

#	COMMISSION PROPOSAL 2017/0125 (COD) doc. 10589/17 + COR 1 + ADD 1	EP Final Report (A8-0037/2018)	Council General Approach doc. 15536/17	Remarks, Presidency assessment and compromise suggestions
1.	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	Commission proposal unchanged	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 innovation innovative capacity of the <i>Union's</i> EU defence industry	
2.	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 ⁽¹⁾ , Having regard to the opinion of the Committee of the Regions ⁽²⁾ ,	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 ⁽¹⁾ , Having regard to the opinion of the Committee of the Regions ⁽²⁾ ,	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 ⁽¹⁾ , Having regard to the opinion of the Committee of the Regions⁽²⁾,	
3.		AM 42, 43 & 44 respectively		
4.	Acting in accordance with the ordinary legislative procedure, Whereas: ⁽¹⁾ OJ C [...], [...], p. [...]. ⁽²⁾ OJ C [...], [...], p. [...].	<i>Having regard to the Chemical Weapons Convention (CWC) of 3 September 1992,</i> <i>Having regard to the Biological Weapons Convention (BWC) of 10 April 1972,</i> <i>Having regard to Council Regulation</i>	Acting in accordance with the ordinary legislative procedure, Whereas: ⁽¹⁾ OJ C [...], [...], p. [...]. ⁽²⁾ OJ C [...], [...], p. [...].	

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		<p><i>(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⁽³⁾,</i> Acting in accordance with the ordinary legislative procedure, Whereas:</p> <p>⁽¹⁾ OJ C [...], [...], p. [...]. ⁽²⁾ OJ C [...], [...], p. [...]. ⁽³⁾ <i>OJ L 200, 30.7.2005, p. 1.</i></p>		
5.		Recital 1 CA 12		
6.	<p>(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.</p>	<p>(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 and efficient European 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</p>	<p>(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, and to incentivise joint procurement and maintenance. The Fund would support cooperation during the whole cycle of defence product and technology development, thus fostering synergies and cost effectiveness. The objective is to deliver capabilities, ensure a</p>	

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		<p><i>purpose and should act as an incentive for Member States to cooperate and invest more in defence.</i></p> <p>The Fund would support cooperation during the whole cycle of defence product and technology development.</p>	<p>competitive, innovative and balanced basis for Europe's defence industry across the Union, including by cross border cooperation and participation of small and medium-sized enterprises (SMEs)⁽²⁾, and to contribute to greater European defence cooperation, by exploiting synergies and mobilising Union support in addition to Member States' financing.</p> <p>⁽²⁾ Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (Official Journal L 124, 20/05/2003 p. 0036 – 0041.</p>	
7.		<p><i>Recital 1a new</i></p> <p><i>AM 3 AFET</i></p>		
8.		<p><i>(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⁽⁴⁾.</i></p> <p><i>⁽⁴⁾ 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</i></p>		

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		<i>by contracting authorities or entities in the fields of defence and security (OJ L 216, 20.8.2009, p. 76).</i>		
9.		<i>Recital 2 CA 13</i>		
10.	(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	(2) In order to contribute to the enhancement of the competitiveness, and 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 the 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	(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 Member States and undertakings, including research centres and universities , 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	

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	it does not cover the production of defence products and technologies.	innovation, <i>as, beyond the results in the defence sector, positive effects can also be expected in the civilian sector.</i> 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.	accordance with Article 182 TFEU and it does not cover the production or the procurement of defence products and technologies.	
11.			Recital 2a new	
12.			(2a) Undertakings should be understood as entities engaged in an economic activity regardless of their legal status and the way in which they are financed. For the purpose of this Regulation, an undertaking is established in the Member State in which it is incorporated, in accordance with the national law of that Member State.	<i>Corresponds to recital 3 in doc. 15536/17</i>
13.		Recital 3 CA 14		
14.	(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.	(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, <i>thereby promoting the standardisation of defence systems while improving their interoperability.</i> <i>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.</i>	(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. To achieve more innovative solutions and an open internal market, the Programme supports the cross-border participation of SMEs.	

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15.		<i>Recital 4</i>		
16.	(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.	Commission proposal unchanged	Commission proposal unchanged	
17.		<i>Recital 4a new CA 14a</i>		
18.		<p><i>(4a) 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⁽⁵⁾ 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.</i></p> <p>⁽⁵⁾ Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for</p>		

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		<i>the years 2014-2020 (OJ L 347, 20.12.2013, p. 884)</i>		
19.			Recital 4a new	
20.			<p>(4a) This Regulation lays down a financial envelope for the entire duration of the Programme, which is to constitute the prime reference amount, within the meaning of point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management⁽³⁾, for the European Parliament and the Council during the annual budgetary procedure.</p> <p>⁽³⁾ OJ C 373, 20.12.2013, p. 1.</p>	<i>Corresponds to recital 6 in doc. 15536/17</i>
21.			Recital 4b new	
22.			<p>(4b) Without prejudice to the powers of the Budgetary Authority, the overall budget for the implementation of the Programme should be exclusively made available through redeployments under Sub-heading 1a (Competiveness for growth and jobs) of the Multiannual Financial Framework 2014-2020.</p>	<i>Corresponds to recital 7 in doc. 15536/17</i>
23.		<i>Recital 5 CA 15</i>		
24.	(5) The Programme should be implemented in full compliance with	(5) The Programme should be implemented in full compliance with	(5) The Programme should be implemented in full compliance with	

