding body, unless specified otherwise in the grant agreement or in the event of non-compliance with its obligations under the grant agreement. ***The Union's financial assistance may also take the form of a financial instrument or a public contract.***

2. The members of a consortium participating in an action shall conclude an internal agreement establishing their rights and obligations with respect to the implementation of the action, ***including the issue of the intellectual property rights relating to the new products,*** (in compliance with the grant agreement), except in duly justified cases provided for in the work programme or call for proposals.

#### Article 10

##### Award criteria

Actions proposed for funding under the Programme shall be evaluated ***with regard to the objectives laid down in Article 2 and*** on the basis of the following cumulative criteria:



- (a) excellence, *industrial performance and capacity to show significant advantages over existing products or technologies*; and,
- (b) contribution to the innovation and technological development of defence industries and thus to fostering the industrial *and strategic* autonomy of the Union in the field of defence technologies; and,
- (ba) *contribution to the competitiveness and growth of defence undertakings throughout the Union*; and,**
- (c) contribution to the security and defence interests of the Union by enhancing defence technologies which contribute to implement defence capability priorities commonly agreed by Member States within the Union, *particularly in the context of the Capability Development Plan of the Common Security and Defence Policy*; and,
- (ca) *contribution to the creation of new cross-border cooperation between undertakings*; and,**
- (d) viability notably via a demonstration by the beneficiaries that the remaining costs of the eligible action are covered by other means of financing such as Member States' contributions; and
- (da) *the proportion of the overall budget of the action to be allocated to the participation of SMEs established in the European Union, either as members of the consortium, subcontractors or as other undertakings in the supply chain*; and**
- (e) for actions described in points (b) to (e) of Article 6(1), the contribution to the competitiveness of the European defence industry through the demonstration by the beneficiaries that Member States have committed to jointly produce and procure the final product or technology in a coordinated way, including joint procurement where applicable.

#### *Article 11*

#### Funding rates

1. The financial assistance of the Union provided under the Programme may not exceed 20% of the total *eligible* cost of the action where it relates to prototyping, *within the meaning of Article 126 of Regulation (EU, Euratom) No 966/2012*. In all the other cases, the assistance may cover up to the total *eligible* cost of the action.
2. An action developed by a beneficiary referred to in Article 7 paragraph 2 may benefit from a funding rate increased by an additional 10 percentage points.
  - 2a. *An action, as referred to in Article 6(1), may benefit from a funding rate increased by an additional 10 percentage points, where at least 15% of its total eligible cost is committed to SMEs established in the Union. That increased funding rate may be further increased by a percentage equivalent to twice the percentage of the total eligible cost of the action committed to SMEs established in a Member State other than those in which the other undertakings participating in the action that are not SMEs are established.***
  - 2b. *An action, as referred to in Article 6(1), may benefit from a funding rate increased by an additional 10 percentage points, where at least 30% of the total eligible cost of the action is committed to mid-caps established in the Union.***

- 2c. *Indirect eligible costs shall be determined by applying a flat rate of 25% of the total direct eligible costs, excluding direct eligible costs for subcontracting.*
- 2d. *The financial assistance of the Union provided under the Programme, including increased funding rates, shall not cover more than 100% of the eligible cost of the action.*

#### Article 12

##### Ownership and Intellectual Property rights

1. The *Union* shall not own the products or technologies resulting from the action nor shall it have any IPR claim, *including licence rights*, pertaining to the action.
- 1a. *The results of actions which receive funding under the Programme shall not be subject to any control or restriction by a third country or a third-country entity.*
- 1b. *If Union assistance is provided in the form of public procurement of a study, all Member States shall have the right to a free of charge, non-exclusive licence for the use of the study upon their explicit request.*

#### Article 12a

##### General transfer licences

1. *For the purposes of this Programme, Article 5 of Directive 2009/43/EC of the European Parliament and of the Council<sup>1</sup> shall apply.*
2. *Without prejudice to Article 12 of this Regulation, paragraph 1 of this Article shall apply to Union institutions, bodies and agencies as well as to the project managers referred to in Article 4 (4) of this Regulation by analogy.*

#### Article 13

##### Work programme

1. The Commission shall *be empowered to* adopt *delegated acts in accordance with Article 16a establishing* a *two-year* work programme for the duration of the Programme. This work programme shall be in line with the objectives set out in Article 2.
2. The work programme shall set out in detail the categories of projects to be funded under the Programme. *Those categories shall be in line with the defence capability priorities referred to in Article 2(b). The work programme shall also include a category of projects specifically dedicated to SMEs.*
3. The work programme shall ensure that *at least 15%* of the overall budget will benefit actions enabling the cross-border *integration* of SMEs *and mid-caps into value chains*.

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<sup>1</sup> *Directive 2009/43/EC of the European Parliament and of the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community (OJ L 146, 10.6.2009, p. 1).*

## Article 14

### Award procedure

1. In the implementation of the Programme, Union funding shall be granted following **calls for proposals** issued in accordance with Regulation (EU, Euratom) No 966/2012 and Commission Delegated Regulation (EU) No 1268/12<sup>1</sup>.
2. The proposals submitted following the call for proposals shall be evaluated by the Commission assisted by independent *EU-national* experts, **from as broad a range of Member States as possible, selected on the basis of a transparent process, taking account of incompatibilities owing to conflicts of interest**, on the basis of the award criteria of Article 10.
3. The Commission shall award, after each call, the funding for selected actions, by means of an implementing act. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 16(2).

## Article 15

### Annual instalments

The Commission may divide budgetary commitments into annual instalments.

## Article 16

### Committee

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011. The European Defence Agency **and the European Parliament** shall be invited **to contribute as observers**.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

## Article 16a

### Exercise of the delegation

1. **The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.**
2. **The power to adopt delegated acts referred to in Article 13(1) shall be conferred on the Commission for a period of two years from ... [the date of entry into force of this Regulation].**
3. **The delegation of power referred to in Article 13(1) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European**

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<sup>1</sup> Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p. 1).

*Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.*

4. *Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.*
5. *As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.*
6. *A delegated act adopted pursuant to Article 13(1) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.*

#### Article 17

##### Monitoring and reporting

1. The Commission shall regularly monitor the implementation of the programme and annually report on the progress made in accordance with Article 38(3)(e) of Regulation 966/2012. To this end, the Commission shall put in place necessary monitoring arrangements.
2. To support greater efficiency and effectiveness of future Union policy actions, the Commission shall draw up a retrospective evaluation report and send it to the European Parliament and to the Council. The report - building on relevant consultations of Member States and key stakeholders - shall notably assess the progress made towards the achievement of objectives set out in Article 2. It shall also analyse cross border participation of SMEs *and mid-caps* in projects implemented under the programme as well as the *integration* of SMEs *and mid-caps* to the global value chain. ***The report shall contain information on the countries of origin of the beneficiaries and the distribution of funding between undertakings and Member States, if technically feasible.***
  - 2a. *The report referred to in paragraph 2 shall propose solutions for reducing the Union's dependence on the products and technologies of third-country entities, in particular those identified during implementation of this Regulation.*
  - 2b. *In due time before the end of this Programme, the Commission shall, as appropriate, put forward a legislative proposal for a new defence industrial development programme, together with appropriate financing under the new multiannual financial framework.*

#### Article 18

##### Protection of Union financial interests

1. The Commission shall take appropriate measures to ensure that, when actions financed under this Regulation are implemented, the financial interests of the Union are protected by the application of preventive measures against fraud, corruption and any

other illegal activities, by effective checks and, if irregularities are detected, by the recovery or, where appropriate, the restitution of the amounts wrongly paid and, where appropriate, by effective, proportionate and dissuasive administrative and financial penalties.

2. The Commission and the Court of Auditors shall have the power of audit or, in the case of international organisations, the power of verification in accordance with agreements reached with them, on the basis of documents and on the spot, over all grant beneficiaries, contractors and subcontractors who have received Union funds under this Regulation.
3. The European Anti-Fraud Office (OLAF) may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council<sup>1</sup> and Council Regulation (Euratom, EC) No 2185/96<sup>2</sup>, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant agreement or grant decision or a contract funded under this Regulation.

#### *Article 19*

This Regulation shall enter into force on the *third* day following that of its publication in the *Official Journal of the European Union*.

This Regulation is binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the European Parliament*

*For the Council*

*The President*

*The President*

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<sup>1</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

<sup>2</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

## EXPLANATORY STATEMENT

The European Defence Fund proposed by the Commission on 7 June 2017 contains two windows covering the entire cycle of defence industrial development. A first window is intended to fund collaborative research in innovative defence technologies. A second window is for the cooperative acquisition of defence capabilities. It includes the European Defence Industrial Development Programme, which seeks to meet the challenges facing the European defence industry. The Member States' overall defence budget is falling, unlike that of other global powers, such as China and Russia; and the US defence budget is twice that of the EU. At the same time, the lack of cooperation at European level is reflected in a duplication of weapons systems and equipment and hence considerable budgetary inefficiency. One indication that cooperation is not yet sufficiently advanced is the absence of common specifications among Member States. This leads to delays and additional costs in the development of flagship projects. Moreover, a dependence on third countries for products and technologies undermines the EU's strategic autonomy.

Our defence industry is not, at present, given sufficient incentives to compete globally, despite a genuine wealth of technology. It needs 'more Europe' to provide more reliable, more independent and less costly technology.

Paradoxically, Europeans' security needs in an unstable international environment are, in many respects, increasing. And the EU's singular approach to defence and global security is a guarantee of stability. Cooperation therefore provides essential added value in responding to EU citizens' need for security and consolidating the EU's position.

Your rapporteur warmly welcomes, therefore, the Commission's proposal to establish a European Defence Industrial Development Programme, and considers it essential to implement it successfully from January 2019 in order to secure the prospects for the European defence industry in the period after 2020. To that end, the Council and Parliament should examine this proposal promptly.

### **Strategic autonomy as an objective**

This Programme should be a means of strengthening EU independence in the area of defence. That strategic autonomy is essential to ensuring that the EU is free to take action worldwide. It can only be enhanced by better cooperation between Member States and undertakings, which must be based on the Member States' common capability priorities. This will guarantee project viability.

The objective of EU defence autonomy should therefore be included from Article 2 of the Regulation. Developing the industrial and technological base of European defence is key to this autonomy. To that end, the Commission wanted only undertakings which are effectively controlled by EU entities to be funded by this Programme for actions carried out in the EU. Their subcontractors should also meet this criterion. In order to make this essential requirement more pragmatic, the criterion of a 50% European stake, which is too rigid and poorly suited to undertakings in this sector, has been deleted from Article 7. A further proposal is to identify products and technologies coming from third countries in order for the EU to reduce its dependence on them.

## **Greater competitiveness in the industry and innovation**

The competitiveness of the defence industry, which is the legal basis of this proposal for a regulation, will be judged by its capacity to innovate and adapt to technological developments. Excellence and industrial performance are therefore essential criteria for this strategic sector. The industry's European regulatory environment must move further towards interoperability and improved standardisation. These are also the objectives of this Programme which should be included in Article 2 of the Regulation.

Business consolidation at European level is a positive factor so the Programme should not penalise undertakings which have been taking this approach for a long time. What is needed is genuine European cooperation, and the requirement for common specifications is crucial for an action to be supported by the Programme.

A competitive defence industry will have significant spinoffs in both economic and human terms, and the Programme will serve to offset the constraints associated with cooperation.

### **An important role for SMEs**

SMEs already play a vital role in defence and security in Europe. Big companies work with them on all their projects and they provide huge benefits for the European Union as a whole. But it is important to promote cross-border cooperation, particularly for SMEs which lack the incentive to cooperate. For example, all Member States with undertakings likely to contribute to technological excellence in defence and security will have the opportunity to benefit from this Programme through the creation of new cooperation projects, without excessive constraints being added to what are already very complex industrial programmes.

Your rapporteur proposes, therefore, making an extra effort for SMEs by giving them a dedicated category of projects and ensuring that at least 10% of the overall Programme budget is allocated to actions promoting cross-border participation of SMEs (Article 13).

### **Appropriate funding**

The EUR 500 million budget is appropriate for this programme, but your rapporteur considers that any redeployment from EU programmes such as EGNOS, Galileo, Copernicus, ITER and the Connecting Europe Facility must not affect the implementation of those programmes. Every Member State must make an effort and the margin of the current financial framework will also have to be used.

## MINORITY OPINION

**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**

pursuant to Rule 52a(4) of the Rules of Procedure

Committee on Industry, Research and Energy, Rapporteur: Françoise Grossetête

**Minority Report tabled by GUE/NGL MEPs SYLIKIOTIS Neoklis, BENITO ZILUAGA Xabier, FERREIRA João, LÖSING Sabine, MATIAS Marisa, ERNST Cornelia**

The report advocates further militarization of the EU. It subsidises military autonomy via increased investments in defence and military research and equipment, despite the economic crises and environmental impact, and is contrary to Article 41(2) TEU, which prohibits any expenditure arising from operations having military or defence implications from being charged to the Union budget. It also advocates EU-NATO cooperation.

We object since the report:

- shapes up the EU to be a military global player;
- serves to subsidise the defence sector and the Military Industrial Complex and is likely to increase arms exports;
- militarises civilian policies and uses industry and competitiveness as a pretext to further develop EU - defence capabilities in the framework of CSDP/CFSP;
- supports further civil-military cooperation;

We demand:

- radical disarmament on EU and global level;
- no military funding from the EU-budget;
- public funds to support quality jobs, reindustrialization and SMEs;
- the promotion of civil research and development serving the people and their needs;
- that all activities be strictly within the UN Charter and International Law;
- strictly civil peaceful conflict solutions and the separation of civil and military actions;
- the separation of the EU from NATO.



25.1.2018

## **OPINION OF THE COMMITTEE ON FOREIGN AFFAIRS**

for the Committee on Industry, Research and Energy

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 (COM(2017)294 – C8-0180/2017 – 2017/0125(COD))

Rapporteur (\*): Ioan Mircea Paşcu

(\*) Associated committee – Rule 54 of the Rules of Procedure

### **SHORT JUSTIFICATION**

Defence matters. With this statement the December 2013 European Council has firmly put defence back on the European agenda. European Union level action in security and defence is broadening and deepening ever since.

In June 2016 HR/VP Federica Mogherini presented the Global Strategy, which marked a new level of ambition and set the tone for a consistent series of implementation documents and proposals that took the vision of a stronger Union further and set out precise steps to be followed in order to achieve the strategic autonomy Europe needs.

The European Parliament has initiated a pilot project on CSDP research in 2015 and 2016, which was complemented by a preparatory action on defence research in 2017. This preparatory action continues until 2019.

In summer 2017, the European Commission launched a European Defence Fund to boost Europe's defence capabilities. As a first measure, the Commission proposed a regulation establishing the European Defence Industrial Development Programme aiming at supporting the competitiveness and innovative capacity of the EU for the period from 1 January 2019 to 31 December 2020.

In European defence, governments only make procurements, and they do so based on strategic, political and defence capability considerations. EU engagement in defence will provide Member States with a stronger incentive for developing and buying European defence products. EU engagement will also support the effort necessary for structuring trans-European value chains that currently resides with the defence industry. In the imperfect situation of defence markets, the related business risks prevents trans-European value chains from emerging

naturally. However, where governments work together in developing defence capabilities, so do the value chain actors in developing defence products.

The programme targets in particular the development phase of defence products, a crucial moment in the lifecycle of a defence capability. Until this phase, most of the characteristics of the future capabilities and most of the cost of ownership for its future lifecycle are determined. Where capability programmes are developed as multinational programmes, this is the phase where most of the cost share and work share arrangements are sealed. It is therefore effective to target this phase with sufficient incentives to foster EU level cooperation. It is also efficient as the EU intervention promotes a larger European user community for European defence products, which drives economies of scale and scope throughout the entire lifecycle of the defence product.

The Rapporteur welcomes the Commission's proposal. The rapporteur underlines that the proposal should have an important structuring effect in building trans-European defence cooperation. The development of a stronger, more efficient and competitive defence industry - the aim of EDIDP - would strengthen the technological independence of the EU and its strategic autonomy and it will, overall, consolidate CSDP, which has been a goal the European Parliament continuously supported.

