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## NOTE

From:	Presidency
To:	Permanent Representatives Committee (Part 2)
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Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on establishing the European defence industry Reinforcement through common Procurement Act - Preparation for the trilogue

## I. INTRODUCTION

1. On 19 July 2022, the Commission submitted to the European Parliament and the Council its proposal for a Regulation on establishing the European defence industry Reinforcement through common Procurement Act<sup>1</sup> (“EDIRPA Regulation”).
2. At its meeting on 1 December 2023, the Council reached a General Approach<sup>2</sup>.
3. The European Parliament adopted its report at committee level on 25 April 2023<sup>3</sup>. On 10 May 2023, the European Parliament’s plenary adopted the report and provided the mandate to enter into negotiations with the Council.

<sup>1</sup> 11531/22.

<sup>2</sup> 14948/22.

<sup>3</sup> A9-0161/2023.

## **II. STATE OF PLAY**

4. A first trilogue on the EDIRPA Regulation took place on 25 May, followed by technical meetings on 1, 8 and 14 June. The Ad Hoc Working Party on Defence Industry was debriefed and consulted on those inter-institutional negotiations at its meetings on 30 May as well as 12 and 20 June.
5. The table in annex to this note sets out the state-of-play of negotiations on the file. So far, co-legislators could preliminarily agree on language about: the “subject matter” (article 1), the “definitions” (article 2), the “objectives” (article 3), “associated countries” (article 5), the use of “financing not linked to costs” as a funding method (in article 6a), “eligible actions” (article 7), a substantial part of the “additional eligibility conditions”, including a new provision on the procurement of additional quantities for Ukraine and Moldova (in article 8), “eligible entities” (article 9), and a significant part of the “award criteria” (in article 10). The issues that remain open for further discussions, including at political level, are: the budget (article 4(1)), the retroactivity provision (art. 6(3)), the notion of preferential reimbursement rates (article 6a(4)), the use of implementing/delegated acts (article 11(2), and monitoring and reporting obligations (article 12).

## **III. CONCLUSION**

6. The Permanent Representatives Committee is invited to endorse the overall approach as set out in the Annex and to grant, on this basis, a mandate for further negotiations with the European Parliament.

# Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on establishing the European defence industry Reinforcement through common Procurement Act

2022/0219(COD)

21-06-2023

Delegations will find below the four-column table on EDIRPA. Amendments already contained in the Council General Approach (i.e. the ones made to the Commission's original proposal) are highlighted in **bold** and ~~striketrough~~. New compromise proposals vis-à-vis the text of the Council General Approach are highlighted in **bold/underlined** and ~~striketrough~~. If both the first and the fourth columns are left empty, it indicates that the respective EP or Council proposal was not included or moved elsewhere.

	Commission Proposal	EP amendments	Council amendments	Compromise proposals
Formula				
1	2022/0219 (COD)	2022/0219 (COD)	2022/0219 (COD)	
Proposal Title				
2	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on establishing the European defence industry Reinforcement through common Procurement Act	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on establishing the European defence industry Reinforcement through common Procurement Act	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on establishing the <b>instrument for the reinforcement of the</b> European defence industry <del>Reinforcement</del> through common procurement-Act	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on establishing the <b>instrument for the reinforcement of the</b> European defence industry <del>Reinforcement</del> through common procurement-Act <b>(EDIRPA)</b>

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Formula				
3	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
Citation 1				
4	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 173(3) thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 173(3) thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 173(3) thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 173(3) thereof,
Citation 2				
5	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,
Citation 3				
6	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,
Citation 4				
7	Having regard to the opinion of	Having regard to the opinion of	Having regard to the opinion of	Having regard to the opinion of

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	the European Economic and Social Committee <sup>1</sup> , <u>1. OJ C , , p. .</u>	the European Economic and Social Committee <sup>1</sup> , <u>1. OJ C , , p. .</u>	the European Economic and Social Committee <sup>1</sup> , <u>1. OJ C , , p. .</u>	the European Economic and Social Committee <sup>1</sup> , <u>1. OJ C , , p. .</u>
Citation 5				
8	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,
Formula				
9	Whereas:	Whereas:	Whereas:	Whereas:
Recital 1				
10	(1) The EU Heads of State or Government, meeting in Versailles on 11 March, committed to “bolster European defence capabilities” in light of the Russian military aggression against Ukraine. They agreed to increase defence expenditures, step up cooperation through joint projects, and common procurement of defence capabilities, close shortfalls, boost innovation and strengthen	(1) The <del>EU</del> <b>Member State</b> Heads of State or Government, meeting in Versailles on 11 March, committed to "bolster European defence capabilities" in light of the Russian military aggression against Ukraine, <b>pursuing a strategic course of action to increase the capacity of the Union to act autonomously in the field of defence, in complementarity with the North Atlantic Treaty</b>	(1) The EU Heads of State or Government, meeting in Versailles on 11 March, committed to "bolster European defence capabilities" in light of the Russian military aggression against Ukraine. They agreed to increase defence expenditures, <del>step up cooperation through joint projects, and common procurement of defence capabilities,</del> close shortfalls, boost innovation and strengthen	(1) The EU Heads of State or Government, meeting in Versailles on 11 March, committed to "bolster European defence capabilities" in light of the Russian military aggression against Ukraine. They agreed to <b><u>substantially</u></b> increase defence expenditures, <b><u>develop further incentives to stimulate Member States’ collaborative investments in joint projects and joint procurement of</u></b>