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	<p>Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council⁽³⁾. Funding may take in particular the form of grants. Financial instruments or public procurement may be used where appropriate.</p> <p>⁽³⁾ 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).</p>	<p>Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council⁽⁶⁾. Funding may take in particular the form of grants. Financial instruments or public procurement may be used where appropriate, <i>taking into account blending mechanisms</i>.</p> <p>⁽⁶⁾ 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).</p>	<p>Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council⁽⁴⁾. 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. The Commission will start the preparatory work, assessment and relevant proposals as soon as possible. or public procurement may be used where appropriate.</p> <p>⁽⁴⁾ 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).</p>	
25.		Recital 6 CA 16		
26.	<p>(6) The Commission may entrust part of the implementation of the programme to entities referred to in Article 58(1)(c) of Regulation (EU, Euratom) N°966/2012. In view of its expertise, the Commission may entrust the European Defence Agency with such a role.</p>	<p>(6) The Commission <i>should be responsible for</i> the implementation of the programme <i>under</i> Article 58(1) (a) of Regulation (EU, Euratom) No966/2012. In view of its expertise, the Commission may entrust the European Defence Agency with such a role.</p>	<p>(6) The Commission may entrust part of the implementation of the programme to entities referred to in Article 58(1) (c) of Regulation (EU, Euratom) No° 966/2012. In view of its expertise, the Commission may entrust the European Defence Agency with such a role.</p>	

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27.		<i>Recital 7 CA 17</i>		
28.	(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.	(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 <i>particularly in the context of the Capability Development Plan of the Common Security and Defence Policy</i> and also taking into account where appropriate collaborative initiatives on a regional basis, Member States identify and consolidate <i>defence</i> requirements and define the technical specifications of the project. They <i>should</i> also appoint a project manager in charge of leading the work related to the development of a collaborative project. <i>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.</i>	(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 through the Capability Development Plan , also taking into account the Coordinated Annual Review on Defence, and with a view to fulfilling the EU'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 , 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.	
29.		<i>Recital 8</i>		
30.	(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	Merged with recital 7	(8) In case an action supported by the Programme is managed by a project manager, including an international project management organisation such as the Organisation for Joint	

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	payment to the beneficiary of the eligible action so that the project manager can ensure that the time-frames are respected by the beneficiaries.		Armament Cooperation , appointed by Member States, the Commission should consult 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.	
31.		<i>Recital 9 CA 18</i>		
32.	(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.	(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, <i>laid down in Council Common Position 944/2008/CFSP</i> ⁽⁷⁾ . <i>⁽⁷⁾ 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).</i>	(9) The Union financial support should not affect the transfer of defence-related products within the Union in accordance with Directive 2009/43/CE of the European Parliament and of the Council ⁽⁵⁾ , nor the export of products, equipment or technologies, and it should also not affect the discretion of Member States regarding policy on the transfer within the Union and the export of defence related products. The Union financial support should not affect Member States' export policies on defence related products. ⁽⁵⁾ 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).	

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33.		<i>Recital 10 CA 19</i>		
34.	(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.	(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 .	(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 as feasibility studies, life-cycle management efficiency and other supporting measures, should be eligible to benefit from it. This will also apply to the upgrade of existing defence products and technologies.	
35.		<i>Recital 11 CA 20</i>		
36.	(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.	(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.	(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. This experience will be used to assess the possibility of increasing the minimum number of Member States in the context of any future programme.	

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37.		Recital 12 AM 9 IMCO & AM 114		
38.	(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.	(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.	(12) Cross-border collaboration between undertakings based in different Member States 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 for actions involving a higher level of technological readiness. Feasibility studies and Actions aiming at supporting the creation of a common definition of technical specifications should also be eligible for support under the Programme.	
39.		Recital 13 CA 21		
40.	(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,	(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	(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,	

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	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.	<p><i>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.</i></p> <p>Additionally, in order to ensure the protection of essential <i>defence and</i> security interests of the Union and its Member States, the infrastructure, facilities, assets and resources used by the beneficiaries and subcontractors in</p>	<p>the infrastructure, facilities, assets and resources used by the beneficiaries and subcontractors in actions funded under the Programme, should shall not be located on the territory of third countries non-Member States.</p> <p>Subcontractors should be understood within the meaning of Article 101(1)(n) of Regulation (EU, Euratom) No 966/2012, as amended by Regulation (EU, Euratom) 2015/1929 of the European Parliament and of the Council of 28 October 2015.</p>	

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		actions funded under the Programme, shall not be located on the territory of non-Member States. <i>Material, non-material and human resources should be free to use and free of restrictions vis-à-vis third countries.</i>		
41.			Recital 13a new	
42.			(13a) The beneficiaries and their subcontractors should in principle not be subject to control by third countries or third country entities. However, for particular cases where undertakings located in the Union are controlled by a third country or a third country entity, such undertakings can be eligible if the Member State in which they are located provides sufficient assurances that this would not contravene the security and defence interests of the Union and its Member States as established in the framework of the Common Foreign and Security Policy in accordance with Title V of the Treaty on European Union, including in terms of strengthening the European Defence Technological and Industrial Base. For the purpose of this Regulation only, a third country entity should mean a legal entity established outside the Union or having its executive management structures outside the Union or a legal entity which is under the	Corresponds to recital 17 in doc. 15536/17

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			control of a third country, a national of a third country or of another such third country entity. The control should be defined as the ability to exercise a decisive influence on an undertaking. Beneficiaries should provide before the signature of the funding agreement all relevant information about elements and infrastructure to be used in the action. Member States' concerns regarding security of supply should also be taken into account.	
43.		<i>Recital 14 AM 142</i>		
44.	(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.	(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, <i>and especially projects with considerable participation of SMEs and mid-caps, and in particular cross-border SMEs,</i> should thus be eligible for an increased funding rate.	(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. Eligible actions developed with a considerable participation of SMEs and middle capitalisation companies (Mid-caps), and in particular cross-border SMEs, that support the opening up of the supply chains, directly contribute to the aims of the programme. Such projects should thus be eligible for an increased	

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			funding rate, including to compensate for increased risk and administrative burden. Eligible actions with any SMEs established in Member States other than those where the undertakings in the consortium which are not SMEs are established can benefit from a higher funding rate.	
45.		<i>Recital 14a new AM 144</i>		
46.		<i>(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.</i>		
47.		<i>Recital 15 AM 6 BUDG</i>		
48.	(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.	(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.	(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 the form of a grant, the consortium should appoint one of its members as a coordinator who will be the principle principal point of contact with the Commission.	
49.		<i>Recital 16 CA 22</i>		
50.	(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.	(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	(16) The promotion of innovation and technological development in the Union defence industry should take place in a manner consistent coherent with the security interests of the Union.	