The Rapporteur highlights the following:

- Freedom of action of and collaboration among the Member States and with the Union as well as working on defence capability requirements should be characteristics of all programme objectives.
- EU action under this programme should have the objective to bring entities from all Member States, in particular from the EU13, into the value chains of defence. Furthermore, in the value chains of defence small, medium-sized enterprises as well as intermediate manufacturing enterprises can play a significant role in many Member States. The latter should be treated in a similar way as SMEs where this is in line with the objectives of the programme.
- The Joint EU-NATO Declaration and the common EU-NATO implementing measures as well as the need for cooperation with other regional and international cooperation initiatives, should be taken into account for the actions in the programme, where appropriate, while respecting the security and defence interests of the Member States and the Union.
- An appropriate role of the European Defence Agency needs to be ensured throughout the programme, duly respecting Regulation (EU, Euratom) No 966/2012 and Regulation (EU) No 182/2011.
- EU funding should be excluded for actions relating to certain defence products (weapons of mass destruction and related warhead technologies, banned weapons and munitions, as well as fully autonomous weapons, which enable strikes to be carried out without meaningful human intervention and control). EU funding should be excluded for actions relating to defence products (small arms and light weapons) if the action is developed mainly for export purposes, i.e. where no Member State has expressed a requirement for the action to be carried out.
- Reality demonstrates that any ownership share related eligibility criterion will be difficult to implement in light of the complex arrangements existing within the industry.

- The award criteria should be updated with a view of the improved objectives and eligibility criteria.

## AMENDMENTS

The Committee on Foreign Affairs calls on the Committee on Industry, Research and Energy, as the committee responsible, to take into account the following amendments:

### Amendment 1

#### Proposal for a regulation

##### Citation 1 a (new)

*Text proposed by the Commission*

*Amendment*

***Having regard to the Permanent Structured Cooperation in Security and Defence agreed by 23 Member States on 13th November 2017, as outlined in the Treaty on the European Union, in particular Articles 42(6) and 46, as well as in Protocol 10 thereof,***

### Amendment 2

#### Proposal for a regulation

##### Recital 1

*Text proposed by the Commission*

*Amendment*

(1) In the European Defence Action Plan, adopted on 30 November 2016, the Commission committed to complement, leverage and consolidate collaborative efforts by Member States in developing defence capabilities to respond to security challenges, ***as well as*** to foster a competitive and innovative European defence industry. It proposed in particular to launch a European Defence Fund to support investment in joint research and the joint development of defence equipment and technologies. The Fund would support cooperation during the whole cycle of defence product and

(1) In the European Defence Action Plan, adopted on 30 November 2016, ***the Commission described many structural problems in the European defence sector, which hamper the efficient use of national resources for providing the defence capabilities needed for an effective Common Security and Defence Policy (CSDP). Thus,*** the Commission committed to complement, leverage and consolidate collaborative efforts by Member States in developing ***and acquiring*** defence capabilities to respond to security challenges, to foster a competitive and innovative European defence industry ***as well as to contribute to***

technology development.

*the technological and industrial autonomy of the Union.* It proposed in particular to launch a European Defence Fund to support investment in joint research and the joint development of defence equipment and technologies. The Fund *should complement national defence budgets and provide an incentive for Member States to invest more in defence.* *The Fund* would support cooperation during the whole cycle of defence product and technology development. *To complement national programmes, it should enable the Union to introduce a significant leverage effect for national investments to boost cooperation between Member States and between their industries. To achieve these objectives it is therefore necessary, at the Union level, to enhance the institutional framework for cooperation of Member States and undertakings in the defence industrial development sector.*

### **Amendment 3**

#### **Proposal for a regulation Recital 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*(1 a) In order to establish an efficient European defence equipment market, as well as for this Programme to have a real impact, it is of crucial importance that key regulatory preconditions are fulfilled, especially the full implementation of directive 2009/81/EC on defence procurement.*

### **Amendment 4**

#### **Proposal for a regulation Recital 2**

(2) In order to contribute to the enhancement of the competitiveness and innovation capacity of the Union's defence industry, a European Defence Industrial Development Programme (hereinafter referred to as the Programme) should be established. The Programme should aim at enhancing the competitiveness of the Union's defence industry inter alia cyber defence by supporting the cooperation between undertakings in the development phase of defence products and technologies. The development phase, which follows the research and technology phase, entails significant risks and costs that hamper the further exploitation of the results of research and adversely impact the competitiveness of the Union's defence industry. By supporting the development phase, the Programme would contribute to a better exploitation of the results of defence research and it would help to cover the gap between research and production as well as to promote all forms of innovation. The Programme should complement activities carried out in accordance with Article 182 TFEU and it does not cover the production of defence products and technologies.

(2) In order to contribute to the enhancement of the competitiveness and innovation capacity of the Union's defence industry ***with a view to the European Union's strategic and technological autonomy***, a European Defence Industrial Development Programme (hereinafter referred to as the Programme) should be established. ***The Programme should aim at defining and implementing the progressive framing of a common defence policy in accordance with Article 2(4) TFEU and is intended to develop the modern capabilities needed by the armed forces of the Member States and to improve their security.*** This Programme should aim at enhancing the competitiveness of the Union's defence industry inter alia cyber defence by supporting the cooperation between undertakings, ***including research centres***, in the development phase of defence products and technologies ***leading to greater efficiency and a reduction of resource wasting and overlaps in the defence market.*** The development phase, which follows the research and technology phase, entails significant risks and costs that hamper the further exploitation of the results of research and adversely impact the competitiveness of the Union's defence industry. By supporting the development phase, the Programme would contribute to a better exploitation of the results of defence research and it would help to cover the gap between research and production as well as to promote all forms of innovation. The Programme, ***as well as its potential continuation after 2020, regardless of its form***, should complement activities carried out in accordance with Article 182 TFEU and it does not cover the production of defence products and technologies.

## **Amendment 5**

## Proposal for a regulation

### Recital 3

*Text proposed by the Commission*

(3) To better exploit economies of scale in the defence industry, the Programme should support the cooperation between undertakings in the development of defence products and technologies.

*Amendment*

(3) To better exploit economies of scale in the defence industry, the Programme should support the cooperation between undertakings in the development of defence products and technologies, ***promoting a more integrated market, making investment profitable and avoiding duplication of capacities and spending. According to some studies, the Union could save between 25 and 100 billion euros a year through an enhanced cooperation in defence.***

*Justification*

*One of the main objectives of this legislation is to reduce waste in Member States defence spending.*

### Amendment 6

## Proposal for a regulation

### Recital 5

*Text proposed by the Commission*

(5) The Programme should be implemented in full compliance with Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council<sup>6</sup>. Funding may take in particular the form of grants. Financial instruments ***or public procurement may be used where appropriate.***

*Amendment*

(5) The Programme should be implemented in full compliance with Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council<sup>6</sup>. Funding may take in particular the form of grants ***and public procurement for the provision of studies.*** Financial instruments ***could also be used in the future based on the experience of this Programme, notably for the post 2020 European Defence Fund capability window. For the next MFF, the Commission should deploy financial resources for the next Programme to follow. The Commission should start the preparatory work, assessment and relevant proposals as soon as possible.***

<sup>6</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

<sup>6</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

#### *Justification*

*Public procurement should be used only for the provision of studies.*

### **Amendment 7**

#### **Proposal for a regulation**

##### **Recital 7**

*Text proposed by the Commission*

(7) ***In view of the specificities of the sector, in practice no collaborative project between undertakings will be launched if the Member States have not first agreed to support such projects.*** After having defined common defence capability priorities at ***Union-level and*** also taking into account ***where appropriate collaborative initiatives on a regional basis***, Member States identify and consolidate military requirements and define the technical specifications of the project. They may also appoint a project manager in charge of leading the work related to the development of a collaborative project.

*Amendment*

(7) After having defined common defence capability priorities at ***Union level through the Capability Development Plan***, also taking into account ***the Coordinated Annual Review on Defence, and with a view to fulfilling the Union's Level of Ambition as agreed by the Council in its conclusions of 14 November 2016 and endorsed by the European Council on 15 December 2016***, Member States identify and consolidate military requirements and define the technical specifications of the project. They may also appoint a project manager in charge of leading the work related to the development of a collaborative project.

#### *Justification*

*The programme needs to be based on the existing procedures for the identification of common defence capability priorities.*

### **Amendment 8**

#### **Proposal for a regulation**

##### **Recital 8**

*Text proposed by the Commission*

*Amendment*

(8) In case an action supported by the Programme is managed by a project manager appointed by Member States, the Commission should **inform** the project manager prior to executing the payment to the beneficiary of the eligible action so that the project manager can ensure that the time-frames are respected by the beneficiaries.

(8) In case an action supported by the Programme is managed by a project manager appointed by Member States, the Commission should **consult** the project manager **on the progress made on the action** prior to executing the payment to the beneficiary of the eligible action so that the project manager can ensure that the time-frames are respected by the beneficiaries.

## Amendment 9

### Proposal for a regulation Recital 9

*Text proposed by the Commission*

(9) The Union financial support should not affect the export of products, equipment or technologies, and it should not affect the discretion of Member States regarding policy on the export of defence related products. The Union financial support should not affect Member States' export policies on defence related products.

*Amendment*

(9) The Union financial support should not affect the export of products, equipment or technologies, and it should not affect the discretion of Member States regarding policy on the export of defence related products. The Union financial support should not affect Member States' export policies on defence related products **which are framed by Decision 2008/944/CFSP**.

## Amendment 10

### Proposal for a regulation Recital 10

*Text proposed by the Commission*

(10) As the objective of the Programme is to support the competitiveness of the Union defence industry by de-risking the development phase of cooperative projects, actions related to the development of a defence product or technology, namely definition of common technical specifications, design, prototyping, testing, qualification, certification as well feasibility studies and other supporting measures, should be eligible to benefit

*Amendment*

(10) As the objective of the Programme is to support **the progressive framing of a common defence policy and** the competitiveness of the Union defence industry by de-risking the development phase of cooperative projects, actions related to the development of a defence product or technology, namely definition of common technical specifications, design, prototyping, testing, qualification, certification as well feasibility studies and



from it. This will also apply to the upgrade of existing defence products and technologies.

other supporting measures, should be eligible to benefit from it. This will also apply to the upgrade of existing defence products and **European defence** technologies.

### *Justification*

*It is about the progressive framing a common defence policy;strengthening the EDTIB through the measures of EDIDP is a means of this overarching goal.*

## **Amendment 11**

### **Proposal for a regulation**

#### **Recital 11**

##### *Text proposed by the Commission*

(11) Given that the Programme aims particularly at enhancing cooperation between undertakings across Member States, an action should be eligible for funding under the Programme only if it is undertaken by a cooperation of at least three undertakings based in at least **two** different Member States.

##### *Amendment*

(11) Given that the Programme aims particularly at enhancing cooperation between undertakings across Member States, an action should be eligible for funding under the Programme only if it is undertaken by a cooperation of at least three undertakings based in at least **three** different Member States.

## **Amendment 12**

### **Proposal for a regulation**

#### **Recital 12**

##### *Text proposed by the Commission*

(12) Cross-border collaboration in the development of defence products and technologies has often been hampered by the difficulty to agree on common technical specifications. The absence or limited level of common technical specifications have led to increased complexity, delays and inflated costs in the development phase. The agreement on common technical specifications should be a condition in order to benefit from the Union's support under this Programme. Actions aiming at supporting the creation

##### *Amendment*

(12) Cross-border collaboration in the development of defence products and technologies has often been hampered by the difficulty to agree on common technical specifications **that promote interoperability**. The absence or limited level of common technical specifications have led to increased complexity, delays and inflated costs in the development phase. The agreement on common technical specifications should be a condition in order to benefit from the Union's support under this Programme.

of a common definition of technical specifications should also be eligible for support under the Programme.

Actions aiming at supporting the creation of a common definition of technical specifications should also be eligible for support under the Programme.

## Amendment 13

### Proposal for a regulation

#### Recital 13

##### *Text proposed by the Commission*

(13) As the Programme aims at enhancing the competitiveness of the Union's defence industry, only entities established in the Union and effectively controlled by Member States or their nationals should be eligible for support. Additionally, in order to ensure the protection of essential security interests of the Union and its Member States, the infrastructure, facilities, assets and resources used by the beneficiaries and subcontractors in actions funded under the Programme, shall not be located on the territory of non-Member States.

##### *Amendment*

(13) As the Programme aims at enhancing the competitiveness, ***the efficiency of the cooperation and the integration*** of the Union's defence industry ***as well as at supporting the Union's strategic and technological defence autonomy***, only entities established in the Union and effectively controlled by Member States or their nationals should be eligible for support, ***as direct beneficiaries or subcontractors***. Additionally, in order to ensure the protection of essential security interests of the Union and its Member States, the infrastructure, facilities, assets and resources used by the beneficiaries and subcontractors in actions funded under the Programme, shall not be located on the territory of non-Member States ***and shall not be subject to control or restriction by third-countries, undertakings or public entities in third countries. Material, non-material and human resources should be free to use and free of restrictions vis-à-vis third countries. An undertaking controlled by third countries or by third country entities or subsidiaries of third country undertakings located in the Union should be eligible if the Union's support fully respects the security and defence interests of the Union and its Member States and where the Member States participating in the Programme provide that undertaking with security clearances.***

## Amendment 14

### Proposal for a regulation

#### Recital 14

*Text proposed by the Commission*

(14) Eligible actions developed in the context of Permanent Structured Cooperation in the institutional framework of the Union would ensure enhanced cooperation between undertakings in the different Member States on a continuous basis and thus directly contribute to the aims of the Programme. Such projects should thus be eligible for an increased funding rate.

*Amendment*

(14) Eligible actions developed in the context of *the* Permanent Structured Cooperation in the institutional framework of the Union *that was agreed and signed by the Foreign Ministers and Defence Ministers of 23 Member States on 13 November 2017* would ensure enhanced cooperation between undertakings in the different Member States on a continuous basis and thus directly contribute to the aims of the Programme. Such projects should thus be eligible for an increased funding rate.

## Amendment 15

### Proposal for a regulation

#### Recital 16

*Text proposed by the Commission*

(16) The promotion of innovation and technological development in the *Union* defence *industry* should take place in a manner coherent with the security interests of the Union. Accordingly, the action's contribution to those interests and to the defence capability priorities commonly agreed by Member States should serve as an award criterion. Within the Union, common defence capability priorities are identified notably through the Capability Development Plan. Other Union processes such as the Coordinated Annual Review on Defence (CARD) and the Permanent Structured Cooperation will support the implementation of relevant priorities through enhanced cooperation. Where appropriate regional or international cooperative initiatives, such as in the NATO context, and serving the Union

*Amendment*

(16) The promotion of innovation and technological development in the defence *industry in the Member States* should take place in a manner coherent with the security interests of the Union *as defined within the context of the Common Foreign and Security Policy (CFSP) and the Common Security and Defence Policy (CSDP). It should also allow the maintenance and development of the skills and knowhow of the defence industry in the Member States and contribute to strengthening the Union's technological and industrial autonomy.* Accordingly, the action's contribution to those interests and to the defence capability priorities commonly agreed by Member States should serve as an award criterion. Within the Union, common defence capability priorities are identified notably

security and defence interest, *may* also be taken into account.

through the Capability Development Plan. Other Union processes such as the Coordinated Annual Review on Defence (CARD) and the Permanent Structured Cooperation (*PESCO*) will support the implementation of relevant priorities through enhanced cooperation. *Member States' PESCO National Implementation Plans comprising of concrete actions should be coordinated with the Programme.* Where appropriate regional or international cooperative *capability* initiatives, such as in the NATO context, and serving the Union security and defence interest, *should* also be taken into account *and should not lead to duplicated efforts.*

## Amendment 16

### Proposal for a regulation Recital 16 a (new)

*Text proposed by the Commission*

*Amendment*

*(16 a) The Member States work individually and jointly on the development, production and operational use of unmanned aircraft, vehicles and vessels. The operational use of those systems comprises carrying out strikes on military targets. The research and development associated with the development of such systems, military and civilian, have been supported by Union's funds, and it is planned that this will continue in the future, possibly also under this programme. Nothing in this regulation should stand in the way of the legitimate use of the technologies or products developed under it.*

## Amendment 17

### Proposal for a regulation Recital 18

*Text proposed by the Commission*

(18) In order to ensure that the funded actions will contribute to the competitiveness of the European defence industry, they should be market-oriented and demand driven. Therefore, the fact that Member States have already committed to jointly produce and procure the final product or technology, possibly in a coordinated way, should be taken into account in the award criteria.