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	and develop the EU defence industry.	<b>Organisation (NATO).</b> They agreed to increase defence expenditures, <del>step up to</del> <b>strengthen</b> cooperation through joint projects, and common procurement of defence capabilities, <del>else to address</del> shortfalls, <b>to</b> boost innovation, <b>and to</b> <del>and</del> strengthen and <b>further</b> develop the EU Union defence industry, <b>including small and medium-sized enterprises (SMEs).</b> The Union defence industry is a crucial player that should positively contribute to the security of Member States by providing effective new capabilities in a timely manner in order to keep pace with the changing security environment.	and develop the EU defence industry, <b>including SMEs.</b>	<b><u>defence capabilities</u></b> <del>step up cooperation through joint projects,</del> and common procurement of defence capabilities, <b><u>invest further in the capabilities necessary</u></b> <del>close</del> shortfalls, <b><u>foster synergies and</u></b> boost innovation, and strengthen and develop the EU defence industry, <b>including SMEs.</b>
Recital 2				
11	(2) The unjustified invasion of Ukraine by the Russian Federation on 24 February 2022 and the ongoing armed conflict in Ukraine has made it clear that it is critical to act now to address the existing shortfalls It has led to the return of high-intensity warfare	(2) The unjustified invasion of Ukraine by the Russian Federation on 24 February 2022 and the ongoing armed conflict in Ukraine has made it clear that it is critical to act <del>now</del> <b>urgently</b> to address the existing shortfalls It has led to the return of high-	(2) The unjustified invasion of Ukraine by the Russian Federation on 24 February 2022 and the ongoing armed conflict in Ukraine has made it clear that it is critical to act <del>now</del> <b>without delay</b> to address the existing shortfalls. It has led to the return of high-	(2) The unjustified invasion of Ukraine by the Russian Federation on 24 February 2022 and the ongoing armed conflict in Ukraine has made it clear that it is critical to act <del>now</del> <b>without delay</b> <b>urgently</b> to address the existing shortfalls. It has led to


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	and territorial conflict in Europe, requiring a significant increase in the capacity of Member States to fill the most urgent and critical gaps, especially those exacerbated by the transfer of defence products to Ukraine.	intensity warfare and territorial conflict in Europe, <del>requiring</del> <b>with a direct impact on all Member States and to the detriment of citizens in the Union. It requires</b> a significant increase in the capacity of Member States to fill the most urgent and critical gaps, especially those exacerbated by the transfer of defence products to Ukraine, <b>in particular in the Member States in its close neighbourhood.</b>	intensity warfare and territorial conflict in Europe, requiring a significant increase in the capacity of Member States to fill the most urgent and critical gaps, especially those exacerbated by the transfer of defence products to Ukraine.	the return of high-intensity warfare and territorial conflict in Europe, <b><u>with a negative impact on the security of the Union and its Member States. It requires</u></b> a significant increase in the capacity of Member States to fill the most urgent and critical gaps, especially those exacerbated by the transfer of defence products to Ukraine.
11a		<b>(2a) The Russian military aggression against Ukraine has placed some Member States in the direct neighbourhood of a war zone, with all the difficulties that that proximity implies, including accidental civilian casualties in the border area, a massive movement of people fleeing the war, the shipment of military and humanitarian aid, but also a pressing need to prepare those Member States militarily for a</b>		

		potential escalation of the armed conflict to their own territories.		
Recital 2a				
11b		(2b) The Russian military aggression against Ukraine has dramatically underlined the need to adapt the European defence industrial and technological base (EDTIB) to structural changes, to enhance the Union's military research and development (R&D), to modernise military equipment, in particular obsolete military equipment solutions designed and/or produced in the Soviet Union or later military equipment solutions based on them, and to strengthen cooperation between Member States in the framework of procurement in the field of defence in order to make the Union a relevant global player.		<u>(2a) The Russian military aggression against Ukraine has dramatically underlined the need to adapt the European defence industrial and technological base (EDTIB) to structural changes, to enhance the Union's military research and development (R&amp;D) and to modernise military equipment.</u>
11c				



		(2c) The security situation in Europe requires urgent reflection on how to prevent further fragmentation of the defence sector via stand-alone Union initiatives and how to strategically link existing and future instruments.		
Recital 3				
12	(3) The Commission and the High Representative presented a Joint Communication on “The Defence Investment Gaps Analysis and Way Forward” on 18 May 2022. The Communication highlighted the existence, within the EU, of defence financial, industrial and capability gaps.	(3) The Commission and the High Representative presented a Joint Communication on "The Defence Investment Gaps Analysis and Way Forward" on 18 May 2022. The Communication highlighted the existence, within the EU, of defence financial, industrial and capability gaps <b>and, in particular, specified that the return of warfare to Europe has underlined the effects of years of defence underspending, which has led to an accumulation of gaps and shortfalls in the collective military inventories as well as reduced industrial production capacity and limited joint procurement and collaboration.</b>	(3) The Commission and the High Representative presented a Joint Communication on "The Defence Investment Gaps Analysis and Way Forward" on 18 May 2022. The Communication highlighted the existence, within the EU, of defence financial, industrial and capability gaps. <b>The Joint Communication notably highlighted capability gaps immediately affecting the freedom of action of European Union Member States armed forces and underlined the urgency to replenish certain stockpiles, to replace Soviet era legacy systems and to reinforce strategic capabilities.</b>	(3) The Commission and the High Representative presented a Joint Communication on "The Defence Investment Gaps Analysis and Way Forward" on 18 May 2022. The Communication <b><u>underlined the effects of years of defence underspending and</u></b> highlighted the existence, within the EU, of defence financial, industrial and capability gaps. <b>The Joint Communication <u>specified that the return of warfare to Europe has revealed an accumulation of gaps and shortfalls in the military inventories as well as reduced industrial production capacity and limited joint procurement and collaboration.</u> It also notably highlighted those</b>