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	<p>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.</p>	<p><i>Union's defence industry and contribute to strengthening its technological and industrial independence. It should also</i> 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. <i>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.</i> 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</p>	<p>Accordingly, the action's contribution to those interests and to the defence capability priorities commonly agreed by Member States within the framework of the Common Foreign and Security Policy 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 (PESCO) will support the implementation of relevant priorities through enhanced cooperation. Where appropriate, regional or and international actions, cooperative initiatives, and priorities, including those such as in the NATO context, and serving when they serve the Union's security and defence interests and taking into account that unnecessary duplication should be avoided, may also be taken into account whenever they do not exclude the possibility of participation of any EU Member State.</p>	

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		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, <i>on condition that they serve the Union security and defence interest and do not prevent any Member State from participating.</i>		
51.		Recital 16a new CA 22a		
52.		<i>(16a) 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.</i>		
53.		Recital 17 AM 8 Rapporteur		
54.	(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.	(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 <i>and should be established in writing.</i>	(17) In order to ensure that the funded actions are viable, the the Member States' commitment to effectively contribute to the financing of the action should be an award criterion for such actions: demonstrated e.g. by a letter of	

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			intent by these Member States, in order to ensure that the funded actions are viable.	
55.		<i>Recital 18</i> <i>AM 163 (=AM 8 BUDG) & AM 17</i> <i>AFET & AM 9 Rapporteur</i>		
56.	(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.	(18) In order to ensure that the funded actions will contribute to the competitiveness <i>and efficiency</i> of the European defence industry, they should be market-oriented and demand driven, <i>including for dual-use technologies, with a view to consolidating European defence demand.</i> 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.	(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 and commercially viable in the medium to long term. Therefore, the fact that Member States have already committed intend to jointly produce and procure the final product or use the technology, possibly in a coordinated way, should be taken into account in the award eligibility criteria. In order to support an open internal market, a credible participation of cross-border SMEs, either as members of consortia or as subcontractors, should also be taken into account.	
57.		<i>Recital 19</i>		
58.	(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.	Commission proposal unchanged	(19) The financial assistance of the Union under the Programme should not exceed 20% of the total eligible cost of the action, within the meaning of Article 126 of Regulation (EU, Euratom) No 966/2012, when where it relates to system prototyping which is often the most costly action in the development phase. The totality of the eligible costs could should however be	

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			covered for other actions in the development phase.	
59.		Recital 20 CA 23		
60.	(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 <i>Union</i> 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. <i>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.</i>	(20) As the Union support aims at enhancing the competitiveness of the sector and concerns only the specific development phase, it 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. Interested Member States should have the possibility to participate in follow-up cooperative procurement.	
61.		Recital 21 CA 24	Combined recitals 21, 21a and 21b	
62.	(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	(21) <i>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</i>	(21) The Commission should establish a multiannual work programme in line with the objectives of the Programme. With a view to ensuring the effective distribution of funding, the work programme should set out the categories of projects to be funded under the Programme, the type of financing and the allocated budget, and the desired categories of eligible actions, including where appropriate the evaluation methodology including weightings and minimum thresholds	<i>Correspond to recitals 25, 26 and 27 in doc. 15536/17</i>

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	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.	<p><i>accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making⁽⁸⁾. 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.</i> 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.</p> <p>⁽⁸⁾ OJ L 123, 12.5.2016, p. 1</p>	<p>for the fulfillment of the award criteria.</p> <p>(21a) The Commission should be assisted in the establishment of the work programme by a committee of Member States (hereinafter referred to as Programme €"committee"). The Commission should endeavour to find solutions which command the widest possible support within the committee. In this context, the committee may meet in the format of national defence experts to provide specific assistance to the Commission. It is for the Member States to designate their representatives to this committee.</p> <p>(21b) 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 open, fair and transparent cross-border access and participation of SMEs, and that therefore a proportion of the overall budget will benefit such actions.</p>	
63.		Recital 21a new		

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		AM 187		
64.		<i>(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.</i>		
65.		Recital 21b new AM 188	Recital 21 c new	
66.		<i>(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.</i>	(21c) 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, to ensure the success of the Programme.	<i>Recital 21c CGA (recital 29 in doc. 15536/17) corresponds to recital 21b EP</i>
67.		Recital 22		
68.	(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.	Commission proposal unchanged	(22) In order to benefit from its expertise in the defence sector, and in accordance with the competences attributed to it by the Treaty on European Union , the European Defence Agency will be given the status of an should be invited as observer in the committee of Member	