*Amendment*

(18) In order to ensure that the funded actions will contribute to the competitiveness of the European defence industry, they should be market-oriented and demand driven, ***with a view to consolidate the European defence demand***. Therefore, the fact that Member States have already committed to jointly produce and procure the final product or technology, possibly in a coordinated way, should be taken into account in the award criteria.

*Justification*

*It must be avoided that the program is seen as a mean to foster our arms exports (through competitiveness).*

**Amendment 18**

**Proposal for a regulation**

**Recital 19**

*Text proposed by the Commission*

(19) The financial assistance of the Union under the Programme should not exceed **20%** of the total eligible cost of the action when it relates to prototyping which is often the most costly action in the development phase. The totality of the eligible costs should however be covered for other actions in the development phase.

*Amendment*

(19) The financial assistance of the Union under the Programme should not exceed **30%** of the total eligible cost of the action, ***including part of the indirect cost of the action, within the meaning of Article 126 of Regulation (EU, Euratom) No 966/2012***, when it relates to ***system*** prototyping which is often the most costly action in the development phase. The totality of the eligible costs should however be covered for other actions in the development phase.

**Amendment 19**

**Proposal for a regulation**

**Recital 20**

*Text proposed by the Commission*

*Amendment*

(20) As the Union support aims at enhancing the competitiveness of the sector and concerns only the specific development phase, the **Commission** should not have ownership or intellectual property rights over the products or technologies resulting from the funded actions. The applicable intellectual property rights regime will be defined contractually by the beneficiaries.

(20) As the Union support aims at enhancing the competitiveness of the sector and concerns only the specific development phase, the **Union** should not have ownership or intellectual property rights over the products or technologies resulting from the funded actions. The applicable intellectual property rights regime will be defined contractually by the beneficiaries. ***The results of actions which receive funding under the Programme should not be subject to any control or restriction by a third country or a third country entity.***

## Amendment 20

### Proposal for a regulation

#### Recital 21

##### *Text proposed by the Commission*

(21) The Commission should establish a multiannual work programme in line with the objectives of the Programme. The Commission should be assisted in the establishment of the work programme by a committee of Member States (hereinafter referred to as Programme Committee). In light of the Union policy on Small and Medium Enterprises (SMEs) as key to ensuring economic growth, innovation, job creation, and social integration in the Union and the fact that the supported actions will typically require trans-national collaboration, it is of importance that the work programme will reflect and ***enable such*** cross-border participation ***of SMEs and that*** therefore ***a proportion*** of the overall budget ***will*** benefit such action.

##### *Amendment*

(21) The Commission should establish a multiannual work programme in line with the objectives of the Programme, ***especially that of competitiveness.*** The Commission should be assisted in the establishment of the work programme by a committee of Member States ***within the meaning of Regulation (EU) 182/2011*** (hereinafter referred to as Programme Committee). In light of the Union policy on Small and Medium Enterprises (SMEs) as key to ensuring economic growth, innovation, job creation, and social integration in the Union and the fact that the supported actions will typically require trans-national collaboration, it is of importance that the work programme will reflect and ***emphasize the role of small and medium-sized enterprises (SME) as well as middle capitalisation companies (mid-caps) and their*** cross-border participation ***and*** therefore ***set aside a share of at least 20%*** of the overall budget ***to*** benefit such action.

## Amendment 21

### Proposal for a regulation Recital 25

*Text proposed by the Commission*

(25) The Commission should draw up an implementation report at the end of the Programme, **examining** the financial activities in terms of financial implementation results and where possible, impact. **This report** should also analyse **the cross border** participation of SMEs in projects under the Programme as well as **the** participation **of SMEs** to the global value chain.

*Amendment*

(25) The Commission should draw up ***an interim progress report by the end of the first year of implementation and*** an implementation report at the end of the Programme. ***These reports should analyse the development of industrial expertise and defence capacity, as well as coherence with the foreign policy objectives of the Union and its Member States and*** the financial activities in terms of financial implementation results and where possible, impact. ***They*** should also analyse ***and promote the cross-border*** participation of SMEs ***and mid-caps*** in projects under the Programme as well as ***their*** participation to the global value chain. ***The reports should also include information on the origin of beneficiaries.***

## Amendment 22

### Proposal for a regulation Recital 25 a (new)

*Text proposed by the Commission*

*Amendment*

***(25 a) Commission and Members States should assure the widest possible promotion of the Programme in order to increase its effectiveness and thus to improve the competitiveness of the defence industry and defence capabilities of the Member States.***

## Amendment 23

### Proposal for a regulation Article 2 – paragraph 1 – introductory part

*Text proposed by the Commission*

*Amendment*

**The** Programme shall have the following objectives:

***In an effort to progressively frame a common defence policy in accordance with Article 2(4) TFEU, to enhance the collaboration between Member States and the freedom of action of the Member States and the Union as well as in order to align foreign and security policy requirements with operational capacity and in accordance with common defence capability priorities agreed by Member States in the context of the Capability Development Plan of the Common Security and Defence Policy (CSDP), the Programme shall have the following objectives:***

#### **Amendment 24**

##### **Proposal for a regulation**

##### **Article 2 – paragraph 1 – point a**

*Text proposed by the Commission*

*Amendment*

(a) to foster the competitiveness and innovation capacity of the **Union** defence industry by supporting actions ***in their*** development phase;

(a) to foster the competitiveness and innovation capacity of the defence industry ***in the Union and to acquire technological and industrial autonomy*** by supporting actions ***carried out on Union territory in the*** development phase ***of defence technologies and products;***

#### **Amendment 25**

##### **Proposal for a regulation**

##### **Article 2 – paragraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

(b) to support ***and*** leverage ***the*** cooperation between undertakings, including small and medium-sized enterprises, in the ***development of*** technologies or products ***in line with*** defence ***capability priorities commonly***

(b) to support, leverage ***and level the*** ***cross-border*** cooperation between undertakings, including ***promoting the participation of*** small and medium-sized enterprises ***as well as mid-caps and research centres,*** in the ***value chains of***



*agreed by Member States within the Union;*

*defence technologies or products while avoiding the duplication of industrial skills and crowding-out effects for national defence investments; where appropriate, and taking into account that unnecessary duplication should be avoided, regional or international cooperative initiatives, such as those in the NATO context, which serve the Union security and defence interests, shall also be taken into account;*

## **Amendment 26**

### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point c**

*Text proposed by the Commission*

(c) To foster better exploitation of the results of defence research **and contribute** to closing the gaps between research and development.

*Amendment*

(c) to foster better exploitation of the results of defence research **thus contributing** to closing the gaps between research and development **by encouraging the production of researched products and technologies and thus to support the competitiveness of the European defence industry on the internal market and the global marketplace, including, where appropriate, by consolidation;**

## **Amendment 27**

### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

**(c a) to promote the interoperability and better standardisation needed to set up collaborative projects and support a common definition of technical specifications.**

## **Amendment 28**

### **Proposal for a regulation**

### Article 4 – paragraph 3

*Text proposed by the Commission*

3. The Union's financial assistance shall be implemented by the Commission as provided for *by* Regulation (EU, Euratom) No 966/2012 *directly or indirectly by entrusting budget implementation tasks to the entities listed in Article 58(1) (c) of that Regulation.*

*Amendment*

3. The Union's financial assistance shall be implemented by the Commission as provided for *in Article 58(1)(a) of* Regulation (EU, Euratom) No 966/2012.

### Amendment 29

#### Proposal for a regulation Article 4 – paragraph 4

*Text proposed by the Commission*

4. *In case* a project manager *is appointed by Member States*, the Commission *shall execute* the payment to the eligible beneficiaries *after informing the* project manager.

*Amendment*

4. *Member States shall appoint* a project manager *who shall follow the contract on their behalf and inform* the Commission *when* the payment to the eligible beneficiaries *is to be executed. The eligible beneficiaries, in the consortium, shall appoint their own* project manager *who shall cooperate with the project manager appointed by the Member States.*

### Amendment 30

#### Proposal for a regulation Article 6 – paragraph 1 – introductory part

*Text proposed by the Commission*

1. The Programme shall provide support for actions by beneficiaries in the development phase covering both new and the upgrade of existing products and technologies, *in relation to:*

*Amendment*

1. The Programme shall provide support for actions by beneficiaries in the development phase covering both new and the upgrade of existing products and technologies, *which will create real added value in the territory of the Union as follows:*

## Amendment 31

### Proposal for a regulation

#### Article 6 – paragraph 1 – point -a (new)

*Text proposed by the Commission*

*Amendment*

**(-a) studies, such as feasibility studies and other accompanying measures;**

## Amendment 32

### Proposal for a regulation

#### Article 6 – paragraph 1 – point a

*Text proposed by the Commission*

*Amendment*

(a) the design of a defence product, tangible or intangible component or technology as well as the technical specifications on which such design has been developed;

(a) the design of a defence product, tangible or intangible component or technology as well as the technical specifications on which such design has been developed **which may include partial tests for risk reduction in an industrial or representative environment;**

## Amendment 33

### Proposal for a regulation

#### Article 6 – paragraph 1 – point f

*Text proposed by the Commission*

*Amendment*

(f) **studies such as feasibility studies and other accompanying measures.**

(f) **the development of technologies or assets increasing efficiency across the life cycle of defence products and technologies.**

## Amendment 34

### Proposal for a regulation

#### Article 6 – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. The action shall be undertaken in a cooperation of at least three undertakings

2. The action shall be undertaken in a cooperation of at least three undertakings

which are established in at least *two* different Member States. *The* undertakings which are beneficiaries shall *not* effectively be controlled, directly or indirectly, by the same entity or shall *not* control each other.

which are established in at least *three* different Member States *and shall remain open to other undertakings based in other Member States. None of those three* undertakings which are beneficiaries shall effectively be controlled, directly or indirectly, by the same entity or shall control each other.

## Amendment 35

### Proposal for a regulation

#### Article 6 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

**3 a.** *The results of the actions under this Programme shall under no circumstances be under the control of any third country or entity established outside of the Union.*

## Amendment 36

### Proposal for a regulation

#### Article 6 – paragraph 4

*Text proposed by the Commission*

*Amendment*

4. When it relates to actions defined under point (b) to (f) of the first paragraph, the action must be based on common technical specifications.

4. When it relates to actions defined under:

**(a)** point (a) *of the first paragraph, the action must be based on a common capability requirement;*

**(b)** *point (- a) and points (b) to (e) of the first paragraph, the action must be based on common technical specifications, promoting interoperability.*

## Amendment 37

### Proposal for a regulation

#### Article 6 – paragraph 4 b (new)

**4 b. Product related actions in relation to weapons of mass destruction and related warhead technologies, product related actions in relation to banned weapons and munitions, weapons not compliant with international humanitarian law such as cluster munitions and related aspects in line with the Convention on Cluster Munitions, anti-personal landmines and related aspects in line with the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and their Destruction, incendiary weapons including white phosphorus, depleted uranium ammunitions as well as fully autonomous weapons that enable strikes to be carried out without meaningful human control are not eligible. Product related actions in relation to small arms and light weapons, when they are developed mainly for export purposes, i.e. where no Member State has expressed a requirement for the action to be carried out, are not eligible.**

## Amendment 38

### Proposal for a regulation Article 7 – paragraph 1

Text proposed by the Commission

1. Beneficiaries shall be undertakings established in the Union, **in which Member States and/or nationals of Member States own more than 50% of the undertaking and effectively control it within the meaning of Article 6(3), whether directly or indirectly through one or more intermediate undertakings. In addition, all** infrastructure, facilities, assets and resources used by the **participants**, including subcontractors and other third parties, in actions funded under the

Amendment

1. Beneficiaries **and their subcontractors** shall be **public or private** undertakings established in the Union. **The** infrastructure, facilities, assets and resources used by the **beneficiaries**, including subcontractors and other third parties, in actions funded under the Programme shall not be located on the territory of non-Member States during the entire duration of the action **or the production. The use of those infrastructures, facilities, assets and**

Programme shall not be located on the territory of non-Member States during the entire duration of the action.

*resources shall not be subject to control or restrictions by third countries or third-country entities. The beneficiaries' ultimate controlling company should be headquartered in the Union.*

## Amendment 39

### Proposal for a regulation Article 7 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

*1 a. By way of derogation from paragraph 1, provided that this would not contravene the security and defence interests of the Union as established in the framework of the Common Foreign and Security Policy in accordance with Title V of the TEU and provided that there are sufficient safeguards in place to protect those interests, the following applies:*

*(a) Products, assets or technologies not located in the Union may be used by beneficiaries in situations where no Union equivalent alternative exists, providing that this would not contravene the security and defence interests of the Union;*

*(b) Beneficiaries may cooperate with undertakings established outside the territory of the Union in actions funded under the Programme. Those undertakings shall not be eligible for funding under the Programme. The beneficiaries shall secure and retain the access to all IPR pertaining to the action from the undertakings established outside the territory of the Union necessary to safeguard the strategic interest of the Union and the Member States as referred to in this regulation, in the work programme and in the implementing acts under the Programme;*

*(c) An SME located in an EEA Member State may be a subcontractor if it*

*is vital to the completion of a project and that the same good and/or service cannot be obtained from an SME in a Member State.*

#### **Amendment 40**

##### **Proposal for a regulation Article 7 – paragraph 1 b (new)**

*Text proposed by the Commission*

*Amendment*

*1 b. If a supply chain entity, regardless of the level of outsourcing, intervenes in a critical part of the process or a large volume of the activity, it shall meet the same eligibility criteria as the beneficiaries and their subcontractors.*

#### **Amendment 41**

##### **Proposal for a regulation Article 7 – paragraph 1 c (new)**

*Text proposed by the Commission*

*Amendment*

*1 c. In case a change occurs regarding the effective control of an undertaking participating in the Programme, the undertaking concerned should inform without delay the Commission and competent authority in the Member State in which it is established.*

#### **Amendment 42**

##### **Proposal for a regulation Article 7 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

*2 a. Undertakings that hold bank accounts, directly or through subsidiaries or participated companies, in jurisdictions classified as tax havens by the OECD or the Union shall not be eligible for*

*funding.*

#### **Amendment 43**

##### **Proposal for a regulation Article 7 – paragraph 2 b (new)**

*Text proposed by the Commission*

*Amendment*

***2 b. Member States, in cooperation with the European Defence Agency and the External Action Service, should ensure that information about the Programme is adequately distributed to ensure that SMEs have access to information related to the Programme.***

#### **Amendment 44**

##### **Proposal for a regulation Article 8 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

Each ***applicant*** shall declare, by written statement, that it is fully aware of and compliant with applicable national and Union legislation and regulations relating to activities in the domain of defence.

Each ***member of a consortium wishing to participate in an action*** shall declare, by written statement, that it is fully aware of and compliant with applicable national and Union legislation and regulations relating to activities in the domain of defence, ***including the Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment, the Community regime for the control of exports, transfer, brokering and transit of dual-use items and the relevant national legislation on export controls.***

#### **Amendment 45**

##### **Proposal for a regulation Article 9 – paragraph 1**

*Text proposed by the Commission*

*Amendment*



1. Where the Union's financial assistance is provided through a grant, the members of any consortium wishing to participate in an action shall appoint one of them to act as coordinator, which shall be identified in the grant agreement. The coordinator shall be the principal point of contact between the members of the consortium in relations with the Commission or the relevant funding body, unless specified otherwise in the grant agreement or in the event of non-compliance with its obligations under the grant agreement.