		<b>In addition to correcting this situation, increased defence expenditure should also urgently address the short-term need to replenish and, if considered to be necessary in light of the changed security situation, to expand defence stocks to compensate for the military assistance to Ukraine, to replace obsolete military equipment solutions designed and/or produced in the Soviet Union or later military equipment solutions based on them, on the basis of the demand for reinforcing strategic capabilities.</b>		<b>capability gaps immediately affecting the freedom of action of European Union Member States armed forces and underlined the urgency to replenish certain stockpiles, to replace <u>obsolete military equipment, for example equipment designed or produced in the Soviet Union,</u> and to reinforce strategic capabilities.</b>
Recital 4				
13	(4) A dedicated short-term instrument, designed in a spirit of solidarity, was indicated as a tool to incentivise Member States, on a voluntary basis, to pursue common procurement to fill the most urgent and critical gaps, especially those created by the response to the current Russia's aggression, in a collaborative	(4) A dedicated short-term instrument, designed in a spirit of solidarity, was indicated as a tool to incentivise Member States, on a voluntary basis, to pursue common procurement to fill the most urgent and critical gaps, especially those created by the response to the current Russia's aggression, in a collaborative	(4) A dedicated short-term instrument, designed in a spirit of solidarity, was indicated as a tool to incentivise Member States, on a voluntary basis, to pursue common procurement to fill the most urgent and critical gaps, especially those created by the response to the current Russia's aggression, in a collaborative	(4) A dedicated short-term instrument, designed in a spirit of solidarity, was indicated as a tool to incentivise Member States, on a voluntary basis, to pursue common procurement to fill the most urgent and critical gaps, especially those created by the response to the current Russia's aggression, in a collaborative

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	way.	way.	way.	way.
Recital 5				
14	(5) Such a new instrument will contribute to reinforce common defence procurement and, through the associated Union financing, to strengthen EU defence industrial capabilities.	(5) Such a new instrument will contribute to reinforce common defence procurement, <b>especially with regard to Member States' ambition of achieving 35 % of total equipment spending for Union collaborative defence equipment procurement, which reached only 18 % in 2021</b> , and, through the associated Union financing, to strengthen EU <del>EU</del> <b>and improve the Union's</b> defence industrial capabilities.	(5) Such a new instrument will contribute to reinforce common defence procurement and, through the associated Union financing, to strengthen EU defence industrial capabilities.	(5) Such a new instrument will contribute to reinforce common defence procurement and, through the associated Union financing, to strengthen EU defence industrial capabilities.
14a		(5a) Such a new instrument should be viewed as an <b>important step towards a European Defence Union and a single market for defence products, which is also intended to contribute to drive transformational change in the EDTIB, by stimulating the uptake of new technologies and</b>		

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		supporting the development of the EDTIB across the Union.		
14b		(5b) Such a new instrument should contribute to enhancing the Union's open strategic autonomy, to strengthening its ability to protect its citizens and to reinforcing the Union's global position in the context of increasing security threats at the international level. European unity and interoperability are key for the future of the European security architecture.		
Recital 6				
15	(6) Reinforcing the European Defence Technological and Industrial Base should therefore be at the core of those efforts. Indeed difficulties and gaps still exist and the European defence industrial base remains highly fragmented, lacking sufficient collaborative action and inter-	(6) Reinforcing the European Defence Technological and Industrial Base <b>EDTIB</b> throughout the Union through the proper functioning of the internal market should therefore be at the core of those efforts. Indeed difficulties and gaps still exist and the European defence	(6) Reinforcing the European Defence Technological and Industrial Base <b>(EDTIB)</b> should therefore be at the core of those efforts. Indeed difficulties and gaps still exist and the European defence industrial base fragmentation remains, causing a lack of highly	(6) Reinforcing the European Defence Technological and Industrial Base <b>(EDTIB)</b> should therefore be at the core of those efforts. Indeed difficulties and gaps still exist and the European defence industrial base fragmentation remains, causing a lack of highly

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	operability of products.	<del>industrial base remains</del> <b>capabilities remain</b> highly fragmented, <b>inefficient</b> , lacking sufficient collaborative action and inter-operability of products. <b>Such a new instrument is intended to increase the quantities produced and to mobilise the strong potential of Union undertakings by supporting joint procurements.</b>	<del>fragmented, lacking sufficient collaborative action and inter- operability</del> <b>interoperability</b> of products.	<del>fragmented, lacking sufficient collaborative action and inter- operability</del> <b>interoperability</b> of products.
Recital 6a				
15a		<b>(6a) For the purpose of this Regulation, the list of defence products as defined in Directive 2009/81/EC should be interpreted in a broad way in the light of the evolving character of technology, procurement policies and military requirements.</b>	<b>(6a) The specific conditions and criteria laid down in this Regulation are determined by specific circumstances and the current timelines.</b>	<b>(6a) The specific conditions and criteria laid down in this Regulation are determined by specific circumstances and the current timelines.</b>
15b		<b>(6b) National regulations and an increasing administrative burden in the defence sector of</b>		

		the Member States have contributed to hindering competition and reducing economies of scale in the EDTIB.		
15c		(6c) The lack of coordination and cooperation regarding procurement risks contributing to rising prices, which could have the effect that increasing national defence budgets would not lead to stronger military capabilities.		
Recital 7				
16	(7) In the current defence market context, marked by an increased security threat and the realistic perspective of a high intensity conflict, Member States are rapidly increasing their defence budgets and aiming at similar purchases. This results in an amount of demand which exceeds European Defence Technological and Industrial Base	(7) In the current defence market context, marked by an increased security threat and the realistic perspective of a high intensity conflict, Member States are rapidly increasing their defence budgets and aiming at similar purchases. <b>In fact, twenty-two Member States are committed to allocating 2 % of GDP to defence spending, while</b>	(7) In the current defence market context, marked by an increased security threat and the realistic perspective of a high intensity conflict, Member States are rapidly increasing their defence budgets and aiming at similar purchases. This results in an amount of demand which <del>exceeds</del> <b>could exceed</b> European Defence Technological and	(7) In the current defence market context, marked by an increased security threat and the realistic perspective of a high intensity conflict, Member States are rapidly increasing their defence budgets and aiming at similar purchases. This results in an amount of demand which <del>exceeds</del> <b>could exceed</b> European Defence Technological and