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			States. The European External Action Service should also assist in be invited to attend the committee of Member States.	
69.		<i>Recital 22a new AM 12 BUDG</i>		
70.		<i>(22a) Observer status should be accorded to the European Parliament in the committee of Member States.</i>		
71.		<i>Recital 23 CA 25</i>		
72.	(23) For the selection of actions to be funded by the Programme, the Commission or the entities referred to in Article 58(1)(c) of Regulation N°966/2012 should organise competitive calls as provided for by Regulation No 966/2012. After evaluation of the received proposals with the help of independent experts, the Commission will select the actions to be funded under the Programme. 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 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 ⁽⁴⁾ .	(23) For the selection of actions to be funded by the Programme, the Commission or the entities referred to in Article 58(1)(c) of Regulation N°966/2012 should organise competitive calls <i>for proposals</i> as provided for by Regulation No 966/2012. After evaluation of the received proposals with the help of independent experts, <i>who should be selected on the basis of a transparent process</i> , the Commission will select the actions to be funded under the Programme. <i>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.</i> In order to ensure uniform conditions for the implementation of this Regulation implementing powers should be conferred on the Commission	(23) As a general rule , For the selection of actions to be funded by the Programme, the Commission or the entities referred to in Article 58(1)(c) of Regulation (EU, Euratom) No ² 966/2012 should organise competitive calls as provided for by that Regulation No 966/2012, and ensure that the administrative procedures are kept as simple as possible and incur a minimum amount of additional expenses. However, in certain duly justified and exceptional circumstances, Union funding may also be granted in accordance with Article 190 of Commission Delegated Regulation (EU) No 1268/12⁽⁶⁾. (23a) After evaluation of the received proposals with the help of independent experts validated upon request by Member States , the Commission will select the actions to be funded under the Programme. In	<i>Recital 23a CGA (recital 30 in doc. 15536/17) is a continuation of recital 23 COM</i>

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	<p>(⁴) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers</p>	<p>as regards the adoption and the implementation of the 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.</p>	<p>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 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(⁷). Member States should be informed of the evaluation results and progress in the funded actions.</p> <p>(⁶) 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).</p> <p>(⁷) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).</p>	
73.		<i>Recital 24</i>		

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74.	(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.	Commission proposal unchanged	(24) The examination procedure should be used for the adoption of the above-mentioned those implementing acts taking into account their substantial implications for the implementation of the basic act this Regulation .	
75.		Recital 25 CA 26		
76.	(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.	(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. <i>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.</i>	(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 to the global value chain.	
77.		Recital 25a new		

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		AM 206		
78.		<i>(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.</i>		
79.		Recital 25b new AM 22 AFET		
80.		<i>(25b) 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.</i>		
81.		Article 1		
82.	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.	Commission proposal unchanged	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.	
83.		Article 2 CA 1		
84.	Objectives The Programme shall have the following objectives:	Objectives The Programme shall have the following objectives:	Objectives The Programme shall have the following objectives:	
85.	(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, efficiency and innovation capacity of the Union defence industry throughout the Union, which contributes to the	(a) to foster the competitiveness and innovation capacity of the Union defence industry throughout the Union which contributes to	

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		<i>Union's strategic autonomy</i> , by supporting actions <i>carried out in the Union</i> in their development phase;	European strategic autonomy by supporting actions in their development phase;	
86.	(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;	(b) to support and leverage the cooperation between <i>Member States and cooperation, including across borders, between</i> undertakings, including small and medium-sized enterprises <i>and mid-caps</i> , in the development of technologies or products in line with defence capability priorities commonly agreed by Member States within the Union, <i>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</i> ;	(b) to support and leverage the cooperation collaboration between Member States and cross-border cooperation between undertakings throughout the Union , including SMEs and Mid-caps small and medium-sized enterprises , in the development of technologies or products in line consistent with defence capability priorities commonly agreed by Member States within the Union framework of the Common Foreign and Security Policy , while improving the agility of supply chains. Where appropriate, regional and international actions, initiatives and priorities, including those in the NATO context, when they serve the Union's security and defence interests as determined under the Common Foreign and Security Policy and taking into account the need to avoid unnecessary duplication, may also be taken into account in this regard whenever they do not exclude the possibility of participation of any Member State;	
87.	(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, <i>thereby supporting the competitiveness of the Union defence industry on the</i>	(c) To foster better exploitation of the results of defence research and contribute to closing the gaps between research and development after the research phase and thus, to support the competitiveness of the European	

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		<i>internal market and the global marketplace, including by consolidation where appropriate;</i>	defence industry on the internal market and the global marketplace, including by consolidation, where appropriate.	
88.		<i>(ca) to promote the standardisation of defence systems and their interoperability, allowing the Member States to benefit from substantial economies of scale.</i>		
89.		<i>For the purposes of this Regulation, “mid-caps”, as referred to in point (b), means undertakings that are not SMEs and that employ 3000 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 the Commission Recommendation 2003/361/EC⁽⁹⁾</i> <i>⁽⁹⁾ 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).</i>		
90.		Article 3 CA 2		
91.	Budget The amount for the implementation of the Programme for the period 2019- 2020 is set at EUR 500 million in current prices.	Budget The amount for the implementation of the Programme for the period 2019- 2020 is set at EUR 500 million in current prices, <i>to be drawn exclusively from the unallocated margins under the 2014-2020 multiannual financial framework (MFF) ceilings and/or</i>	Budget The financial envelope amount for the implementation of the Programme for the period from 1 January 2019 to 31 December 2020 is set at shall be EUR 500 million in current prices.	

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		<i>through the mobilisation of the relevant MFF special instruments.</i>		
92.		Article 4 CA 3		
93.	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, and in particular: (a) grants; (b) financial instruments; (c) public procurement.	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, and in particular <i>grants</i> and, in <i>appropriate cases, financial instruments and public procurement, including through blending mechanisms.</i> (a) grants; (b) financial instruments; (c) public procurement.	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, and in particular grants and in exceptional circumstances public procurement.; (a) grants; (b) financial instruments; (c) public procurement.	
94.	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.	Commission proposal unchanged	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.	
95.	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.	3. The Union's financial assistance shall be implemented by the Commission as provided for <i>in Article 58(1)(a) of</i> 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.	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.	