1. Where the Union's financial assistance is provided through a grant, the members of any consortium wishing to participate in an action shall appoint one of them to act as coordinator, which shall be identified in the grant agreement. The coordinator shall be the principal point of contact between the members of the consortium in relations with the Commission or the relevant funding body, unless specified otherwise in the grant agreement or in the event of non-compliance with its obligations under the grant agreement. ***The coordinator shall regularly report back to the Union's institutions regarding the status of funded actions.***

#### **Amendment 46**

##### **Proposal for a regulation Article 9 – paragraph 2**

*Text proposed by the Commission*

2. The members of a consortium participating in an action shall conclude an internal agreement establishing their rights and obligations with respect to the implementation of the action (in compliance with the grant agreement), except in duly justified cases provided for in the work programme or call for proposals.

*Amendment*

2. The members of a consortium participating in an action shall conclude an internal agreement establishing their rights and obligations with respect to the implementation of the action, ***including the issue of the intellectual property rights connected to the new products***, (in compliance with the grant agreement), except in duly justified cases provided for in the work programme or call for proposals.

#### **Amendment 47**

##### **Proposal for a regulation Article 10**

*Text proposed by the Commission*

Article 10  
Award criteria

*Amendment*

Article 10  
Award criteria

Actions proposed for funding under the Programme shall be evaluated on the basis of the following *cumulative* criteria:

(a) excellence

(b) contribution to *the* innovation and technological development of defence industries and *thus* to fostering the industrial autonomy of the Union in *the field of defence technologies; and,*

Actions proposed for funding under the Programme shall be evaluated *in a transparent manner, based on objective and measurable parameters, taking into account the overall aim of the programme and in particular to support, leverage and level-up the cross-border cooperation between undertakings* on the basis of the following criteria:

*(- a) contribution to the security and defence interests of the Union by enhancing defence technologies which contribute to the implementation of defence capability priorities commonly agreed by Member States within the Union in the context of the Capability Development Plan or the Coordinated Annual Review on Defence and, where appropriate, in the context of regional and international cooperative agreements; and,*

(a) *contribution to excellence, industrial performance and competition by showing that the proposed work achieves measurable enhancements and significant advantages over existing products or technologies, or when the project aims at the development of a critical or a breakthrough technology; and,*

*(a a) viability, notably via a demonstration by the beneficiaries that the remaining costs of the eligible action are covered by other means of financing such as Member States' contributions and private sources of funding; and,*

(b) contribution to innovation *in particular by showing that the proposed actions include ground-breaking or novel concepts and approaches, new promising future technological improvements or the application of technologies or concepts previously not applied in defence sector and thus to the technological development of defence industries and to fostering the industrial autonomy of the Union in relation to the capability requirements*

*under the Common Security and Defence Policy (CSDP);*

*(b a) contribution to the unification of technical specifications;*

*(b b) the proportion of the overall budget for the action that is to be allocated in such a way as to enable participation by SMEs established in the European Union that provide added value, whether as members of the consortium or as subcontractors, and in particular to SMEs that are not established in the Member States in which the undertakings in the consortium are established;*

*(b c) contribution to greater efficiency and lower costs in the European defence industry by reducing duplication and overlaps;*

*(b d) increased or new cross-border cooperation;*

*(c) contribution to the security and defence interests of the Union by enhancing defence technologies which contribute to implement defence capability priorities commonly agreed by Member States within the Union; and,*

*(d) viability notably via a demonstration by the beneficiaries that the remaining costs of the eligible action are covered by other means of financing such as Member States' contributions; and*

(e) for actions described in points (b) to (e) of Article 6(1), the contribution to **the competitiveness of the** European defence **industry** through the demonstration by the beneficiaries that Member States have **committed** to jointly produce and procure the final product or technology in a coordinated way, **including joint procurement where applicable.**

(e) for actions described in points (b) to (e) of Article 6(1), the contribution to **a more efficient and further integrated** European defence **sector** through the demonstration by the beneficiaries that Member States have **declared** to jointly produce and procure **or intend to jointly use, own or maintain** the final product or technology in a coordinated way.

*(Points (c) and (d) in the Commission text have become points (-a) and (aa) respectively in*

*Parliament's amendment. Points (-a) and (aa), are also amended.)*

## **Amendment 48**

### **Proposal for a regulation Article 11 – paragraph 1**

*Text proposed by the Commission*

1. The financial assistance of the Union provided under the Programme may not exceed **20%** of the **total** cost of the action where it relates to prototyping. In all the other cases, the assistance may cover up to the total cost of the action.

*Amendment*

1. The financial assistance of the Union provided under the Programme may not exceed **30%** of the **eligible** cost of the action where it relates to prototyping **actions as defined in Article 6(1)(b)**. In all the other cases, the assistance may cover up to the total cost of the action.

## **Amendment 49**

### **Proposal for a regulation Article 11 – paragraph 2**

*Text proposed by the Commission*

2. An action developed by a beneficiary referred to in Article 7 paragraph 2 may benefit from a funding rate increased by an additional 10 percentage points.

*Amendment*

2. An action developed by a beneficiary referred to in **the context of the Permanent Structured Cooperation pursuant to** Article 7(2) may benefit from a funding rate increased by an additional 10 percentage points.

## **Amendment 50**

### **Proposal for a regulation Article 11 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**2 a. If a consortium is developing an action as defined in Article 6(1) and commits to allocate at least 5% of the eligible cost of the action to SMEs and Mid-caps established in the Union it may benefit from a funding rate increased by percentage points equivalent to the percentage of the cost of the action**

*allocated to them but not exceeding 10 percentage points. This additional funding percentage may be increased by a percentage equivalent to twice the cost of the action assigned to SMEs established in Member States other than those in which the undertakings in the consortium that are not SMEs are established.*

## **Amendment 51**

### **Proposal for a regulation Article 12 – paragraph 1**

*Text proposed by the Commission*

The *Commission* shall not own the products or technologies resulting from the action nor shall it have any IPR claim pertaining to the action.

*Amendment*

The *Union* shall not own the products or technologies resulting from the action nor shall it have any IPR claim pertaining to the action.

## **Amendment 52**

### **Proposal for a regulation Article 13 – paragraph 2**

*Text proposed by the Commission*

2. The work programme shall set out in detail the categories of projects to be funded under the Programme;

*Amendment*

2. The work programme shall set out in detail the categories of projects to be funded under the Programme, *the type of financing and the allocated budget, including the maximum funding rates, the commitment of the Member States for financing their implementation and the desired categories of eligible actions as defined in Article 6(1), including where appropriate the evaluation methodology including weightings and minimum thresholds for the fulfilment of the award criteria.*

## **Amendment 53**

### **Proposal for a regulation Article 13 – paragraph 3**

*Text proposed by the Commission*

3. The work programme shall ensure that a **credible** proportion of the overall budget **will benefit** actions enabling the cross-border participation of SMEs.

*Amendment*

3. The work programme, **whose objective is to promote European cooperation**, shall ensure that a **relevant** proportion **of at least 20 %** of the overall budget **is earmarked for specific** actions enabling the cross-border participation of SMEs **and/or mid-caps; a specific category of projects dedicated to SMEs and/or mid-caps shall be established by the work programme.**

**Amendment 54**

**Proposal for a regulation  
Article 14 – paragraph 2**

*Text proposed by the Commission*

2. The proposals submitted following the call for proposals shall be evaluated by the Commission assisted by independent experts on the basis of the award criteria **of Article 10.**

*Amendment*

2. The proposals submitted following the call for proposals shall be evaluated by the Commission assisted by independent experts **to be validated upon request by Member States**, on the basis of the **eligibility and** award criteria **set out in Articles 6, 7, 8, 9 and 10. Close cooperation between governments (as sole customers), industries (as main suppliers) and R&T organisations is crucial for success of the Programme.**

**Amendment 55**

**Proposal for a regulation  
Article 16 – paragraph 1**

*Text proposed by the Commission*

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011. The European Defence Agency shall be invited as observer.

*Amendment*

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 **and it shall be composed of representatives of the Member States and chaired by a representative of the Commission.** The

European Defence Agency shall be invited *to contribute* as observer. *The European External Action Service, through its relevant structures, shall also assist the work of the committee.*

*Justification*

*To clarify that the EDA should have seat and voice in the committee, but no vote. The same applies to the EEAS. This mirrors the set-up of the EDA steering board, with the Commission and EDA switching roles.*

**Amendment 56**

**Proposal for a regulation  
Article 16 – paragraph 2**

*Text proposed by the Commission*

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

*Amendment*

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. ***Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.***

*Justification*

*As defence is Member States' driven, the Commission should only go ahead where a positive opinion is given by the programme committee.*

**Amendment 57**

**Proposal for a regulation  
Article 17 – paragraph 2**

*Text proposed by the Commission*

2. To support greater efficiency and effectiveness of future Union policy actions, the Commission shall draw up a retrospective evaluation report and send it to the European Parliament and to the Council. The report - building on relevant

*Amendment*

2. To support greater efficiency and effectiveness of future Union policy actions, ***the Commission and the High Representative of the Union for Foreign Affairs and Security Policy/Vice-President of the Commission shall draw up a***

consultations of Member States and key stakeholders - shall notably assess the progress made towards the achievement of objectives set out in Article 2. It shall also analyse cross border participation *of SMEs* in projects implemented under the programme as well as the participation of *SMEs* to the *global* value *chain*.

retrospective evaluation report and send it to the European Parliament and to the Council. The report - building on relevant consultations of Member States and key stakeholders - shall notably assess the progress made towards the achievement of objectives set out in Article 2. It shall also analyse cross border participation, ***including that of mid-caps***, in projects implemented under the Programme as well as the participation of *mid-caps* to the value *chains of defence technologies or products*. ***The report shall also include information on the origin of beneficiaries and, where possible, the distribution of the intellectual property rights that are generated.***

## Amendment 58

### Proposal for a regulation

#### Article 17 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***2 a. The Commission shall provide an interim progress report that will include an assessment of the governance of the Programme, implementation rates, project award results including SMEs and mid-caps involvement and the degree of their cross-border participation, and funding granted in accordance with Article 190 of Commission Delegated Regulation (EU) No 1268/12 as set out in Article 14(1) by the end of the first year of the Programme.***



## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Establishing the European Defence Industrial Development Programme aiming at supporting the competitiveness and innovative capacity of the EU defence industry		
<b>References</b>	COM(2017)0294 – C8-0180/2017 – 2017/0125(COD)		
<b>Committee responsible</b> Date announced in plenary	ITRE 15.6.2017		
<b>Opinion by</b> Date announced in plenary	AFET 15.6.2017		
<b>Associated committees - date announced in plenary</b>	5.10.2017		
<b>Rapporteur</b> Date appointed	Ioan Mircea Paşcu 25.9.2017		
<b>Discussed in committee</b>	11.10.2017	22.11.2017	14.12.2017
<b>Date adopted</b>	23.1.2018		
<b>Result of final vote</b>	+: -: 0:	40 15 0	
<b>Members present for the final vote</b>	Lars Adaktusson, Michèle Alliot-Marie, Francisco Assis, Petras Auštrevičius, Brando Benifei, Goffredo Maria Bettini, Victor Boştinaru, James Carver, Fabio Massimo Castaldo, Javier Couso Permuy, Andi Cristea, Arnaud Danjean, Georgios Epitideios, Knut Fleckenstein, Eugen Freund, Michael Gahler, Sandra Kalniete, Tunne Kelam, Janusz Korwin-Mikke, Andrey Kovatchev, Eduard Kukan, Ilhan Kyuchyuk, Sabine Lösing, Andrejs Mamikins, Alex Mayer, David McAllister, Tamás Meszerics, Javier Nart, Pier Antonio Panzeri, Ioan Mircea Paşcu, Alojz Peterle, Kati Piri, Jozo Radoš, Michel Reimon, Sofia Sakorafa, Alyn Smith, Jaromír Štětina, Dubravka Šuica, László Tőkés, Miguel Urbán Crespo, Ivo Vajgl		
<b>Substitutes present for the final vote</b>	Jakop Dalunde, Elisabetta Gardini, Ana Gomes, Andrzej Grzyb, Jo Leinen, Antonio López-Istúriz White, José Ignacio Salafranca Sánchez-Neyra, Bodil Valero, Janusz Zemke		
<b>Substitutes under Rule 200(2) present for the final vote</b>	Pascal Durand, Jonás Fernández, Bogdan Brunon Wenta, Tiemo Wölken, Bogdan Andrzej Zdrojewski		

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

40	+
ALDE	Petras Auštrevičius, Ilhan Kyuchyuk, Javier Nart, Jozo Radoš, Ivo Vajgl
EFDD	Fabio Massimo Castaldo
PPE	Lars Adaktusson, Michèle Alliot-Marie, Arnaud Danjean, Michael Gahler, Elisabetta Gardini, Andrzej Grzyb, Sandra Kalniete, Tunne Kelam, Andrey Kovatchev, Eduard Kukan, Antonio López-Istúriz White, David McAllister, Alojz Peterle, José Ignacio Salafranca Sánchez-Neyra, Jaromír Štětina, Dubravka Šuica, László Tőkés, Bogdan Brunon Wenta, Bogdan Andrzej Zdrojewski
S&D	Francisco Assis, Brando Benifei, Goffredo Maria Bettini, Victor Boștinaru, Andi Cristea, Jonás Fernández, Knut Fleckenstein, Ana Gomes, Jo Leinen, Andrejs Mamikins, Alex Mayer, Pier Antonio Panzeri, Ioan Mircea Pașcu, Kati Piri, Janusz Zemke

15	-
EFDD	James Carver
GUE/NGL	Javier Couso Permuy, Sabine Lösing, Sofia Sakorafa, Miguel Urbán Crespo
NI	Georgios Epitideios, Janusz Korwin-Mikke
S&D	Eugen Freund, Tiemo Wölken
VERTS/ALE	Jakop Dalunde, Pascal Durand, Tamás Meszerics, Michel Reimon, Alyn Smith, Bodil Valero

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention

25.1.2018

## **OPINION OF THE COMMITTEE ON BUDGETS**

for the Committee on Industry, Research and Energy

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 (COM(2017)0294 – C8-0180/2017 – 2017/0125(COD))

Rapporteur (\*): Esteban González Pons

(\*): Associated committee – Rule 54 of the Rules of Procedure

### **SHORT JUSTIFICATION**

Nowadays Europeans are facing a real challenge on maintaining our borders secure due to the increased instability and conflicts, not only in our neighbourhood but worldwide. Doing this should be part of a long-term strategy that allows the EU to be ready to face tomorrow's threats and to protect its citizens. As recent events have shown us, we cannot leave part of this crucial and strategic task to our all-time allies.

Technological leadership is the key to be a strong global actor but we should not accomplish that at the expense of social policies, therefore we should encourage cooperation in order to maximise the output and quality of Member States investment in defence.

As the European Commission points out, there are 178 different weapon systems in the EU, compared to 30 in the US. There are more helicopter producers in Europe than there are governments able to buy them. Moreover, despite the EU spending half as much as the United States on defence, we are not even half as efficient. The consequences of this lack of cooperation are terrible, it's estimated to cost annually between 25 billion euros and 100 billion euros.

The rapporteur welcomes the European Defence Industrial Development Programme (EDIDP) as a first step to improve the competitiveness and innovation capacity of the EU's defence industry, as well as the beginning of the reduction of duplicities and the lack of economies of scale. Furthermore, the Rapporteur is of the opinion, as the European Parliament has been demanding, on the need to use fresh appropriations to finance it, in order to avoid undermining the current programmes and priorities of the Union.

In addition, we should not forget that research and development in the area of defence could also bring benefits to our society, Internet, GPS, and even sunglasses where in the beginning inventions to be used in the military.