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	manufacturing capacities, currently tailored for peace time.	<b>simultaneously having a collective benchmark of 20 % of their respective defence spending dedicated to equipment procurement.</b> This results in an amount of demand which exceeds <del>European Defence Technological and Industrial Base</del> <b>EDTIB</b> manufacturing capacities, currently tailored for peace time.	Industrial Base manufacturing capacities, currently tailored for peace time.	Industrial Base manufacturing capacities, currently tailored for peace time.
Recital 8				
17	(8) As a result, strong price inflation can be anticipated, as well as longer delays in delivery time, potentially harming the security of the Union and its Member States. Defence industries need to secure the production capacity necessary to process orders, as well as critical raw materials and sub-components. In this context producers might privilege major orders, potentially leaving exposed the most vulnerable countries, lacking the critical size and financial means to ensure large orders.	(8) As a result, strong price inflation can be anticipated, as well as longer delays in delivery time, potentially harming the security of the Union and its Member States. Defence industries need to secure the production capacity necessary to process orders, as well as critical raw materials and sub-components. In this context producers might privilege major orders, potentially leaving exposed the most vulnerable countries, lacking the critical size and financial means to ensure large orders.	(8) As a result, strong price inflation can be anticipated, as well as longer delays in delivery time, potentially harming the security of the Union and its Member States. Defence industries need to secure the production capacity necessary to process orders, as well as critical raw materials and sub-components. In this context producers might privilege major orders, potentially leaving exposed the most vulnerable countries, lacking the critical size and financial means to ensure large orders.	(8) As a result, strong price inflation can be anticipated, as well as longer delays in delivery time, potentially harming the security of the Union and its Member States. Defence industries need to secure the production capacity necessary to process orders, as well as critical raw materials and sub-components. In this context producers might privilege major orders, potentially leaving exposed the most vulnerable countries, lacking the critical size and financial means to ensure large orders.

17a		<p><b>(8a) The current geopolitical situation in the Eastern neighbourhood countries has shown that, whereas the duplication of efforts should be avoided, a diversified defence market can contribute to the variety of products immediately available on the market and can therefore be beneficial to an adequate satisfaction of Member States' urgent needs.</b></p>		
Recital 9				
18	<p>(9) Furthermore, efforts should be made so that the increased spending results in a much stronger European Defence Technological and Industrial Base. Indeed, without coordination and cooperation, the increased national investments are likely to deepen the fragmentation of the European defence industry.</p>	<p><del>(9) Furthermore,</del><b>Nevertheless,</b> efforts should be made so that the increased spending results in a much stronger European Defence Technological and Industrial Base. Indeed, without <del>coordination and cooperation,</del><b>strongerEDTIB</b> <b>throughout the Union. Closer cooperation, together with</b> the increased national investments are likely to deepen the</p>	<p>(9) Furthermore, efforts should be made so that the increased spending results in a much stronger European Defence Technological and Industrial Base <b>throughout the Union.</b> Indeed, <b>increased national investments,</b> without coordination and cooperation, <del>the increased national investments are likely to</del> <b>may</b> deepen the fragmentation of the European defence industry.</p>	<p>(9) Furthermore, efforts should be made so that the increased spending results in a much stronger European Defence Technological and Industrial Base <b>throughout the Union.</b> Indeed, <b>increased national investments,</b> without coordination and cooperation, <del>the increased national investments are likely to</del> <b>may</b> deepen the fragmentation of the European defence industry.</p>

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		fragmentation strengthen the the European defence capabilities as well as increase global competitiveness and efficiency of the European defence industry across the Union.		
Recital 10				
19	(10) In the light of the above challenges and the related structural changes in the EU Defence industry, it appears necessary to speed up the adjustment of the European Defence Technological and Industrial Base, enhance its competitiveness and efficiency, and thereby contribute to strengthening and reforming Member States' defence industrial capabilities. Addressing industrial shortfalls should include promptly tackling the most urgent gaps.	(10) In the light of the above challenges and the related structural changes in the EU <del>Union's</del> defence industry, <b>and in accordance with Article 173 of the Treaty on the Functioning of the European Union (TFEU), where the Union and the Member States aim to ensure that the competitiveness of the Union's industry exist,</b> it appears necessary to speed up the adjustment of the <del>European Defence Technological and Industrial Base,</del> enhance its competitiveness and efficiency <b>the EDTIB, enhance its competitiveness and efficiency, encourage close cooperation and coordination,</b> and thereby contribute to strengthening and	(10) In the light of the above challenges and the related structural changes <del>in the EU Defence industry,</del> it appears necessary to speed up the adjustment of the <del>European Defence Technological and Industrial Base,</del> <b>EDTIB, to</b> enhance its competitiveness and efficiency, and thereby <b>to</b> contribute to strengthening and reforming Member States' defence industrial capabilities. Addressing industrial shortfalls should include promptly tackling the most urgent gaps.	(10) In the light of the above challenges and the related structural changes <del>in the EU Defence industry,</del> it appears necessary to speed up the adjustment of the <del>European Defence Technological and Industrial Base,</del> <b>EDTIB, to</b> enhance its competitiveness and efficiency, and thereby <b>to</b> contribute to strengthening and reforming Member States' defence industrial capabilities. Addressing industrial shortfalls should include promptly tackling the most urgent gaps.