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96.	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.	4. <i>Member States shall appoint</i> a project manager is appointed by Member States . The Commission shall <i>consult the project manager on the progress achieved in connection with the action before executing the</i> payment to the eligible beneficiaries after informing the project manager.	4. In case a project manager is appointed by Member States, the Commission shall consult the project manager on progress in the project before executing the payment to the eligible beneficiaries after informing the project manager .	
97.		<i>Article 5</i>		
98.	Types of financial instruments 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.	Commission proposal unchanged	Deleted	
99.	2. The following types of financial instruments may be used: (a) Equity or quasi-equity investments; (b) Loans or guarantees; (c) Risk sharing instruments.	Commission proposal unchanged	Deleted	
100.		<i>Article 6 CA 4</i>		
101.	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, in relation to:	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 <i>developed in the Union</i> , in relation to:	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, in relation to An eligible action may relate to one or more of the following items:	
102.			(aa) studies such as feasibility studies and other accompanying measures;	

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103.	(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;	Commission proposal unchanged	(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;	
104.	(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;	Commission proposal unchanged	(b) the system prototyping of a defence product, tangible or intangible component or technology. A system prototype is a model of a product or technology that can demonstrate the element's performance in an operational environment;	
105.	(c) the testing of a defence product, tangible or intangible component or technology;	Commission proposal unchanged	(c) the testing of a defence product, tangible or intangible component or technology;	
106.	(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;	Commission proposal unchanged	(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 defence product, tangible or intangible /component or /technology meets the specified requirements. This process provides objective evidence by which particular requirements of a design are demonstrated to have been achieved;	
107.	(e) the certification of a defence product or technology. Certification is the process according to which a national authority certifies that the	Commission proposal unchanged	(e) the certification of a defence product product, tangible or intangible component or technology. Certification is the process according to	

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	product/component/technology complies with the applicable regulations;		which a national authority certifies that the defence product, tangible or intangible /component or /technology complies with the applicable regulations;	
108.			(ee) the development of technologies or assets increasing efficiency across the life cycle of defence products and technologies.	
109.	(f) studies such as feasibility studies and other accompanying measures.	Commission proposal unchanged	Moved to (aa)	
110.	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.	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.	2. The action shall be undertaken in a cooperation of at least three undertakings within a consortium of at least three eligible entities which are established in at least two different Member States. At least three of these eligible entities established in at least two different Member States The undertakings which are beneficiaries shall not be effectively be controlled, directly or indirectly, by the same entity or shall not control each other.	
111.	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	Commission proposal unchanged	Commission proposal unchanged	

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	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.			
112.			Article 6(3)(a) new Moved from Article 10(d)	
113.			3a. Consortia as defined in Article 8(1) shall offer proof of viability via a demonstration that the remaining costs of the eligible action which are not covered by the Union support will be covered by other means of financing such as Member States' contributions.	<i>Moved from Article 10(d) COM (corresponds to Article 5(4) in doc. 15536/17)</i>
114.			Article 6(3)(b) new Moved from Article 10(e)	
115.			3b. For actions described in points (c) to (f) of paragraph 1, consortia shall prove their contribution to the competitiveness of the European defence industry through the demonstration that at least two Member States intend to procure the final product or use the technology in a coordinated way,	<i>Moved from Article 10(e) COM (corresponds to Article 5(5) in doc. 15536/17)</i>

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			including joint procurement where applicable.	
116.	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 point (b) to (f) of the first paragraph, the action must be based on common technical specifications, <i>thereby strengthening the standardisation and interoperability of systems.</i>	4. When it relates to actions defined under point (b) to (f) of the first paragraph 1 , the action must be based on common requirements jointly agreed by at least two Member States. When it relates to actions under points (c) to (f) of paragraph 1, the action must be based on common technical specifications jointly agreed by the Member States that will co-finance or intend to jointly procure the final product or use the technology, as referred to in paragraphs 4 and 5.	
117.		<i>Article 6(4)(a) new CA 4aa</i>		
118.		<i>4a. 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</i>		

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		<i>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.</i>		
119.		Article 7 CA 5		
120.	Eligible Entities 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.	Eligible Entities 1. Beneficiaries <i>and their subcontractors</i> shall be <i>public or private</i> 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 <i>which are not effectively controlled by a third country or a third country entity</i> 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 <i>the Union</i> during the entire duration of the action. <i>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.</i>	Eligible Entities 1. Beneficiaries shall be public or private 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.	

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121.			Article 7(1)(a) new	
122.			1a. In addition, all The beneficiaries' and their subcontractors' infrastructure, facilities, assets and resources used by the participants, including subcontractors and other third parties, in for the purposes of the actions funded under the Programme shall not be located on the territory of the Union non-Member States during the entire duration of the action, and their executive management structures shall be established in the Union.	<i>Corresponds to Article 6(2) in doc. 15536/17</i>
123.		Article 7(1)(a) new CA 5		
124.		1a. <i>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.</i>		
125.			Article 7(1)(b) new	
126.			1b. For the purposes of the actions funded under the Programme, the beneficiaries and their subcontractors shall not be subject to control by third countries or by third country entities.	<i>Corresponds to Article 6(3) in doc. 15536/17</i>
127.		Article 7(1)(b) new CA 5	Article 7(1)(c) new	

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128.		<p><i>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:</i></p> <p><i>(a) the effective control over the undertaking by a third country or a third country entity is removed;</i></p> <p><i>(b) access to sensitive information relating to the action is prevented; and</i></p> <p><i>(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.</i></p> <p><i>The undertaking shall provide the Commission with the necessary evidence that the mechanisms have been put in place.</i></p>	<p>1c. By derogation from paragraph 3, an undertaking controlled by third countries or by third country entities is eligible as a beneficiary or subcontractor, in accordance with Article 14(2), if the Member State it is located in provides sufficient assurances, in accordance with its national procedures, that this would contravene neither the security and defence interests of the Union and its Member States as established in the framework of the Common Foreign and Security Policy in accordance with Title V of the Treaty on European Union, nor the objectives of this Programme as set out in Article 2. The assurances to be provided shall also be in line with the provisions as laid down in Article 11.</p>	<p><i>Article 7(1)(c) new CGA (Article 6(4) in doc. 15536/17) corresponds to Article 7(1)(b) new EP</i></p>
129.	2. If the beneficiary, as defined in paragraph 1, is developing an action, as defined in Article 6, in the context of	Commission proposal unchanged	Deleted	