## AMENDMENTS

The Committee on Budgets calls on the Committee on Industry, Research and Energy, as the committee responsible, to take into account the following amendments:

### Amendment 1

#### Proposal for a regulation

##### Recital 1

###### *Text proposed by the Commission*

(1) In the European Defence Action Plan, adopted on 30 November 2016, the Commission committed to complement, leverage and consolidate collaborative efforts by Member States in developing defence capabilities to respond to security challenges, as well as to foster a competitive and innovative European defence industry. It proposed in particular to launch a European Defence Fund to support investment in joint research and the joint development of defence equipment and technologies. The Fund would support cooperation during the whole cycle of defence product and technology development.

###### *Amendment*

(1) In the European Defence Action Plan, adopted on 30 November 2016, the Commission committed to complement, leverage and consolidate collaborative efforts by Member States in developing ***and acquiring appropriate and sufficient*** defence capabilities, ***enabling it*** to respond to security challenges, as well as to foster a competitive, ***transparent, effective*** and innovative European defence industry – ***ensuring a sustainable supply chain – and to contribute to the strategic autonomy and technological and industrial independence of the Union.*** It proposed in particular to launch a European Defence Fund, ***enhancing synergies and budgetary efficiency,*** to support investment in joint research and the joint development of defence equipment and technologies. ***The Fund should complement national budgets used for that purpose, and should encourage Member States to invest more in the area of defence and in Union's common defence strategies.*** The Fund would support cooperation during the whole cycle of defence product and technology development.

### Amendment 2

## Proposal for a regulation

### Recital 2

*Text proposed by the Commission*

(2) In order to contribute to the enhancement of the competitiveness and innovation capacity of the Union's defence industry, a European Defence Industrial Development Programme (hereinafter referred to as the Programme) should be established. The Programme should aim at enhancing the competitiveness of the Union's defence industry inter alia cyber defence by supporting the cooperation between undertakings in the development phase of defence products and technologies. The development phase, which follows the research and technology phase, entails significant risks and costs that hamper the further exploitation of the results of research and adversely impact the competitiveness of the Union's defence industry. By supporting the development phase, the Programme would contribute to a better exploitation of the results of defence research and it would help to cover the gap between research and production as well as to promote all forms of innovation. The Programme should complement activities carried out in accordance with Article 182 TFEU and it does not cover the production of defence products and technologies.

### Amendment 3

## Proposal for a regulation

### Recital 4 a (new)

*Text proposed by the Commission*

*Amendment*

(2) In order to contribute to the enhancement of the competitiveness and innovation capacity of the Union's defence industry, a European Defence Industrial Development Programme (hereinafter referred to as the Programme) should be established. The Programme should aim at enhancing the competitiveness of the Union's defence industry ***and to improve the Union's independence in defence and security*** inter alia cyber defence by supporting the cooperation between undertakings in the development phase of defence products and technologies. The development phase, which follows the research and technology phase, entails significant risks and costs that hamper the further exploitation of the results of research and adversely impact the competitiveness of the Union's defence industry. By supporting the development phase, the Programme would contribute to a better exploitation of the results of defence research and it would help to cover the gap between research and production as well as to promote all forms of innovation. The Programme should complement activities carried out in accordance with Article 182 TFEU and it does not cover the production of defence products and technologies.

*Amendment*

***(4 a) In order to finance the Programme from the general budget of the Union, an amount of EUR 500 million in current prices should be earmarked for that***

*purpose. Considering that the Programme is a new initiative that was not foreseen when the multiannual financial framework (MFF) for 2014-2020<sup>1a</sup> was established, and to avoid any negative impact on the financing of existing multiannual programmes, that amount should be drawn exclusively from unallocated margins under the multiannual financial framework ceilings and / or through the mobilisation of the relevant MFF special instruments. The final amount should be authorised by the European Parliament and the Council through the annual budgetary procedure.*

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<sup>1a</sup> Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 (OJ L 347, 20.12.2013, p. 884).

#### Amendment 4

##### Proposal for a regulation Recital 5

*Text proposed by the Commission*

(5) The Programme should be implemented in full compliance with Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council<sup>6</sup>. Funding may take in particular the form of grants. Financial instruments or public procurement may be used where appropriate.

*Amendment*

(5) The Programme should be implemented in full compliance with Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council<sup>6</sup>. Funding may take in particular the form of grants. Financial instruments or public procurement may be used where appropriate. ***The Commission should look into the possibility of further utilising the potential of alternative forms of funding to grants (financial instruments and public contracts), so that they become a more important source of funding for this Programme under the next multiannual financial framework.***

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<sup>6</sup> Regulation (EU, Euratom) No 966/2012

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<sup>6</sup> Regulation (EU, Euratom ) No 966/2012

of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

## Amendment 5

### Proposal for a regulation

#### Recital 10

##### *Text proposed by the Commission*

(10) As the objective of the Programme is to support the competitiveness of the Union defence industry by de-risking the development phase of cooperative projects, actions related to the development of a defence product or technology, namely definition of common technical specifications, design, prototyping, testing, qualification, certification as well feasibility studies and other supporting measures, should be eligible to benefit from it. This will also apply to the upgrade of existing defence products and technologies.

##### *Amendment*

(10) As the objective of the Programme is to support the competitiveness of the Union defence industry by de-risking the development phase of cooperative projects, actions related to the development of a defence product or technology, namely definition of common technical specifications, design, prototyping, testing, qualification, certification, ***protection of intellectual property***, as well feasibility studies and other supporting measures, should be eligible to benefit from it. This will also apply to the upgrade of existing defence products and technologies ***developed in the Union by Member States***.

## Amendment 6

### Proposal for a regulation

#### Recital 15

##### *Text proposed by the Commission*

(15) If a consortium of undertakings wishes to participate in an eligible action under the Programme and financial assistance of the Union is to take form of a grant, the consortium should appoint one of its members as a coordinator who will be the principle point of contact with the Commission.

##### *Amendment*

(15) If a consortium of undertakings wishes to participate in an eligible action under the Programme and financial assistance of the Union is to take form of a grant, ***a financial instrument or a public contract***, the consortium should appoint one of its members as a coordinator who will be the principle point of contact with the Commission.

## Amendment 7

### Proposal for a regulation

#### Recital 16

*Text proposed by the Commission*

(16) The promotion of innovation and technological development in the Union defence industry should take place in a manner coherent with the security interests of the Union. Accordingly, the action's contribution to those interests and to the defence capability priorities commonly agreed by Member States should serve as an award criterion. Within the Union, common defence capability priorities are identified notably through the Capability Development Plan. Other Union processes such as the Coordinated Annual Review on Defence (CARD) and the Permanent Structured Cooperation will support the implementation of relevant priorities through enhanced cooperation. Where appropriate regional or international cooperative initiatives, such as in the NATO context, and serving the Union security and defence interest, may also be taken into account.

*Amendment*

(16) The promotion of innovation and technological development in the Union defence industry should ***allow the maintenance and development of the skills and know-how of the Union's defence industry and contribute to strengthening its technological and industrial autonomy. It should also*** take place in a manner coherent with the security interests of the Union. Accordingly, the action's contribution to those interests and to the defence capability priorities commonly agreed by Member States should serve as an award criterion. Within the Union, common defence capability priorities are identified notably through the Capability Development Plan. Other Union processes such as the Coordinated Annual Review on Defence (CARD) and the Permanent Structured Cooperation will support the implementation of relevant priorities through enhanced cooperation. Where appropriate regional or international cooperative initiatives, such as in the NATO context, and serving the Union security and defence interest, may also be taken into account.

## Amendment 8

### Proposal for a regulation

#### Recital 18

*Text proposed by the Commission*

(18) In order to ensure that the funded actions will contribute to the competitiveness of the European defence industry, they should be market-oriented and demand driven. Therefore, the fact that

*Amendment*

(18) In order to ensure that the funded actions will contribute to the competitiveness of the European defence industry, they should be market-oriented and demand driven, ***including for dual-use***



Member States have already committed to jointly produce and procure the final product or technology, possibly in a coordinated way, should be taken into account in the award criteria.

*technologies*. Therefore, the fact that Member States have already committed to jointly produce and procure the final product or technology, possibly in a coordinated way, should be taken into account in the award criteria.

## Amendment 9

### Proposal for a regulation Recital 19

*Text proposed by the Commission*

(19) The financial assistance of the Union under the Programme should not exceed 20% of the total *eligible* cost of the *action when it relates* to prototyping *which is often the most costly action in the development phase*. The totality of the eligible costs should however be covered for other actions in the development phase.

*Amendment*

(19) The financial assistance of the Union under the Programme should not exceed 20% of the total cost of the *actions related* to prototyping. The totality of the eligible costs should however be covered for other actions in the development phase.

## Amendment 10

### Proposal for a regulation Recital 20

*Text proposed by the Commission*

(20) As the Union support aims at enhancing the competitiveness of the sector and concerns only the specific development phase, the Commission should not have ownership or intellectual property rights over the products or technologies resulting from the funded actions. The applicable intellectual property rights regime will be defined contractually by the beneficiaries.

*Amendment*

(20) As the Union support aims at enhancing the competitiveness of the sector and concerns only the specific development phase, the Commission should not have ownership or intellectual property rights over the products or technologies resulting from the funded actions. The applicable intellectual property rights regime will be defined contractually by the beneficiaries *in accordance with national law*.

## Amendment 11

### Proposal for a regulation Recital 21

*Text proposed by the Commission*

(21) The Commission should establish a multiannual work programme in line with the objectives of the Programme. The Commission should be assisted in the establishment of the work programme by a committee of Member States (hereinafter referred to as Programme Committee). In light of the Union policy on Small and Medium Enterprises (SMEs) as key to ensuring economic growth, innovation, job creation, and social integration in the Union and the fact that the supported actions will typically require trans-national collaboration, it is of importance that the work programme will reflect and enable such cross-border participation of SMEs and that therefore a proportion of the overall budget will benefit such action.

*Amendment*

(21) The Commission should establish a multiannual work programme in line with the objectives of the Programme. The Commission should be assisted in the establishment of the work programme by a committee of Member States (hereinafter referred to as Programme Committee). In light of the Union policy on Small and Medium Enterprises (SMEs) as key to ensuring economic growth, innovation, job creation, and social integration in the Union and the fact that the supported actions will typically require trans-national collaboration, it is of importance that the work programme will reflect and enable such cross-border participation of SMEs and that therefore ***fix*** a proportion ***of at least 20%*** of the overall budget ***that*** will benefit such action.

**Amendment 12**

**Proposal for a regulation**

**Recital 22 a (new)**

*Text proposed by the Commission*

*Amendment*

***(22a) Observer status should be accorded to the European Parliament in the committee of Member States.***

**Amendment 13**

**Proposal for a regulation**

**Recital 25**

*Text proposed by the Commission*

*Amendment*

(25) The Commission should draw up an implementation report at the end of the Programme, examining the financial activities in terms of financial implementation results and where possible, impact. This report should also analyse the

(25) The Commission should draw up an implementation report at the end of the Programme, examining the financial activities in terms of financial implementation results and where possible, impact. This report should also analyse the

cross border participation of SMEs in projects under the Programme as well as the participation of SMEs to the global value chain.

cross border participation of SMEs in projects under the Programme as well as the participation of SMEs to the global value chain. ***Moreover, the Commission should draw up an interim implementation report, whose findings should be made available to the co-legislators in due time before the final adoption of the legislative act for a continuation of the industrial development programme in the field of defence, to be set up in the framework of the next MFF.***

#### **Amendment 14**

##### **Proposal for a regulation Article 2 – paragraph 1 – point a**

*Text proposed by the Commission*

(a) to foster the ***competitiveness and innovation capacity*** of the Union defence industry by supporting actions in their development phase;

*Amendment*

(a) to foster the ***technological and industrial autonomy*** of the Union ***and the competitiveness and innovation capacity of its*** defence industry by supporting actions in their development phase;

#### **Amendment 15**

##### **Proposal for a regulation Article 2 – paragraph 1 – point b**

*Text proposed by the Commission*

(b) to support and leverage the cooperation between undertakings, including ***small and medium-sized enterprises***, in the development of technologies or products in line with defence capability priorities commonly agreed by Member States ***within the Union***;

*Amendment*

(b) to support and leverage the cooperation between undertakings, including ***SMEs and mid-cap companies***, in the development of technologies or products in line with defence capability priorities commonly agreed by Member States ***by promoting compatibility, interoperability and standardisation, in particular through the definition of common technical specifications relating thereto***;

## Amendment 16

### Proposal for a regulation

#### Article 3 – paragraph 1

*Text proposed by the Commission*

The amount for the implementation of the Programme for the period 2019-2020 is set at EUR 500 million in current prices.

*Amendment*

The amount for the implementation of the Programme for the period 2019-2020 is set at EUR 500 million in current prices, ***to be drawn exclusively from the unallocated margins under the 2014-2020 multiannual financial framework (MFF) ceilings and / or through the mobilisation of the relevant MFF special instruments.***

## Amendment 17

### Proposal for a regulation

#### Article 7 – paragraph 1

*Text proposed by the Commission*

1. Beneficiaries shall be undertakings established in the Union, in which Member States and/or nationals of Member States own more than 50% of the undertaking and effectively control it within the meaning of Article 6(3), whether directly or indirectly through one or more intermediate undertakings. In addition, all infrastructure, facilities, assets and resources used by the participants, including subcontractors and other third parties, in actions funded under the Programme shall ***not*** be located on the territory of ***non-Member States*** during the entire duration of the action.

*Amendment*

1. Beneficiaries ***and their subcontractors*** shall be undertakings established in the Union, in which Member States and/or nationals of Member States own more than 50% of the undertaking and effectively control it within the meaning of Article 6(3), whether directly or indirectly through one or more intermediate undertakings. In addition, all infrastructure, facilities, assets and resources used by the participants, including subcontractors and other third parties, in actions funded under the Programme shall be located on the territory of ***the Union*** during the entire duration of the action. ***The use of such infrastructure, facilities, assets and resources shall not be subject to any control or restriction by a third country or a non-EU entity.***

## Amendment 18

### Proposal for a regulation

#### Article 9 – paragraph 1

*Text proposed by the Commission*

1. Where the Union's financial assistance is provided through a grant, the members of any consortium wishing to participate in an action shall appoint one of them to act as coordinator, which shall be identified in the grant agreement. The coordinator shall be the principal point of contact between the members of the consortium in relations with the Commission or the relevant funding body, unless specified otherwise in the grant agreement or in the event of non-compliance with its obligations under the grant agreement.

*Amendment*

1. Where the Union's financial assistance is provided through a grant, the members of any consortium wishing to participate in an action shall appoint one of them to act as coordinator, which shall be identified in the grant agreement. The coordinator shall be the principal point of contact between the members of the consortium in relations with the Commission or the relevant funding body, unless specified otherwise in the grant agreement or in the event of non-compliance with its obligations under the grant agreement. ***The Union's financial assistance may also take the form of a financial instrument or a public contract.***

**Amendment 19**

**Proposal for a regulation**

**Article 10 – paragraph 1 – introductory part**

*Text proposed by the Commission*

Actions proposed for funding under the Programme shall be evaluated on the basis of the following cumulative criteria:

*Amendment*

Actions proposed for funding under the Programme shall be evaluated ***with regard to the objectives laid down in Article 2 and*** on the basis of the following cumulative criteria:

**Amendment 20**

**Proposal for a regulation**

**Article 10 – paragraph 1 – point a**

*Text proposed by the Commission*

(a) excellence

*Amendment*

(a) ***technological and industrial*** excellence;

**Amendment 21**

**Proposal for a regulation**

## Article 10 – paragraph 1 – point b a (new)

*Text proposed by the Commission*

*Amendment*

**(ba) the number of Member States involved in the project; and,**

## Amendment 22

### Proposal for a regulation

#### Article 10 – paragraph 1 – point c

*Text proposed by the Commission*

*Amendment*

(c) contribution to the security and defence interests of the Union by enhancing defence technologies which contribute to **implement** defence capability priorities commonly agreed by Member States within the Union; and,

(c) contribution to the security and defence interests of the Union by enhancing defence technologies which contribute to **the implementation of the** defence capability priorities commonly agreed by Member States within the Union, **as part of the capacity development plan or coordinated annual defence review;** and,

## Amendment 23

### Proposal for a regulation

#### Article 10 – paragraph 1 – point d

*Text proposed by the Commission*

*Amendment*

(d) viability notably via a demonstration by the beneficiaries that the remaining costs of the eligible action are covered by other means of financing such as Member States' contributions; and

(d) viability notably via a demonstration by the beneficiaries that the remaining costs of the eligible action are covered by other means of financing such as Member States' contributions **and the dual use of the developed technologies;** and

## Amendment 24

### Proposal for a regulation

#### Article 13 – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. The work programme shall set out in detail the categories of projects to be funded under the Programme;

2. The work programme shall set out in detail the categories of projects to be funded under the Programme, **and shall provide for at least one category of projects specifically dedicated to SMEs**;

## Amendment 25

### Proposal for a regulation Article 13 – paragraph 3

*Text proposed by the Commission*

3. The work programme shall ensure that **a credible proportion** of the overall budget will benefit actions enabling **the cross-border participation of SMEs**.