		<p>reforming Member States' defence industrial capabilities. Addressing industrial shortfalls <b>throughout the Union</b> should include promptly tackling the most urgent gaps, <b>while also thinking critically ahead about securing all necessary components needed in the Union defence supply chain with regard to the the importance of security of supply arrangements for the development of long-term planning and cooperation, and for the functioning of the European defence equipment market.</b></p>		
Recital 11				
20	<p>(11) Common investment and defence procurement should in particular be incentivised, as such collaborative actions would ensure that the necessary changes in the EU industrial base takes place in a collaborative manner, avoiding further fragmentation of the industry.</p>	<p>(11) Common investment and defence procurement should in particular be incentivised, as such collaborative actions would ensure that the necessary changes in the <del>EU</del><b>Union's</b> industrial base takes place in a collaborative manner, <del>avoiding further fragmentation of the industry.</del><b>increasing</b></p>	<p>(11) Common investment and defence procurement should in particular be incentivised, as such collaborative actions would ensure that the necessary changes in the <del>EU industrial base</del><b>EDTIB take</b> place in a collaborative manner, avoiding further fragmentation <del>of the industry.</del></p>	<p>(11) Common investment and defence procurement should in particular be incentivised, as such collaborative actions would ensure that the necessary changes in the <del>EU industrial base</del><b>EDTIB take</b> place in a collaborative manner, avoiding further fragmentation <u>and increasing interoperability</u> of the</p>

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		<b>interoperability.</b>		<b>industry.</b>
Recital 12				
21	(12) To that end a Short Term Instrument for increasing the collaboration of the Member States in the defence procurement phase (the 'Instrument') should be established. It will incentivise Member States to pursue collaborative actions and in particular, when they procure in order to fill these gaps, to do so jointly, increasing the level of interoperability and strengthening and reforming their defence industrial capabilities.	(12) To that end a Short Term Instrument for increasing the collaboration of the Member States in the defence procurement phase (the 'Instrument') should be established. It will incentivise Member States to pursue collaborative actions and in particular, when they procure in order to fill these gaps, to do so jointly, increasing the level of interoperability, <b>including with NATO</b> , and strengthening and reforming their defence industrial capabilities. <b>The Instrument should be seen as an emergency mechanism necessary to deal with the current emergency situation, and its structure and eligibility conditions should be without prejudice to the upcoming European Defence Investment Programme (EDIP).</b>	(12) To that end a Short Term Instrument for increasing the collaboration of the Member States in the defence procurement phase (the 'Instrument') should be established. It will incentivise Member States to pursue collaborative actions and in particular, when they procure in order to fill these gaps, to do so jointly, increasing the level of interoperability and strengthening and reforming their defence industrial capabilities.	(12) To that end a Short Term Instrument for increasing the collaboration of the Member States in the defence procurement phase (the 'Instrument') should be established. It will incentivise Member States to pursue collaborative actions and in particular, when they procure in order to fill these gaps, to do so jointly, increasing the level of interoperability and strengthening and reforming their defence industrial capabilities.
21a				

		(12a) The resources allocated to the Instrument should not jeopardise the funding already allocated to specific Union actions.		
21b		(12b) Since the Instrument was not envisaged when the Multiannual Financial Framework (MFF) for 2021-2027 was established, to avoid any cuts to Union programmes, any additional amount of the dedicated financial resources should be taken into consideration in the mid-term review of the MFF, with a view to ensuring the stability, coherence and ambition for the financing of the Instrument.		
Recital 13				
22	(13) The Short Term Instrument should offset the complexity and risks associated with such joint actions while allowing economies of scale in the actions undertaken	(13) The Short Term Instrument should offset the complexity and risks associated with such joint actions while allowing economies of scale in the actions undertaken	(13) The Short Term Instrument should offset the complexity and risks associated with such joint actions <b>common procurement</b> while allowing economies of	(13) The Short Term Instrument should offset the complexity and risks associated with such joint actions <b>common procurement</b> while allowing economies of

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	<p>by Member States to reinforce and modernise the European Technological and Industrial Base, increasing thereby the Union's capacity resilience and security of supply. Incentivizing common procurement would also result into diminished costs in terms of exploitation, maintenance and withdrawal of the systems.</p>	<p>by Member States to reinforce and modernise the European Technological and Industrial Base the EDTIB, increasing thereby the Union's capacity resilience and security of supply. Incentivizing common procurement would also result into diminished costs in terms of <b>administrative burden</b>, exploitation, maintenance and withdrawal of the systems. <b>The Instrument should be accompanied by efforts to preserve a level playing field for suppliers from all Member States and to create incentives for the expansion of the EDTIB to further Member States throughout the Union, with a particular focus on the involvement of SMEs, start-ups and middle-capitalisation enterprises (mid-caps) in the value chain.</b></p>	<p>scale in the actions undertaken by Member States to reinforce and modernise the European Technological and Industrial Base EDTIB, increasing thereby the Union's capacity resilience and security of supply. <del>Incentivizing</del> <b>Incentivizing</b> common procurement would also result into diminished costs in terms of <del>exploitation, maintenance and withdrawal of the systems</del> <b>lifecycle management of the systems. The Instrument should be accompanied by efforts strengthening the European defence and security markets, services and systems with a level-playing-field for suppliers from all EU member states. Common procurement on a common market for the EDTIB allows for economies of scale and assures innovation and efficiency in production and technology.</b></p>	<p>scale in the actions undertaken by Member States to reinforce and modernise the European Technological and Industrial Base EDTIB, <b><u>with a particular focus on SMEs and mid-caps, thereby</u></b> increasing thereby the Union's capacity, resilience and security of supply. <del>Incentivizing</del> <b>Incentivizing</b> common procurement would also result into diminished costs in terms of <b><u>administrative burden and exploitation, maintenance and withdrawal of the systems</u></b> <b>lifecycle management of the systems. The Instrument should be accompanied by efforts strengthening the European defence and security markets, services and systems, with a level-playing-field for suppliers from all EU member states. Common procurement on a common market for the EDTIB allows for economies of scale and assures innovation and efficiency in production and technology.</b></p>
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22a		(13a) The instrument should be used to boost the replacement of obsolete military equipment solutions designed and/or produced in the Soviet Union or later military equipment solutions based on them, and to stimulate investment in cutting-edge technology in defence through support for joint R&D.		
22b		(13b) The Instrument should be used to reduce dependencies on non-democratic countries for critical defence technologies and components.		
Recital 14				
23	(14) This Instrument will build on and take into account the work of the Defence Joint Procurement Task Force established by the Commission and the High Representative/Head of Agency, in line with the Joint Communication 'Defence	(14) This Instrument will build on and take into account the work of the Defence Joint Procurement Task Force established by the Commission and the High Representative/Head of <b>the European Defence</b> Agency, in line with the Joint	(14) This Instrument will build on and <del>take into account</del> <b>consider</b> the work of the Defence Joint Procurement Task Force established by the Commission and the High Representative/Head of Agency, in line with the Joint	(14) This Instrument will build on and <del>take into account</del> <b>consider</b> the work of the Defence Joint Procurement Task Force established by the Commission and the High Representative/Head of <b><u>the European Defence</u></b> Agency, in