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	Permanent Structured Cooperation, it shall be eligible for the increased funding referred to in Article 11(2) in respect of that action.			
130.		<i>Article 7(2)(b) new AM 341</i>	<i>Article 7(1)(d) new</i>	
131.		<p>2b. <i>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.</i></p> <p><i>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 its Member States. The costs related to these activities shall not be eligible for funding under the Programme.</i></p>	<p>1d. <i>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.</i></p> <p><i>When performing an eligible action, beneficiaries and their subcontractors may also cooperate with undertakings established outside the territory of Member States or controlled by third countries or third country entities if this would not contravene the security and defence interests of the Union and its Member States. The costs related to these activities shall not be eligible for funding under the Programme.</i></p>	<i>Article 7(1)(d) new CGA (Article 6(5) in doc. 15536/17) corresponds to Article 7(2)(b) new EP</i>
132.			<i>Article 7(1)(e) new</i>	
133.			1e. <i>Beneficiaries shall provide before the signature of the funding</i>	<i>Corresponds to Article 6(6) in doc. 15536/17</i>

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			agreement all relevant information necessary for the assessment of the eligibility criteria.	
134.		Article 8 AM 347		
135.	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.	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, <i>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.</i>	Declaration by applicant consortia -applicants Each applicant 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.	
136.		Article 9		
137.			Article 9(0) new	
138.	Consortium	Consortium	Consortium 0. A consortium for the purpose of this Regulation is a group of undertakings as defined in Article 5(2) wishing to participate in an action under the Programme, and that meet the eligibility criteria laid down in this Regulation. The beneficiaries that will receive funding pursuant to the award procedure in Article 14 shall also be considered a consortium for the purpose of this Regulation.	<i>Corresponds to Article 8(1) in doc. 15536/17</i>

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139.		AM 18 BUDG		
140.	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. <i>The Union's financial assistance may also take the form of a financial instrument or a public contract.</i>	Commission proposal unchanged	
141.		AM 352		
142.	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.	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, <i>including the issue of the intellectual property rights relating to the new products</i> (in compliance with the grant agreement), except in duly justified cases provided for in the work programme or call for proposals.	Commission proposal unchanged	
143.		Article 10 CA 6		

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144.	Award criteria Actions proposed for funding under the Programme shall be evaluated on the basis of the following cumulative criteria:	Award criteria Actions proposed for funding under the Programme shall be evaluated <i>with regard to the objectives laid down in Article 2 and</i> on the basis of the following cumulative criteria:	Award criteria Actions proposed for funding under the Programme shall be evaluated on the basis of the following cumulative criteria:	
145.	(a) excellence	(a) excellence, <i>industrial performance and capacity to show significant advantages over existing products or technologies; and,</i>	(a) contribution to excellence in particular by showing that the proposed work goes beyond the state of the art by showing significant advantages over existing products or technologies;	
146.	(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,	(b) contribution to the innovation and technological development of defence industries and thus to fostering the industrial <i>and strategic</i> autonomy of the Union in the field of defence technologies; and,	(b) contribution to the 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 technological development of defence industries and thus to fostering the industrial autonomy of the Union in the field of defence technologies; and,	
147.		(ba) <i>contribution to the competitiveness and growth of defence undertakings throughout the Union; and,</i>	(ba) contribution to the competitiveness of the European defence industry, in particular by creating new market opportunities and accelerating the growth of companies throughout the Union;	
148.	(c) contribution to the security and defence interests of the Union by enhancing defence technologies which	(c) contribution to the security and defence interests of the Union by enhancing defence technologies which	(c) contribution to the industrial autonomy of the European defence industry and to the security and	

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	contribute to implement defence capability priorities commonly agreed by Member States within the Union; and,	contribute to implement defence capability priorities commonly agreed by Member States within the Union, <i>particularly in the context of the Capability Development Plan of the Common Security and Defence Policy</i> ; and,	defence interests of the Union by enhancing defence technologies which contribute to implement in line with defence capability priorities commonly agreed by Member States within the Union the framework of the Common Foreign and Security Policy and, where appropriate, regional and international cooperative agreements; and,	
149.		<i>(ca) contribution to the creation of new cross-border cooperation between undertakings; and,</i>		
150.	(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	Commission proposal unchanged	Moved to Article 6	<i>Corresponds to Article 5(4) in doc. 15536/17</i>
151.		<i>(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</i>	(da) the proportion of the overall budget of the action to be allocated to the participation of SMEs established in the Union bringing added value, either as members of the consortium, as subcontractors or as other undertakings in the supply chain, and in particular to SMEs which are established in Member States other than those where the undertakings in the consortium which are not SMEs are established;	
152.	(e) for actions described in points (b) to (e) of Article 6(1), the	Commission proposal unchanged	(e) for actions described in points (b) to (e) of Article 56 (1), the	

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	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.		contribution to the further integration competitiveness of the European defence industry through the demonstration by the beneficiaries that Member States have committed intend to jointly produce and procure use, own or maintain the final product or technology in a coordinated way; including joint procurement where applicable.	
153.			Under points (a) to (c) of this Article, where relevant, contribution to increasing efficiency across the life cycle of defence products and technologies, including cost-effectiveness and the potential for synergies in the procurement and maintenance process, shall be taken into consideration. Non-fulfilment of any of these criteria shall not be considered eliminatory.	
154.		<i>Article 11 CA 7</i>		
155.	Funding rates 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.	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	Funding rates 1. The financial assistance of the Union provided under the Programme shall may not exceed 20% of the eligible total cost of the actions defined in Article 5(1)(c) where it relates to prototyping. In all the other cases, the assistance may cover up to the eligible total cost of the action. The part of the indirect cost to be covered	