*Amendment*

3. The work programme shall ensure that **at least 20%** of the overall budget will benefit actions enabling **cooperation between SMEs from several Member States**.

## Amendment 26

### Proposal for a regulation Article 14 – paragraph 2

*Text proposed by the Commission*

2. The proposals submitted following the call for proposals shall be evaluated by the Commission assisted by independent experts on the basis of the award criteria of Article 10.

*Amendment*

2. The proposals submitted following the call for proposals shall be evaluated by the Commission assisted by independent **EU national** experts, on the basis of the award criteria of Article 10.

## Amendment 27

### Proposal for a regulation Article 16 – paragraph 1

*Text proposed by the Commission*

1. The Commission shall be assisted by a **committee**. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011. The European Defence Agency shall be invited as **observer**.

*Amendment*

1. The Commission shall be assisted by a **Committee**. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011. The European Defence Agency **and the European Parliament** shall be invited as **observers**.

## Amendment 28

### Proposal for a regulation Article 17 – paragraph 1

*Text proposed by the Commission*

1. The Commission shall regularly monitor the implementation of the programme and annually report on the progress made in accordance with Article 38(3)(e) of Regulation 966/2012. To this end, the Commission shall put in place necessary monitoring arrangements.

*Amendment*

1. The Commission shall regularly monitor **and evaluate** the implementation of the programme and annually report on the progress made in accordance with Article 38(3)(e) of Regulation 966/2012. To this end, the Commission shall put in place necessary monitoring arrangements.

## Amendment 29

### Proposal for a regulation Article 17 – paragraph 2

*Text proposed by the Commission*

2. To support greater efficiency and effectiveness of future Union policy actions, the Commission shall draw up a retrospective evaluation report and send it to the European Parliament and to the Council. The report - building on relevant consultations of Member States and key stakeholders - shall notably assess the progress made towards the achievement of objectives set out in Article 2. It shall also analyse cross border participation of SMEs in projects implemented under the **programme** as well as the participation of SMEs to the global value chain.

*Amendment*

2. To support greater efficiency and effectiveness of future Union policy actions, the Commission shall draw up a retrospective evaluation report and send it to the European Parliament and to the Council. The report - building on relevant consultations of Member States and key stakeholders - shall notably assess the progress made towards the achievement of objectives set out in Article 2. It shall also analyse cross border participation of SMEs in projects implemented under the **Programme** as well as the participation of SMEs to the global value chain. ***It shall also evaluate the impact on arms exports which benefit from the Programme.***

## Amendment 30

### Proposal for a regulation Article 17 – paragraph 2 a (new)



*Text proposed by the Commission*

*Amendment*

**2 a.** *In due time before the end of this Programme, the Commission shall, as appropriate, put forward a legislative proposal for a continuation of the industrial development programme in the field of defence, together with appropriate financing under the new multiannual financial framework. Prior to the final adoption of the relevant legislative act, the co-legislators shall have at their disposal the findings of an interim implementation report that the Commission shall draw up to that effect.*

### **Amendment 31**

#### **Proposal for a regulation**

#### **Article 18 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

**1a.** *The Programme finances bodies that comply with applicable EU legislation and agreed international and EU standards and, therefore, shall not support projects under this Regulation that contribute to money laundering, terrorism financing, tax avoidance, tax fraud and tax evasion.*

## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Establishing the European Defence Industrial Development Programme aiming at supporting the competitiveness and innovative capacity of the EU defence industry
<b>References</b>	COM(2017)0294 – C8-0180/2017 – 2017/0125(COD)
<b>Committee responsible</b> Date announced in plenary	ITRE 15.6.2017
<b>Opinion by</b> Date announced in plenary	BUDG 15.6.2017
<b>Associated committees - date announced in plenary</b>	5.10.2017
<b>Rapporteur</b> Date appointed	Esteban González Pons 14.7.2017
<b>Date adopted</b>	24.1.2018
<b>Result of final vote</b>	+: 23 –: 10 0: 1
<b>Members present for the final vote</b>	Nedzhmi Ali, Jean Arthuis, Richard Ashworth, Gérard Deprez, Manuel dos Santos, André Elissen, José Manuel Fernandes, Eider Gardiazabal Rubial, Jens Geier, Ingeborg Gräßle, Monika Hohlmeier, John Howarth, Zbigniew Kuźmiuk, Siegfried Mureşan, Liadh Ní Riada, Jan Olbrycht, Răzvan Popa, Paul Rübig, Petri Sarvamaa, Patricija Šulin, Eleftherios Synadinos, Indrek Tarand, Isabelle Thomas, Inese Vaidere, Monika Vana, Tiemo Wölken
<b>Substitutes present for the final vote</b>	Xabier Benito Ziluaga, Ivana Maletić, Stanisław Ożóg, Ivan Štefanec
<b>Substitutes under Rule 200(2) present for the final vote</b>	Rosa Estaràs Ferragut, Heidi Hautala, Dietmar Köster, Monika Smolková

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

23	+
ALDE	Nedzhmi Ali, Jean Arthuis, Gérard Deprez
ECR	Zbigniew Kuźmiuk, Stanisław Ozóg
PPE	Rosa Estaràs Ferragut, José Manuel Fernandes, Ingeborg Gräßle, Monika Hohlmeier, Ivana Maletić, Siegfried Mureşan, Jan Olbrycht, Paul Rübig, Petri Sarvamaa, Ivan Štefanec, Patricija Šulin, Inese Vaidere
S&D	Eider Gardiazabal Rubial, Răzvan Popa, Manuel dos Santos, Monika Smolková, Isabelle Thomas
VERTS/ALE	Indrek Tarand

10	-
ENF	André Elissen
GUE/NGL	Xabier Benito Ziluaga, Liadh Ní Riada
NI	Eleftherios Synadinos
S&D	Jens Geier, John Howarth, Dietmar Köster, Tiemo Wölken
VERTS/ALE	Heidi Hautala, Monika Vana

1	0
ECR	Richard Ashworth

Key to symbols:

+ : in favour

- : against

0 : abstention

24.1.2018

## **OPINION OF THE COMMITTEE ON THE INTERNAL MARKET AND CONSUMER PROTECTION**

for the Committee on Industry, Research and Energy

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 (COM(2017)0294 – C8-0180/2017 – 2017/0125(COD))

Rapporteur: Anneleen Van Bossuyt

### **SHORT JUSTIFICATION**

#### **Background and the Commission's proposal**

The Commission's European Defence Action Plan, adopted in November 2016, was welcomed by the European Council and the Commission was invited to present proposals in the first half of 2017. A core proposal of the European Defence Action Plan is to establish a European Defence Fund to support investment in joint research and in joint development of defence equipment and technologies - thus the Fund should consist of two distinct but complementary windows, i.e. a research window and a capability window.

This proposal, for a European Defence Industrial Development Programme, falls under the capability window, aiming to contribute to the innovative capacity of the European defence industry and its competitiveness, for the period from 1 January 2019 to 31 December 2020.

According to the Commission proposal: beneficiaries are undertakings established in the Union; the Union would provide financial assistance, mainly in the form of grants; eligible actions should be undertaken by a cooperation of at least 3 undertakings which are established in at least 2 Member States; the funding rate is limited to 20% of the total cost of the action where it relates to prototyping; beneficiaries developing an action in the context of Permanent Structured Cooperation (PESCO) will be eligible for an increased funding; the budget of the Programme would be 500 million euro. The proposed Regulation includes measures concerning the Union defence industry and the Commission uses Article 173 (industrial policy) of the Treaty on the Functioning of the European Union as its legal basis.

#### **Position of the IMCO Rapporteur**

The Rapporteur welcomes in principle the Commission's proposal. Although, the prime objective is to foster the competitiveness of the defence industry, also from the internal market angle, such an instrument can be supported: Despite the fact that existing internal market instruments offer solutions for effective cooperation among Member States and for building on economies of scale, the defence market fragmentation is persisting; the Rapporteur is thus convinced that additional measures, such as targeted EU financing, could contribute to unlocking a number of cooperation development projects which otherwise would not start and to creating a basis for a progressively integrating European market in the sector.

At the same time and to the extent that Union money is spent, it is important for the Rapporteur that, notwithstanding the specificities of the defence sector, the highest level of transparency is guaranteed and that the programme remains as open as possible.

Following, the Rapporteur believes that the proposal can benefit from a number of improvements and introduces amendments which mean to address the following:

- To increase the required participation of undertakings and Member States from three and two to eight and six, respectively; the participation requirements as proposed by the Commission are putting the threshold very low in a way that the Union's support cannot be really justified. The funded projects should practically foster European cooperation and this is only attainable if the participation thresholds will be increased;
- To better interlink the objectives of the Programme with the award criteria, as well as with the evaluation/reporting requirements;
- To clarify the award criterion on Member States' commitment to procure jointly, in order to ensure that there is no doubt about the extent to which the defence procurement Directive 2009/81/EC applies;
- To allow, if necessary, participation of undertakings based in a third country, under the condition that this is provided in the work programme; in this way important projects which serve the objectives of the Programme and need the participation of a third country undertaking could still be eligible; in that respect, the approach as regards the intellectual property rights can be more cautious;
- To allow (while the norm should be increased cooperation of European undertakings) for some flexibility in exceptional justified cases, regarding the number of participants, the type of participant and the place of establishment;
- To incentivise increased cooperation (high number of participants and Member States) and substantial SMEs participation by adding respective award criteria;
- To lower the maximum financial contribution for actions other than prototyping to a maximum of 50% and to raise it to 100% if these actions are undertaken by SMEs;
- To delete the additional financial support (10%) for PESCO projects in order to be non-discriminatory and to incentivise new Member States' cooperation;
- To require annual evaluation and reporting for this two-year Programme, especially since this is seen as a pilot for a next multiannual programme and since no comprehensive impact assessment has been completed for this proposal;

- To lower the budget of the Programme from 500 million to 355 million euros. According to the Commission, 145 million will be deployed from the successful CEF programme which is investing amongst others on critical actions fostering digitalisation.

## AMENDMENTS

The Committee on the Internal Market and Consumer Protection calls on the Committee on Industry, Research and Energy, as the committee responsible, to take into account the following amendments:

### Amendment 1

#### Proposal for a regulation

##### Recital 1

*Text proposed by the Commission*

(1) In the European Defence Action Plan, adopted on 30 November 2016, the Commission committed to complement, leverage and consolidate collaborative efforts by Member States in developing defence capabilities to respond to security challenges, as well as to foster a competitive and innovative European defence industry. It proposed in particular to launch a European Defence Fund to support investment in joint research and the joint development of defence equipment and technologies. The Fund would support cooperation during the whole cycle of defence product and technology development.

*Amendment*

(1) In the European Defence Action Plan, adopted on 30 November 2016, the Commission committed to complement, leverage and consolidate collaborative efforts by Member States in developing defence capabilities to respond to security challenges, as well as to foster a competitive and innovative European defence industry ***and to create a more integrated defence market in Europe that caters simultaneously and affordably for the different security needs of the Member States***. It proposed in particular to launch a European Defence Fund to support investment in joint research and the joint development of defence equipment and technologies. The Fund would support cooperation during the whole cycle of defence product and technology development. ***It should complement national defence budgets and encourage Member States to invest more in the defence sector.***

### Amendment 2

#### Proposal for a regulation

##### Recital 2

*Text proposed by the Commission*

*Amendment*

(2) In order to contribute to the enhancement of the competitiveness and innovation capacity of the Union's defence industry, a European Defence Industrial Development Programme (hereinafter referred to as the Programme) should be established. The Programme should aim at enhancing the competitiveness of the Union's defence industry inter alia cyber defence by supporting the cooperation between undertakings in the development phase of defence products and technologies. The development phase, which follows the research and technology phase, entails significant risks and costs that hamper the further exploitation of the results of research and adversely impact the competitiveness of the Union's defence industry. By supporting the development phase, the Programme would contribute to a better exploitation of the results of defence research and it would help to cover the gap between research and production as well as to promote all forms of innovation. The Programme should complement activities carried out in accordance with Article 182 TFEU and it does not cover the production of defence products and technologies.

(2) In order to contribute to the enhancement of the competitiveness and innovation capacity of the Union's defence industry **and to consolidate the Union's strategic autonomy**, a European Defence Industrial Development Programme (hereinafter referred to as the Programme) should be established. The Programme should aim at enhancing the competitiveness **and performance** of the Union's defence industry, inter alia, **the cyber defence industry, taking into account developments in the speed and sophistication of cyber-attacks**, by supporting the cooperation between undertakings in the development phase of defence products and technologies. The development phase, which follows the research and technology phase, entails significant risks and costs that hamper the further exploitation of the results of research and adversely impact the competitiveness of the Union's defence industry. By supporting the development phase, the Programme would contribute to a better exploitation of the results of defence research and it would help to cover the gap between research and production as well as to promote all forms of innovation. The Programme should complement activities carried out in accordance with Article 182 TFEU and it does not cover the production of defence products and technologies.

### Amendment 3

#### Proposal for a regulation

##### Recital 3

*Text proposed by the Commission*

(3) To better exploit economies of scale in the defence industry, the Programme should support the cooperation between undertakings in the development of defence products and technologies.

*Amendment*

(3) ***The fragmentation of European defence markets and the low number of collaborative projects in the field of defence between Member States leads to unnecessary duplication of capabilities and expenditure.*** To better exploit

economies of scale in the defence industry **and reinforce the single market for defence**, the Programme should support the cooperation between undertakings in the development of defence products and technologies, **both at the level of prime contractors and of suppliers, where commonly agreed capability requirements are identified and the lack of interoperability and technological gaps are addressed. This should also improve the efficiency of the single market in the defence sector which would ultimately mean better value for money for the Member States.**

#### Amendment 4

##### Proposal for a regulation Recital 4 a (new)

*Text proposed by the Commission*

*Amendment*

**(4a) The budget of the Programme should not affect negatively the implementation of the programmes from which redeployments are taken and should therefore primarily be funded from the Global Margin for Commitments, the Global Margin for Payments, and the Flexibility Instrument.**

#### Amendment 5

##### Proposal for a regulation Recital 5 a (new)

*Text proposed by the Commission*

*Amendment*

**(5a) In line with the objective of fostering the strategic autonomy of the Union, when financial support of the Union is provided through the Programme, priority should be given to the products and technologies developed through the Programme when Member States intend to acquire products or**



*technologies available on the European market.*

## Amendment 6

### Proposal for a regulation

#### Recital 7

*Text proposed by the Commission*

(7) In view of the specificities of the sector, in practice no collaborative project between undertakings will be launched if the Member States have not first agreed to support such projects. After having defined common defence capability priorities at Union-level and also taking into account where appropriate collaborative initiatives on a regional basis, Member States identify and consolidate *military* requirements and define the technical specifications of the project. *They may also appoint a project manager in charge of leading the work related to the development of a collaborative project.*

*Amendment*

(7) In view of the specificities of the sector, in practice no collaborative project between undertakings will be launched if the Member States have not first agreed to support such projects. After having defined common defence capability priorities *in the context of the Common Security and Defence Policy and in the Permanent Structured Cooperation* at Union-level and also taking into account where appropriate collaborative initiatives on a regional basis, Member States identify and consolidate *defence* requirements and define the technical specifications of the project.