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	Investment Gaps Analysis and Way Forward”, to coordinate very short-term defence procurement needs and engage with Member States and EU defence manufacturers to support joint procurement to replenish stocks, notably in light of the support provided to Ukraine.	Communication ‘Defence Investment Gaps Analysis and Way Forward”, to coordinate very short-term defence procurement needs and engage with Member States and <del>EU</del> <b>Union</b> defence manufacturers to support joint procurement to replenish, <b>strengthen and increase stocks with urgently needed and rapidly deployable technologically sophisticated equipment</b> , notably in light of the support provided to Ukraine, <b>in particular by the Member States in its close neighbourhood</b> .	Communication ‘Defence Investment Gaps Analysis and Way Forward”, to coordinate very short-term defence procurement needs and engage with Member States and EU defence manufacturers to support joint procurement to replenish stocks, notably in light of the support provided to Ukraine.	line with the Joint Communication ‘Defence Investment Gaps Analysis and Way Forward”, to coordinate very short-term defence procurement needs and engage with Member States and EU defence manufacturers to support joint procurement to replenish stocks, notably in light of the support provided to Ukraine.
Recital 15				
24	(15) The Instrument is coherent with existing collaborative EU defence-related initiatives such as in the European Defence Fund as well as the Permanent Structured Cooperation (PESCO), and generates synergies with other EU programmes. The Instrument is fully coherent with the ambition of the Strategic Compass.	(15) The Instrument is <del>coherent</del> <b>should ensure consistency</b> with existing collaborative <del>EU</del> <b>Union</b> defence-related initiatives such as <del>in</del> the European Defence Fund <del>as well as</del> <b>(EDF)</b> , the Permanent Structured Cooperation (PESCO), <b>as well as other relevant initiatives launched in response to the Russian war of</b>	(15) The Instrument is <del>coherent</del> <b>should ensure coherence</b> with existing collaborative EU defence-related initiatives such as <del>in</del> <b>the Capability Development Plan (CDP), the Coordinated Annual Review on Defence (CARD)</b> , the European Defence Fund <b>(EDF)</b> as well as the Permanent Structured Cooperation (PESCO),	(15) The Instrument is <del>coherent</del> <b>should ensure coherence</b> with existing collaborative EU defence-related initiatives such as <del>in</del> <b>the Capability Development Plan (CDP), the Coordinated Annual Review on Defence (CARD)</b> , the European Defence Fund <b>(EDF)</b> as well as the Permanent Structured Cooperation (PESCO),

		<p><b>aggression against Ukraine, and which should generate</b> and generates synergies with other EU programmes. The instrument <b>complements Directive 2009/81/EC of the European Parliament and of the Council<sup>1</sup>. The Instrument</b> is fully coherent with the ambition of the Strategic Compass <b>and the goals and priorities of NATO, which remains the foundation of the collective defence of its members.</b></p> <p><small>1. Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC (OJ L 216, 20.8.2009, p. 76).</small></p>	<p>and generates synergies with other EU programmes. The Instrument is fully coherent with the ambition of the Strategic Compass. <b>Where appropriate, regional and international priorities, including those in the North Atlantic Treaty Organization context, may also be taken into account if they are in line with Union priorities and do not prevent any Member State or associated country from participating, while seeking to avoid unnecessary duplication.</b></p>	<p>and generates synergies with other EU programmes. The Instrument is fully coherent with the ambition of the Strategic Compass. <b>Where appropriate, regional and international priorities, including those in the North Atlantic Treaty Organization context, may also be taken into account if they are in line with Union priorities and do not prevent any Member State or associated country from participating, while seeking to avoid unnecessary duplication.</b></p>
24a		<p><b>(15a) Since 22 Member States are also members of NATO, it is vital that both organisations significantly increase their</b></p>		



		efforts to harmonise their planning process as well as their standards in order to ensure compatibility, interoperability and interchangeability between the armed forces and their equipment.		
24b		(15b) Since the Instrument seeks, inter alia, to increase competitiveness and efficiency of the EDTIB, as well as the effectiveness of public spending, it is vital to also increase efforts to finally fulfill the ambition to establish a real common market for defence products as envisaged by Directives 2009/43/EC and 2009/81/EC. To that end, Member States should improve their transposition, implementation and application of those directives, as well as demonstrate restraint in invoking derogations on the basis of Article 346 TFEU. In addition, the Commission should thoroughly assess		