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		up to the total <i>eligible</i> cost of the action.	shall be defined in the work programme.	
156.	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.	Commission proposal unchanged	2. If a consortium is developing an action as defined in Article 5(1) in the context of Permanent Structured Cooperation, it may benefit from a funding rate increased by an additional 10 percentage points. 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.	<i>Corresponds to Article 10(2) in doc. 15536/17</i>
157.		<i>Article 11(2)(a) new</i>	Articles 11(2)(a) and 11(2)(b) new	
158.		<i>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.</i>	2a. If a consortium is developing an action as defined in Article 5(1) and commits to allocate at least 5% of the of the eligible cost of the action to SMEs which are established in the EU, it may benefit from a funding rate increased by percentage points equivalent to the percentage of the cost of the action allocated to SMEs but not exceeding 8 percentage points. 2b. If a consortium is developing an action as defined in Article 5(1), it may benefit from a funding rate increased by percentage points equivalent to double the percentage of the cost of the action allocated to SMEs established in	<i>Articles 11(2)(a) and (11)(2)(b) new CGA (respectively Articles 10(3) and 10(4) in doc. 15536/17) correspond to Article 11(2)(a) new EP</i>

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			Member States other than those where the undertakings in the consortium which are not SMEs are established.	
159.		<i>Article 11(2)(b) new</i>	<i>Article 11(2)(c) new</i>	
160.		<p><i>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.</i></p>	<p>2c. If a consortium is developing an action as defined in Article 5(1) and commits to allocate at least 5% of the of the eligible cost of the action to Mid-caps which are 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 Mid-caps but not exceeding 8 percentage points.</p> <p>For the purposes of this Programme and without prejudice to future programmes, Mid-caps should be understood as meaning enterprises having a number of employees up to 3000 where the staff headcount is calculated in accordance with Articles 3, 4, 5 and 6 of the Title I of the Annex to the Commission Recommendation 2003/361/EC and which are not SMEs.</p>	<p><i>Article 11(2)(c) new CGA (Article 10(5) in doc. 15536/17) corresponds to Article 11(2)(b) new EP</i></p>
161.		<i>Article 11(2)(c) new</i>		
162.		<p><i>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.</i></p>		

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163.			Article 11(2)(d) new	
164.			2d. If a consortium is developing an action as defined in Article 5(1) and its members are established in more than two Member States, each of which committing to cofinance or jointly procure or use the final product or technology, it may benefit from a funding rate increased by an additional 5 percentage points.	Corresponds to Article 10(6) in doc. 15536/17
165.		Article 11(2)(d) new	Article 11(2)(e) new	
166.		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.	2e. 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 11(2)(e) new CGA (Article 10(7) in doc. 15536/17) corresponds to Article 11(2)(d) new EP
167.		Article 12 CA 8		
168.	Ownership and Intellectual Property rights The Commission shall not own the products or technologies resulting from the action nor shall it have any IPR claim pertaining to the action.	Ownership and Intellectual Property rights 1. The <i>Union</i> shall not own the products or technologies resulting from the action nor shall it have any IPR claim, <i>including licence rights</i> , pertaining to the action.	Ownership and Intellectual Property rights 1. The Commission Union shall not own the products or technologies resulting from the action nor shall it have any intellectual property rights IPR claim pertaining to the action.	
169.		Article 12(1)(a) new		
170.		1a. The results of actions which receive funding under the Programme shall not be subject to any control or	1a. Final results of actions receiving support from the Programme, including in terms of technology transfer, shall not be	Corresponds to Article 11(2) in doc. 15536/17

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		<i>restriction by a third country or a third-country entity.</i>	subject to restriction by third countries or by third country entities.	
171.			Article 12(1)(b) new	
172.			1b. This Regulation shall not affect the discretion of Member States as regards policy on the export of defence-related products.	<i>Corresponds to Article 11(3) in doc. 15536/17</i>
173.		Article 12(1)(b) new	Article 12(1)(c) new	
174.		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.	1c. If Union assistance is provided in the form of public procurement of a study, all Member States should have the right to a free of charge, non-exclusive license for the use of the study upon their explicit request.	<i>Article 12(1)(c) new CGA (Article 11(4) in doc. 15536/17) corresponds to Article 12(1)(b) new EP</i>
175.			Article 12a new Moved from Article 16	
176.			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 shall be invited as observer to provide its views and recommendations. The European External Action Service shall also be invited to attend the committee. The committee shall meet also in special configurations, including to discuss defence aspects. Committee	<i>Moved from Article 16 COM, corresponds to Article 12(1) in doc. 15536/17</i>

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			members shall be given early and effective opportunities to examine the draft implementing acts and express their views.	
177.			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.	<i>Moved from Article 16 COM, corresponds to Article 12(2) in doc. 15536/17</i>
178.		<i>Article 12a new AM 421</i>		
179.		<p><i>General transfer licences</i></p> <p>1. <i>For the purposes of this Programme, Article 5 of Directive 2009/43/EC of the European Parliament and of the Council⁽¹⁰⁾ shall apply.</i></p> <p>2. <i>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.</i></p> <p><i>⁽¹⁰⁾ Directive 2009/43/EC of the European Parliament and of the Council of 6 May 2009 simplifying terms and conditions of transfers of</i></p>		