## Amendment 7

### Proposal for a regulation

#### Recital 10

*Text proposed by the Commission*

(10) As the objective of the Programme is to support the competitiveness of the Union defence industry by *de-risking* the development phase of cooperative projects, actions related to the development of a defence product or technology, namely definition of common technical specifications, design, prototyping, testing, qualification, certification as well feasibility studies and other supporting measures, should be eligible to benefit from it. This *will* also apply to the *upgrade* of existing defence products and

*Amendment*

(10) As the objective of the Programme is to support the competitiveness *and integration* of the Union defence industry *and the Member State cooperation* by *bearing some of the risk of* the development phase of cooperative projects, actions related to the development of a defence product or technology, namely definition of common technical specifications *and standards*, design, prototyping, testing, qualification, certification as well feasibility studies and other supporting measures, should be eligible to benefit from it. This *should* also

technologies.

apply to the *substantial development* of existing defence products and technologies.

## Amendment 8

### Proposal for a regulation

#### Recital 11

*Text proposed by the Commission*

(11) Given that the Programme aims particularly at enhancing cooperation between undertakings across Member States, an action should be eligible for funding under the Programme only if it is undertaken by a cooperation of at least three undertakings based in at least *two* different Member States.

*Amendment*

(11) Given that the Programme aims particularly at enhancing cooperation between *public or private* undertakings across Member States, an action should be eligible for funding under the Programme only if it is undertaken by a cooperation of at least three undertakings based in at least *three* different Member States.

## Amendment 9

### Proposal for a regulation

#### Recital 12

*Text proposed by the Commission*

(12) Cross-border collaboration in the development of defence products and technologies has often been hampered by the difficulty to agree on common technical specifications. The absence or limited level of common technical specifications have led to increased complexity, delays and inflated costs in the development phase. The agreement on common technical specifications should be a condition in order to benefit from the Union's support under this Programme. Actions aiming at supporting the creation of a common definition of technical specifications should also be eligible for support under the Programme.

*Amendment*

(12) Cross-border collaboration in the development of defence products and technologies has often been hampered by the difficulty to agree on common technical specifications *or standards and promote interoperability*. The absence or limited level of common technical specifications *or standards* have led to increased complexity, delays and inflated costs in the development phase. The agreement on common technical specifications *or standards* should be a *primary* condition in order to benefit from the Union's support under this Programme. Actions aiming at supporting the creation of a common definition of technical specifications *or standards* should also be eligible for support under the Programme.

## Amendment 10

### Proposal for a regulation Recital 13

*Text proposed by the Commission*

(13) As the Programme aims at enhancing the competitiveness of the Union's defence industry, only entities established in the Union and ***effectively controlled by Member States or their nationals*** should be eligible for support. Additionally, in order to ensure the protection of essential security interests of the Union and its Member States, the infrastructure, facilities, assets ***and resources*** used by the beneficiaries and subcontractors in actions funded under the Programme, shall not be located on the territory of ***non-Member States***.

*Amendment*

(13) As the Programme aims at enhancing the ***efficient cooperation and*** competitiveness of the Union's defence industry ***and consolidating the Union's strategic defence autonomy***, only entities ***which are*** established in the Union and ***have their executive management structures there*** should be eligible for ***financial*** support. ***Undertakings located in third countries should be able to participate in the projects by cooperating with beneficiaries, where they are located in a third country identified in the work programme.*** Additionally, in order to ensure the protection of essential ***defence and*** security interests of the Union and its Member States, the infrastructure, facilities ***and*** assets used by the beneficiaries and subcontractors in actions funded under the Programme, ***should*** not be located on the territory of ***third countries. The beneficiaries and their subcontractors should not be subject to control by third countries or by third country entities, as control is understood, for example, in competition policy.***

## Amendment 11

### Proposal for a regulation Recital 14

*Text proposed by the Commission*

(14) Eligible actions developed in the context of Permanent Structured Cooperation in the institutional framework of the Union would ensure enhanced cooperation between undertakings in the different Member States on a continuous basis and thus ***directly*** contribute to the

*Amendment*

(14) Eligible actions developed in the context of ***the*** Permanent Structured Cooperation in the institutional framework of the Union would ensure enhanced cooperation between undertakings in the different Member States on a continuous basis and thus ***effectively*** contribute to the

aims of the Programme. Such projects should thus be eligible for an increased funding rate.

aims of the Programme. Such projects should thus be eligible for an increased funding rate.

## Amendment 12

### Proposal for a regulation

#### Recital 16

##### *Text proposed by the Commission*

(16) The promotion of innovation and technological development in the Union defence industry should take place in a manner coherent with the security interests of the Union. Accordingly, the action's contribution to those interests and to the defence capability priorities commonly agreed by Member States should serve as an award criterion. Within the Union, common defence capability priorities are identified notably through the Capability Development Plan. Other Union processes such as the Coordinated Annual Review on Defence (CARD) and the Permanent Structured Cooperation will support the implementation of relevant priorities through enhanced cooperation. Where appropriate regional or international cooperative initiatives, such as in the **NATO** context, and serving *the* Union security and defence *interest, may* also be taken into account.

##### *Amendment*

(16) The promotion of innovation and technological development in the Union defence industry should take place in a manner coherent with the security interests of the Union *and in compliance with international law*. Accordingly, the action's contribution to those interests and to the defence capability priorities commonly agreed by Member States should serve as an award criterion. Within the Union, common defence capability priorities are identified notably through the Capability Development Plan. *The European Defence Action Plan published by the Commission on 30 November 2016 highlighted the need to maximise synergies between the civil and military spheres, including in areas such as space policy, cyber security, cyber defence and maritime security*. Other Union processes such as the Coordinated Annual Review on Defence (CARD) and the Permanent Structured Cooperation will support the implementation of relevant priorities through enhanced cooperation. Where appropriate regional or international cooperative initiatives, such as *those undertaken* in the context *of NATO*, and serving Union security and defence *interests, should* also be taken into account.

## Amendment 13

### Proposal for a regulation

## Recital 18

### *Text proposed by the Commission*

(18) In order to ensure that the funded actions **will** contribute to the competitiveness of the European defence industry, they should be market-oriented and demand driven. Therefore, the fact that Member States have already committed to jointly produce **and** procure the final product or technology, possibly in a coordinated way, should be taken into account in the award criteria.

### *Amendment*

(18) In order to ensure that the funded actions contribute to the competitiveness **and efficiency** of the European defence industry, they should be market-oriented and demand driven. Therefore, the fact that Member States have already committed to jointly **develop**, produce **or** procure the final product or technology, possibly in a coordinated way, should be taken into account in the award criteria. ***In all cases, the requirements of Directive 2009/81/EC of the European Parliament and of the Council<sup>1a</sup> should be respected in full, including the transparency and non-discrimination principles, and exceptions should be allowed only within the strict framework of that Directive.***

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***<sup>1a</sup> Directive 2009/81/EC of the European Parliament and of the Council 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, p. 76).***

## Amendment 14

### Proposal for a regulation

#### Recital 19

### *Text proposed by the Commission*

(19) The financial assistance of the Union under the Programme should not exceed **20%** of the total eligible cost of the action when it relates to prototyping which is often the most costly action in the development phase. ***The totality*** of the eligible costs should however be covered for other actions in the development phase.

### *Amendment*

(19) The financial assistance of the Union under the Programme should not exceed **50%** of the total eligible cost of the action when it relates to prototyping which is often the most costly action in the development phase. ***Up to 75%*** of the eligible costs should however be covered ***by the Union*** for other actions in the

development phase *and 100% in relation to actions undertaken by SMEs.*

## Amendment 15

### Proposal for a regulation

#### Recital 19 a (new)

*Text proposed by the Commission*

*Amendment*

*(19a) One of the obstacles in making the European defence industry more competitive and market driven is that in some cases, Member states or competent authorities choose to obtain new defence products without an appropriate public procurement in order to conceal information about the obtained products, even in cases where there is little or no reason to do so. Consequently, this situation should also be analysed in the framework of the Programme and appropriate measures should be taken in order to make the European defence industry more competitive and market driven with no additional cost to the Programme.*

## Amendment 16

### Proposal for a regulation

#### Recital 21

*Text proposed by the Commission*

*Amendment*

(21) The Commission should establish a **multiannual** work programme in line with the objectives of the Programme. The Commission should be assisted in the establishment of the work programme by a committee of Member States (hereinafter referred to as Programme Committee). In light of the Union policy on Small and Medium Enterprises (SMEs) as key to ensuring economic growth, innovation, job creation, and social integration in the Union and the fact that the supported

(21) The Commission should establish a **biennial** work programme in line with the objectives of the Programme. The Commission should be assisted in the establishment of the work programme by a committee of Member States (hereinafter referred to as Programme Committee). In light of the Union policy on Small and Medium Enterprises (SMEs) as key to ensuring economic growth, innovation, job creation, and social integration in the Union and the fact that the supported

actions will typically require trans-national collaboration, it is of importance that the work programme will reflect and enable such cross-border participation of SMEs and that therefore a proportion of the overall budget will benefit such action.

actions will typically require trans-national collaboration, it is of importance that the work programme will reflect and enable such cross-border participation of SMEs and that therefore a proportion of the overall budget will benefit such action, *as SMEs are central to the European defence industrial base and the value chain. At the same time, they are the most vulnerable part of the defence supply chain to access fresh capital needed for new investments.*

## Amendment 17

### Proposal for a regulation

#### Recital 22

*Text proposed by the Commission*

(22) In order to benefit from its expertise in the defence sector, the European Defence Agency will be given the status of an observer in the *committee of Member States*. The European External Action Service should also assist *in* the *committee of Member States*.

*Amendment*

(22) In order to benefit from its expertise in the defence sector, the European Defence Agency will be given the status of an observer in the *Programme Committee*. The European External Action Service should also assist the *Programme Committee*.

## Amendment 18

### Proposal for a regulation

#### Recital 25

*Text proposed by the Commission*

(25) The Commission should draw up an implementation report at the end of the Programme, examining the financial activities in terms of financial implementation results and *where possible*, impact. This report should also analyse the *cross border* participation of SMEs in projects under the Programme as well as the participation of SMEs to the global value chain.

*Amendment*

(25) The Commission should draw up an implementation *and evaluation* report at the end *of each year* of the Programme, examining *and evaluating* the financial activities in terms of financial implementation results, impact. This report should also analyse the *cross-border* participation of SMEs in projects under the Programme as well as the participation of SMEs to the global value chain. *If the participation of SMEs is considered to be low, the Commission should examine the*

*reasons for this situation and should propose, without delay, adequate new measures for allowing SMEs to increase their participation.*

## **Amendment 19**

### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point a**

*Text proposed by the Commission*

(a) to foster the competitiveness and innovation capacity of the Union defence industry by supporting actions in their development phase;

*Amendment*

(a) to foster the competitiveness and innovation capacity of the Union defence industry by supporting ***cross-border*** actions in their development phase;

## **Amendment 20**

### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point b**

*Text proposed by the Commission*

(b) to support and leverage the cooperation between undertakings, including small and medium-sized enterprises, in the development of technologies or products in line with defence capability priorities commonly agreed by Member States within the Union;

*Amendment*

(b) to ***increase***, support and leverage the ***cross-border*** cooperation between ***Member States and*** undertakings ***with a view to supporting integrated actions in the single market for defence***, including ***the involvement of*** small and medium-sized enterprises, in the development of technologies or products in line with defence capability priorities commonly agreed by Member States within the Union, ***including the development of cyber defence capabilities and cybersecurity solutions for the defence industry, and in order to avoid duplication and promote interoperability and standardisation***;

## **Amendment 21**

### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point c**



*Text proposed by the Commission*

*Amendment*

(c) **To** foster better exploitation of the results of defence research and contribute to closing the gaps between research and development.

(c) **to** foster better exploitation of the results of defence research and contribute to closing the gaps between research and development ***in line with the defence capability priorities within the Union, as commonly agreed by Member States;***

## **Amendment 22**

### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

***(c a) to contribute to the Union’s strategic defence autonomy through the growing of an autonomous and consolidated European defence industry within the single market, with guaranteed security of supply;***

## **Amendment 23**

### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point c b (new)**

*Text proposed by the Commission*

*Amendment*

***(c b) to support the development and acquisition of new skills for workers in the defence sector.***

## **Amendment 24**

### **Proposal for a regulation**

#### **Article 3 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

The amount for the implementation of the Programme for the period 2019-2020 is set at EUR 500 million in current prices.

The amount for the implementation of the Programme for the period 2019-2020 is set at EUR 500 million in current prices, ***to be drawn from the unallocated margins***

*under the 2014-2020 multiannual financial framework ceilings, with particular recourse to the Global Margin for Commitments, the Global Margin for Payments and the Flexibility Instrument.*

## Amendment 25

### Proposal for a regulation

#### Article 6 – paragraph 1 – introductory part

*Text proposed by the Commission*

1. The Programme shall provide support for actions by beneficiaries in the development phase covering **both new and the upgrade** of existing products and technologies, in relation to:

*Amendment*

1. The Programme shall **identify and** provide support for actions by beneficiaries in the development phase covering new **products and technologies or the substantial development** of existing products and technologies, in relation to:

## Amendment 26

### Proposal for a regulation

#### Article 6 – paragraph 1 – point a

*Text proposed by the Commission*

(a) the design of a defence product, tangible or intangible component or technology as well as the technical specifications on which such design has been developed;

*Amendment*

(a) the design of a defence product, tangible or intangible component or technology as well as the technical specifications **or standards** on which such design has been developed;

## Amendment 27

### Proposal for a regulation

#### Article 6 – paragraph 2

*Text proposed by the Commission*

2. The action shall be undertaken in a cooperation of at least three undertakings which are established in at least **two** different Member States. The undertakings which are beneficiaries shall not effectively be controlled, directly or indirectly, by the

*Amendment*

2. The action shall be undertaken in a cooperation of at least three undertakings which are established in at least **three** different Member States. The undertakings which are beneficiaries, **and any of their subcontractors participating in the action,**

same entity or shall not control each other.

shall not effectively be controlled, directly or indirectly, by the same entity or shall not control each other.

## Amendment 28

### Proposal for a regulation Article 6 – paragraph 4

*Text proposed by the Commission*

4. When it relates to actions defined under point (b) to (f) of the first paragraph, the action **must** be based on common technical specifications.

*Amendment*

4. When it relates to actions defined under point (b) to (f) of the first paragraph, the action **shall** be based on common technical specifications **or standards that promote interoperability**.

## Amendment 29

### Proposal for a regulation Article 7 – paragraph 1

*Text proposed by the Commission*

1. Beneficiaries shall be undertakings established in the Union, **in which Member States and/or nationals of Member States own more than 50% of the undertaking and effectively control it within the meaning of Article 6(3), whether directly or indirectly through one or more intermediate undertakings. In addition**, all infrastructure, facilities, assets **and resources** used by the **participants**, including subcontractors and other third parties, **in** actions funded under the Programme shall **not** be located on the territory of **non-Member** States during the entire duration of the action.

*Amendment*

1. Beneficiaries **and their subcontractors** shall be **public or private** undertakings established in the Union **and their executive management structures shall be located in the Union**. All infrastructure, facilities, **and** assets used by the **beneficiaries**, including subcontractors and other third parties, **for the purposes of the** actions funded under the Programme shall be located on the territory of **the Member** States during the entire duration of the action.