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		<b>Member States' reasons for invoking such derogations in order to facilitate the establishment of a single market for defence products with an adequate level playing field.</b>		
Recital 16				
25	(16) As the instrument aims to enhance the competitiveness and efficiency of the Union's defence industry, to benefit from the instrument, common procurement contracts will need to be placed with legal entities which are established in the Union or in associated countries and are not subject to control by non-associated third countries or by non-associated third-country entities. In that context, control should be understood to be the ability to exercise a decisive influence on a legal entity directly, or indirectly through one or more intermediate legal entities. Additionally, in order to ensure the protection of essential security and defence interests of	(16) As the instrument aims to enhance the competitiveness, <b>efficiency and the independence</b> <del>and efficiency</del> of the Union's defence industry, to benefit from the instrument, <b>in accordance with the legal basis</b> , common procurement contracts will need to be placed <del>with legal entities which are</del> <b>contractors and subcontractors</b> established in the Union or in associated countries and are not subject to control by non-associated third countries or by non-associated third-country entities. In that context, control should be understood to <del>be as</del> the ability to exercise a decisive influence on a <del>legal entity</del> <b>contractor or subcontractor</b> directly, or	(16) As the instrument aims to enhance the competitiveness and efficiency of the Union's defence industry, to benefit from the instrument, common procurement contracts will need to be placed <del>with legal entities</del> <b>contractors or subcontractors</b> which are established in the Union or in associated countries and are not subject to control by non-associated third countries or by non-associated third-country entities. In that context, control <del>of</del> <b>a contractor or subcontractor</b> should be understood to be the ability to exercise a decisive influence on a <del>legal entity</del> <b>contractor or subcontractor</b> directly, or indirectly through one or more	(16) As the instrument aims to enhance the competitiveness and efficiency of the Union's defence industry, to benefit from the instrument, common procurement contracts will need to be placed <del>with legal entities</del> <b>contractors or subcontractors</b> which are established in the Union or in associated countries and are not subject to control by non-associated third countries or by non-associated third-country entities. In that context, control <del>of</del> <b>a contractor or subcontractor</b> should be understood to be the ability to exercise a decisive influence on a <del>legal entity</del> <b>contractor or subcontractor</b> directly, or indirectly through one or more

	the Union and its Member States, the infrastructure, facilities, assets and resources of the contractors and subcontractors involved in the common procurement which are used for the purposes of the common procurement shall be located on the territory of a Member State or of an associated third country.	indirectly through one or more intermediate legal entities. Additionally, in order to ensure the protection of essential security and defence interests of the Union and its Member States, the infrastructure, facilities, assets and resources of the contractors and subcontractors involved in the common procurement shall be located on the territory of a Member State or of an associated third country.	intermediate legal entities. Additionally, in order to ensure the protection of <del>essential</del> security and defence interests of the Union and its Member States, the infrastructure, facilities, assets and resources of the contractors and subcontractors involved in the common procurement shall be located on the territory of a Member State or of an associated <del>third</del> country.	intermediate legal entities. Additionally, in order to ensure the protection of <del>essential</del> security and defence interests of the Union and its Member States, the infrastructure, facilities, assets and resources of the contractors and subcontractors involved in the common procurement shall be located on the territory of a Member State or of an associated <del>third</del> country.
Recital 17				
26	(17) In certain circumstances, it should be possible to derogate from the principle that contractors and subcontractors involved in a common procurement supported by the Instrument are not subject to control by non-associated third countries or non associated third-country entities. In that context, a legal entity established in the Union or in an associated third country and controlled by a non-associated third country or a non-	(17) In certain <b>exceptional</b> circumstances <b>and given the importance of maintaining the interoperability and consistency with NATO members</b> , it should be possible to derogate from the principle that contractors and subcontractors involved in a common procurement supported by the Instrument are not subject to control by non-associated third countries or non associated third-country entities. In that context, a	(17) In certain circumstances, it should be possible to derogate from the principle that contractors and subcontractors involved in a common procurement supported by the Instrument are not subject to control by non-associated third countries or non associated third-country entities. In that context, a <del>legal entity</del> <b>contractor or subcontractor</b> established in the Union or in an associated <del>third</del> country and controlled by a non-	(17) In certain circumstances, it should be possible to derogate from the principle that contractors and subcontractors involved in a common procurement supported by the Instrument are not subject to control by non-associated third countries or non associated third-country entities. In that context, a <del>legal entity</del> <b>contractor or subcontractor</b> established in the Union or in an associated <del>third</del> country and controlled by a non-