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		<i>defence-related products within the Community (OJ L 146, 10.6.2009, p. 1).</i>		
180.		Article 13 CA 9		
181.	Work programme 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;	Work programme 1. The Commission, by means of an implementing act , shall be empowered to adopt delegated acts in accordance with Article 16(a) establishing a two-year 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.	Work programme 1. The Commission, by means of an implementing act, shall adopt a 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 12 (2). This work programme shall be in line with the objectives set out in Article 2.;	
182.	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. 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.	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, and the desired categories of eligible actions as defined in Article 5(1), including where appropriate the evaluation methodology including weightings and minimum thresholds for the fulfillment of the award criteria.	
183.	3. The work programme shall ensure that a credible proportion of the overall budget will benefit actions	3. The work programme shall ensure that at least 15% of the overall budget will benefit actions enabling the	3. The work programme shall ensure that at least 10% a-credible proportion of the overall budget will benefit actions-enabling the cross-	

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	enabling the cross-border participation of SMEs.	cross-border <i>integration</i> of SMEs <i>and mid-caps into value chains</i> .	border participation of SMEs; in addition, a specific category of projects dedicated to SMEs shall be established by the work programme.	
184.		Article 14 CA 10		
185.	<p>Award procedure</p> <p>1. In the implementation of the Programme, Union funding shall be granted following competitive calls issued in accordance with Regulation (EU, Euratom) No 966/2012 and Commission Delegated Regulation (EU) No 1268/12⁽⁵⁾.</p> <p>⁽⁵⁾ 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).</p>	<p>Award procedure</p> <p>1. In the implementation of the Programme, Union funding shall be granted following competitive calls <i>for proposals</i> issued in accordance with Regulation (EU, Euratom) No 966/2012 and Commission Delegated Regulation (EU) No 1268/12⁽¹¹⁾.</p> <p>⁽¹¹⁾ 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).</p>	<p>Evaluation and Award procedure</p> <p>1. In the implementation of the Programme, Union funding shall be granted following competitive calls issued in accordance with Regulation (EU, Euratom) No 966/2012 and Commission Delegated Regulation (EU) No 1268/12⁽⁵⁾. Under certain duly justified and exceptional circumstances, Union funding may also be granted in accordance with Article 190 of Commission Delegated Regulation (EU) No 1268/12.</p> <p>⁽⁵⁾ 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).</p>	
186.	<p>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.</p>	<p>2. The proposals submitted following the call for proposals shall be evaluated by the Commission assisted by independent <i>EU-national</i> experts, <i>from as broad a range of Member States as possible, selected on the</i></p>	<p>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</p>	

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		<i>basis of a transparent process, taking account of incompatibilities owing to conflicts of interest</i> , on the basis of the award criteria of Article 10.	criteria set out in Articles 5, 6, 7 and 9 of Article 10.	
187.	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).	Commission proposal unchanged	3. The Commission shall award, the funding for selected actions after each call, or after application of Article 190 of Commission Delegated Regulation (EU) No 1268/12. The Commission shall award 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 12 (2).	
188.		<i>Article 15</i>		
189.	Annual instalments The Commission may divide budgetary commitments into annual instalments.	Commission proposal unchanged	Commission proposal unchanged	
190.		<i>Article 16 AM 450 & AM 27 BUDG</i>		
191.	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 shall be invited as observer.	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 .	Moved to Article 12a new 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 shall be invited as observer to provide its views and recommendations. The European External Action Service shall also be invited to attend the committee.	<i>Corresponds to Article 12(1) in doc. 15536/17</i>

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			The committee shall meet also in special configurations, including to discuss defence aspects. Committee members shall be given early and effective opportunities to examine the draft implementing acts and express their views.	
192.	2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.	Commission proposal unchanged	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.	<i>Corresponds to Article 12(2) in doc. 15536/17</i>
193.		<i>Article 16a new CA 10a</i>		
194.		<i>Exercise of the delegation</i> 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.		
195.		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].		
196.		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		

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		<i>in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.</i>		
197.		<i>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.</i>		
198.		<i>5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.</i>		
199.		<i>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.</i>		
200.		Article 17		

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		<i>CA II</i>		
201.	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.	Commission proposal unchanged	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 (EU, Euratom) No 966/2012. To this end, the Commission shall put in place necessary monitoring arrangements.	
202.	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.	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.	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, including of SMEs and Mid-caps , in projects implemented under the programme as well as the participation of SMEs and Mid-caps in to the global value chain. In addition the report should include information on the origin of beneficiaries and, where possible, the distribution of the generated intellectual property rights.	
203.		<i>Article 17(2)(a) new</i>		

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204.		<i>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.</i>		
205.			Article 17(2)(a) new	
206.			2a. The Commission shall provide an interim 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 30 July 2019.	<i>Corresponds to Article 16(3) in doc. 15536/17</i>
207.		Article 17(2)(b) new		
208.		<i>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.</i>		
209.		Article 18		
210.	Protection of Union financial interests 1. The Commission shall take appropriate measures to ensure that,	Commission proposal unchanged	Protection of Union financial interests 1. The Commission shall take appropriate measures to ensure that,	

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	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.		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.	
211.	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.	Commission proposal unchanged	2. The Commission or its representatives 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 the Programme this Regulation .	
212.	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 ⁽⁶⁾ and Council Regulation (Euratom, EC) No 2185/96 ⁽⁷⁾ , with a view to establishing whether there has been fraud,	Commission proposal unchanged	Commission proposal unchanged	

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	<p>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.</p> <hr/> <p>⁽⁶⁾ 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).</p> <p>⁽⁷⁾ 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).</p>			
213.		Article 19 AM 34 Rapporteur		
214.	This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> .	This Regulation shall enter into force on the third day following that of its publication in the <i>Official Journal of the European Union</i> .	This Regulation shall enter into force on the third twentieth day following that of its publication in the <i>Official Journal of the European Union</i> .	

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215.	This Regulation is binding in its entirety and directly applicable in all Member States. Done at Brussels, <i>For the European Parliament</i> <i>For the Council</i>	Commission proposal unchanged	Commission proposal unchanged	