**The beneficiaries and their subcontractors shall not be subject to control by third countries or by third country entities.**

## Amendment 30

### Proposal for a regulation Article 7 a (new)

*Text proposed by the Commission*

*Amendment*

#### *Article 7 a*

##### *Additional conditions for participation*

***1. Where appropriate and duly justified, the work programme may provide for additional conditions according to specific policy requirements or to the nature and objectives of the action, including conditions regarding the number and type of participants and their place of establishment.***

***2. Where appropriate, beneficiaries may cooperate with undertakings located in a third country identified in the work programme.***

***Cooperation referred to in the first subparagraph is subject to such undertakings having relevant expertise in the eligible action.***

***An undertaking controlled by a third country or by entities established in a third country may cooperate with beneficiaries of an action where the Member State in which the beneficiary is located provides sufficient assurances, in accordance with effective national procedures or contractual arrangements, to the effect that the participation of that undertaking in the action would not contravene the security and defence interests of the Union and its Member States as established in the framework of Common Foreign and Security Policy in accordance with Title V of the TEU.***

***For the purposes of subparagraphs 1 and 2 of paragraph 2, member countries of the NATO are always eligible.***

***3. Eligible actions shall be in line with the tasks referred to in Article 42(1) TEU for peace keeping, conflict prevention and***

*strengthening international security in accordance with the principles of the United Nations Charter.*

### **Amendment 31**

#### **Proposal for a regulation**

#### **Article 10 – paragraph 1 – point b**

*Text proposed by the Commission*

(b) contribution to the innovation and technological development of defence industries *and thus to fostering the industrial autonomy of the Union in the field of defence technologies; and,*

*Amendment*

(b) contribution to the innovation and technological development of defence industries *as well as contribution to the reinforcing of the single market for defence;*

### **Amendment 32**

#### **Proposal for a regulation**

#### **Article 10 – paragraph 1 – point c**

*Text proposed by the Commission*

(c) contribution to the *security and defence interests of the Union* by enhancing defence technologies which contribute to *implement* defence capability priorities commonly agreed by Member States within the Union; *and,*

*Amendment*

(c) contribution to the *Common Security and Defence Policy (CSDP)* by enhancing defence technologies which contribute to *the implementation of the* defence capability priorities commonly agreed by Member States within the Union, *and where appropriate at regional or international level;*

### **Amendment 33**

#### **Proposal for a regulation**

#### **Article 10 – paragraph 1 – point d**

*Text proposed by the Commission*

(d) viability notably via a demonstration by the beneficiaries that the remaining costs of the eligible action are covered by other means of financing such as Member States' contributions; *and*

*Amendment*

(d) viability notably via a demonstration by the beneficiaries that the remaining costs of the eligible action are covered by other means of financing such as Member States' contributions;

## Amendment 34

### Proposal for a regulation

#### Article 10 – paragraph 1 – point e

*Text proposed by the Commission*

(e) for actions described in points (b) to (e) of Article 6(1), the contribution to the competitiveness of the European defence industry through the demonstration by the beneficiaries that Member States have committed to jointly produce **and** procure the final product or technology in a coordinated way, including joint procurement where applicable.

*Amendment*

(e) for actions described in points (b) to (e) of Article 6(1), the contribution to the competitiveness of the European defence industry **and to the reinforcement of the European single market for defence** through the demonstration by the beneficiaries that Member States have committed to jointly **develop**, produce **or** procure the final product or technology in a coordinated way, including joint procurement where applicable **in accordance with Directive 2009/81/EC on defence and security procurement**;

## Amendment 35

### Proposal for a regulation

#### Article 10 – paragraph 1 – point e a (new)

*Text proposed by the Commission*

*Amendment*

**(ea) substantial involvement of SMEs, established in the Union that provide added value, whether as members of the consortium or as subcontractors, and in particular SMEs that are not established in the Member States in which the other undertakings in the consortium are established;**

## Amendment 36

### Proposal for a regulation

#### Article 10 – paragraph 1 – point e b (new)

*Text proposed by the Commission*

*Amendment*

**(eb) increased or new cross-border**

*cooperation.*

## **Amendment 37**

### **Proposal for a regulation Article 11 – paragraph 1**

*Text proposed by the Commission*

1. The financial assistance of the Union provided under the Programme *may* not exceed **20%** of the total cost of the action where it relates to prototyping. ***In all the other cases***, the assistance *may* cover up to the total cost of the action.

*Amendment*

1. The financial assistance of the Union provided under the Programme ***shall*** not exceed **50%** of the total cost of the action where it relates to prototyping ***as provided under point (b) of Article 6(1).*** ***For all other actions provided under points (a) and (c) to (eb) of Article 6(1), the assistance shall not exceed 75% of the total cost of the action and 100% in case these actions are undertaken by SMEs.***

## **Amendment 38**

### **Proposal for a regulation Article 11 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. If a consortium undertakes to allocate at least 10% of the total eligible cost of the actions to SMEs established in Member States other than those in which the undertakings forming part of the consortium are established, that consortium may benefit from a funding rate increased by an additional 10 percentage points.***

## **Amendment 39**

### **Proposal for a regulation Article 12 – paragraph 1**

*Text proposed by the Commission*

The Commission shall not own the products or technologies resulting from the

*Amendment*

The Commission shall not own the products or technologies resulting from the

action nor shall it have any IPR claim pertaining to the action.

action nor shall it have any IPR claim pertaining to the action. ***Technological products developed or manufactured with the help of this European fund may not be the subject of a transfer of technology or any intellectual property right for the benefit of a third State outside the European Union, or for the benefit of any economic actor that is not controlled by a Member State.***

#### **Amendment 40**

##### **Proposal for a regulation Article 13 – paragraph 1**

*Text proposed by the Commission*

1. The Commission, by means of an implementing act, shall adopt ***multiannual*** a work programme for the duration of the Programme. This implementing act shall be adopted in accordance with the examination procedure referred to in in Article 16(2). This work programme shall be in line with the objectives set out in Article 2;

*Amendment*

1. The Commission, by means of an implementing act, shall adopt ***a biennial*** work programme for the duration of the Programme. This implementing act shall be adopted in accordance with the examination procedure referred to in in Article 16(2).

#### **Amendment 41**

##### **Proposal for a regulation Article 13 – paragraph 2**

*Text proposed by the Commission*

2. The work programme shall set out in detail the categories of projects to be funded under the Programme;

*Amendment*

2. The work programme shall set out in detail the categories of projects to be funded under the Programme ***and their direct relation to the objectives set out in Article 2.***

#### **Amendment 42**

##### **Proposal for a regulation Article 13 – paragraph 3**



*Text proposed by the Commission*

3. The work programme shall ensure that a credible proportion of the overall budget will benefit actions enabling the cross-border participation of SMEs.

*Amendment*

3. The work programme shall ensure that a credible proportion of the overall budget will benefit actions enabling the cross-border participation of SMEs, ***possibly on the basis of a specific project category focusing on SMEs cross-border participation;***

#### **Amendment 43**

##### **Proposal for a regulation**

##### **Article 13 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. The work programme shall identify any third countries where the undertakings cooperating with the beneficiaries may be located for the purposes of Article 7a.***

#### **Amendment 44**

##### **Proposal for a regulation**

##### **Article 17 – title**

*Text proposed by the Commission*

*Amendment*

Monitoring and reporting

Monitoring, ***evaluation*** and reporting

#### **Amendment 45**

##### **Proposal for a regulation**

##### **Article 17 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. The Commission shall regularly monitor the implementation of the programme and annually report on the progress made in accordance with Article 38(3)(e) of Regulation 966/2012. To this end, the Commission shall put in place

1. The Commission shall regularly monitor ***and evaluate*** the implementation of the programme and annually report on the progress made in accordance with Article 38(3)(e) of Regulation 966/2012. To this end, the Commission shall put in

necessary monitoring arrangements.

place necessary monitoring arrangements.

## Amendment 46

### Proposal for a regulation Article 17 – paragraph 2

#### *Text proposed by the Commission*

2. To support greater efficiency and effectiveness of future Union policy actions, the Commission shall draw up **a retrospective** evaluation report and send it to the European Parliament and to the Council. The report - building on relevant consultations of Member States and key stakeholders - shall notably assess the progress made towards the achievement of objectives set out in Article 2. It shall also analyse **cross border participation of SMEs in projects implemented under the programme as well as** the participation of SMEs **to** the global value chain.

#### *Amendment*

2. To support greater efficiency and effectiveness of future Union policy actions, the Commission shall draw up **annual** evaluation reports and send **them** to the European Parliament and to the Council. The reports - building on relevant consultations of Member States and key stakeholders - shall, **in particular**, assess the progress made towards the achievement of objectives set out in Article 2, **while examining the efficiency and effectiveness of the supported actions in terms of financial implementation, results, costs and, where possible, impacts**. They shall also analyse **the different award criteria as set out in Article 10 and provide relevant data, including information on** the participation of SMEs **and small mid-cap companies in the implemented projects and in** the global value chain.

***The reports shall also include information on the distribution of the intellectual property rights generated.***

## PROCEDURE – COMMITTEE ASKED FOR OPINION

<b>Title</b>	Establishing the European Defence Industrial Development Programme aiming at supporting the competitiveness and innovative capacity of the EU defence industry
<b>References</b>	COM(2017)0294 – C8-0180/2017 – 2017/0125(COD)
<b>Committee responsible</b> Date announced in plenary	ITRE 15.6.2017
<b>Opinion by</b> Date announced in plenary	IMCO 15.6.2017
<b>Rapporteur</b> Date appointed	Anneleen Van Bossuyt 12.7.2017
<b>Discussed in committee</b>	21.11.2017      4.12.2017
<b>Date adopted</b>	23.1.2018
<b>Result of final vote</b>	+:                    28 -:                    8 0:                    0
<b>Members present for the final vote</b>	Pascal Arimont, Dita Charanzová, Carlos Coelho, Anna Maria Corazza Bildt, Daniel Dalton, Nicola Danti, Maria Grapini, Sergio Gutiérrez Prieto, Robert Jarosław Iwaszkiewicz, Liisa Jaakonsaari, Philippe Juvin, Antonio López-Istúriz White, Morten Løkkegaard, Eva Maydell, Marlene Mizzi, Nosheena Mobarik, Virginie Rozière, Christel Schaldemose, Andreas Schwab, Olga Sehnalová, Jasenko Selimovic, Igor Šoltes, Ivan Štefanec, Catherine Stihler, Mylène Troszczynski, Mihai Țurcanu, Anneleen Van Bossuyt, Marco Zullo
<b>Substitutes present for the final vote</b>	Jan Philipp Albrecht, Edward Czesak, Roberta Metsola, Dariusz Rosati, Adam Szejnfeld, Josef Weidenholzer, Kerstin Westphal
<b>Substitutes under Rule 200(2) present for the final vote</b>	Tim Aker

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

28	+
ALDE	Dita Charanzová, Morten Løkkegaard, Jasenko Selimovic
EFDD	Marco Zullo
PPE	Pascal Arimont, Carlos Coelho, Anna Maria Corazza Bildt, Philippe Juvin, Javi López, Eva Maydell, Roberta Metsola, Dariusz Rosati, Andreas Schwab, Ivan Štefanec, Adam Szejnfeld, Mihai Țurcanu
S&D	Nicola Danti, Maria Grapini, Sergio Gutiérrez Prieto, Liisa Jaakonsaari, Marlene Mizzi, Virginie Rozière, Christel Schaldemose, Olga Sehnalová, Catherine Stihler, Josef Weidenholzer
Verts/ALE	Jan Philipp Albrecht, Igor Šoltés

8	-
ECR	Edward Czesak, Daniel Dalton, Nosheena Mobarik, Anneleen Van Bossuyt
EFDD	Tim Aker, Robert Jarosław Iwaszkiewicz
ENF	Mylène Troszczynski
S&D	Kerstin Westphal

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention

## PROCEDURE – COMMITTEE RESPONSIBLE

<b>Title</b>	Establishing the European Defence Industrial Development Programme aiming at supporting the competitiveness and innovative capacity of the EU defence industry		
<b>References</b>	COM(2017)0294 – C8-0180/2017 – 2017/0125(COD)		
<b>Date submitted to Parliament</b>	7.6.2017		
<b>Committee responsible</b> Date announced in plenary	ITRE 15.6.2017		
<b>Committees asked for opinions</b> Date announced in plenary	AFET 15.6.2017	BUDG 15.6.2017	IMCO 15.6.2017
<b>Associated committees</b> Date announced in plenary	AFET 5.10.2017	BUDG 5.10.2017	
<b>Rapporteurs</b> Date appointed	Françoise Grossetête 6.7.2017		
<b>Discussed in committee</b>	27.11.2017	11.1.2018	
<b>Date adopted</b>	21.2.2018		
<b>Result of final vote</b>	+: -: 0:	49 12 2	
<b>Members present for the final vote</b>	Zigmantas Balčytis, Bendt Bendtsen, Xabier Benito Ziluaga, José Blanco López, Jonathan Bullock, Cristian-Silviu Buşoi, Reinhard Bütikofer, Jerzy Buzek, Angelo Ciocca, Edward Czesak, Jakop Dalunde, Pilar del Castillo Vera, Christian Ehler, Fredrick Federley, Ashley Fox, Adam Gierek, Theresa Griffin, András Gyürk, Hans-Olaf Henkel, Eva Kaili, Barbara Kappel, Krišjānis Kariņš, Jeppe Kofod, Peter Kouroumbashev, Zdzisław Krasnodębski, Miapetra Kumpula-Natri, Christelle Lechevalier, Janusz Lewandowski, Paloma López Bermejo, Edouard Martin, Nadine Morano, Dan Nica, Angelika Niebler, Morten Helveg Petersen, Miroslav Poche, Paul Rübig, Massimiliano Salini, Algirdas Saudargas, Sven Schulze, Neoklis Sylikiotis, Dario Tamburrano, Patrizia Toia, Evžen Tošenovský, Claude Turmes, Vladimir Urutchev, Kathleen Van Brempt, Henna Virkkunen, Martina Werner, Lieve Wierinck, Hermann Winkler, Anna Záborská, Flavio Zanonato, Carlos Zorrinho		
<b>Substitutes present for the final vote</b>	Cornelia Ernst, Gerben-Jan Gerbrandy, Françoise Grossetête, Janusz Korwin-Mikke, Werner Langen, Florent Marcellesi, Dominique Riquet, Davor Škrlec		
<b>Substitutes under Rule 200(2) present for the final vote</b>	Jan Keller, Stanisław Ożóg		
<b>Date tabled</b>	26.2.2018		

## FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

49	+
ALDE	Fredrick Federley, Gerben-Jan Gerbrandy, Morten Helveg Petersen, Dominique Riquet, Lieve Wierinck
ECR	Edward Czesak, Ashley Fox, Hans-Olaf Henkel, Zdzisław Krasnodębski, Stanisław Ożóg, Evžen Tošenovský
EFDD	Dario Tamburrano
ENF	Angelo Ciocca, Barbara Kappel
PPE	Bendt Bendtsen, Cristian-Silviu Buşoi, Jerzy Buzek, Pilar del Castillo Vera, Christian Ehler, Françoise Grossetête, András Gyürk, Krišjānis Kariņš, Werner Langen, Janusz Lewandowski, Nadine Morano, Angelika Niebler, Paul Rübig, Massimiliano Salini, Algirdas Saudargas, Sven Schulze, Vladimir Urutchev, Henna Virkkunen, Hermann Winkler, Anna Záborská
S&D	Zigmantas Balčytis, José Blanco López, Adam Gierek, Theresa Griffin, Eva Kaili, Jan Keller, Jeppe Kofod, Peter Kouroumbashev, Miapetra Kumpula-Natri, Edouard Martin, Dan Nica, Miroslav Poche, Kathleen Van Brempt, Flavio Zanonato, Carlos Zorrinho

12	-
EFDD	Jonathan Bullock
GUE/NGL	Xabier Benito Ziluaga, Cornelia Ernst, Paloma López Bermejo, Neoklis Sylikiotis
NI	Janusz Korwin-Mikke
S&D	Martina Werner
VERTS/ALE	Reinhard Bütikofer, Jakop Dalunde, Florent Marcellesi, Davor Škrlec, Claude Turmes

2	0
ENF	Christelle Lechevalier
S&D	Patrizia Toia

Key to symbols:

+ : in favour

- : against

0 : abstention