	associated third country entity may participate as contractor and subcontractor involved in the common procurement if strict conditions relating to the security and defence interests of the Union and its Member States, as established in the framework of the Common Foreign and Security Policy pursuant to Title V of the Treaty on European Union (TEU), including in terms of strengthening the European Defence Technological and Industrial Base, are fulfilled.	<del>legal entity</del> <b>contractor or subcontractor</b> established in the Union or in an associated third country and controlled by a non-associated third country or a non-associated third country entity may participate as contractor <del>and</del> <b>or</b> subcontractor involved in the common procurement if strict conditions relating to the security and defence interests of the Union and its Member States, as established in the framework of the Common Foreign and Security Policy pursuant to Title V of the Treaty on European Union (TEU), including in terms of strengthening the European Defence Technological and Industrial BaseEDTIB, are fulfilled.	associated third country or a non-associated third country entity may participate as contractor <del>and</del> <b>or</b> subcontractor involved in the common procurement, <b>provided that</b> if strict conditions relating to the security and defence interests of the Union and its Member States, as established in the framework of the Common Foreign and Security Policy pursuant to Title V of the Treaty on European Union (TEU), including in terms of strengthening the European Defence Technological and Industrial Base, are fulfilled.	associated third country or a non-associated third country entity may participate as contractor <del>and</del> <b>or</b> subcontractor involved in the common procurement, <b>provided that</b> if strict conditions relating to the security and defence interests of the Union and its Member States, as established in the framework of the Common Foreign and Security Policy pursuant to Title V of the Treaty on European Union (TEU), including in terms of strengthening the European Defence Technological and Industrial Base, are fulfilled.
Recital 18				
27	(18) Furthermore, the common procurement procedures and contracts shall also include a requirement for the defence product to not be subject to control or restriction by a non-associated third country or a non-	(18) Furthermore, the common procurement procedures and contracts shall also include a requirement for the defence product to not be subject to <b>any form of</b> control or restriction by a non-associated third country or a	(18) Furthermore, the common procurement procedures and contracts shall also include a requirement for the defence product to not be subject to <del>control or</del> a restriction by a non-associated third country or a non-	(18) Furthermore, the common procurement procedures and contracts shall also include a requirement for the defence product to not be subject to <del>control or</del> a restriction by a non-associated third country or a non-

	associated third country entity.	non-associated third country entity, <b>in particular any control or restriction that contravenes the security and defence interests of the Union and the Member States and that limits Member States' ability to use that defence product.</b> In urgent cases, this requirement should not apply if the procured products concerned were in use prior to 24 February 2022 within the armed forces of at least one of the Member States participating in the common procurement. Where the derogation applies, countries participating in the common procurement should study the feasibility of replacing the components causing the restriction by restriction-free components from the Union or associated third countries and submit their findings to the Commission. The Commission should provide a non-confidential summary of all such findings in the report referred to in this Regulation to help identify technological gaps in the EDTIB. In order for the	associated third country entity <b>that limits Member States' ability to use it.</b>	associated third country entity <b>that limits Member States' ability to use it. <u>In urgent cases, this requirement should not apply if the procured products concerned were in use prior to 24 February 2022 within the armed forces of a majority of the Member States participating in the common procurement. Where the derogation applies, countries participating in the common procurement should study the feasibility of replacing the components causing the restriction by restriction-free components from the Union or associated countries.</u></b>
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		<p>common procurement to strike a balance between replenishing stocks and reinforcing the EDTIB where the derogation is granted, the majority of components should come from the Union, and only a fraction of components should come from non-associated third countries that the share the Union's and Member States' security and defence objectives.</p>		
27a		<p>(18a) As this extraordinary short-term instrument is designed to fill the most urgent and critical gaps in response to the ongoing Russian war of aggression, the different conditions for eligible entities, in particular derogations foreseen as regards additional eligibility conditions linked to the third-country restriction clauses, subcontractors thresholds or proportion of the third countries components and award criteria are tailored to this purpose and without</p>		

		prejudice to any future long-term Union instruments for fostering common procurement among Member States in the area of defence, strengthening the EDTIB and fostering interoperability and modernising and enhancing Union-based manufacturing capacities. Such future instruments should however take into account the lessons and achievements from the Instrument.		
Recital 19				
28	(19) Grants under the Instrument may take the form of financing not linked to cost based on the achievement of results by reference to work packages, milestones or targets of the common procurement process, in order to create the necessary incentive effect.	(19) Grants under the Instrument <del>may</del> <b>should</b> take the form of financing not linked to cost based on the achievement of results by reference to work packages, milestones or targets of the common procurement process, in order to create the necessary incentive effect.	(19) Grants under the Instrument <del>may</del> <b>should</b> take the form of financing not linked to cost based on the achievement of results by reference to work packages, milestones or targets of the common procurement process, in order to create the necessary incentive effect.	(19) Grants under the Instrument <del>may</del> <b>should</b> take the form of financing not linked to cost based on the achievement of results by reference to work packages, milestones or targets of the common procurement process, in order to create the necessary incentive effect.
Recital 20				
29	(20) Where the Union grant takes	(20) Where the Union grant takes	(20) Where the Union grant takes	(20) Where the Union grant takes

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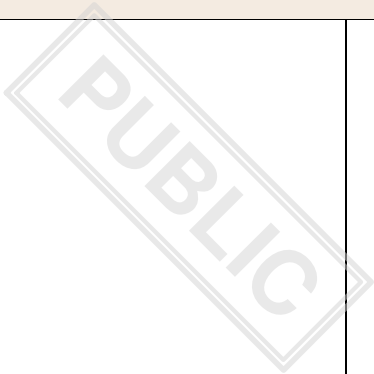
	<p>the form of financing not linked to costs, the Commission should determine in the work programme the funding conditions for each action, in particular (a) a description of action involving cooperation for common procurement with a view to addressing the most urgent and critical capacity needs, (b) the milestones for the implementation of the action, (c) the rough order of magnitude expected from the common procurement and (d) the maximum Union contribution available.</p>	<p>the form of financing not linked to costs, the Commission should determine in the <b>multiannual</b> work programme the funding conditions for each action <b>leading to common procurement of defence products as identified in the Joint Communication on the Defence Investment Gaps Analysis and Way Forward</b>, in particular (a) a description of action involving cooperation for common procurement with a view to addressing the most urgent and critical capacity needs, (b) the milestones for the implementation of the action, (c) the rough order of magnitude expected from the common procurement and (d) the maximum Union contribution available. <b>Furthermore, it should determine the procedure for evaluation and selection of the proposals, as well as for monitoring and disbursement process throughout the implementation of the action. The work programme should also set out the funding priorities which fulfil the</b></p>	<p><del>the form of financing not linked to costs, the Commission</del><b>The Commission, assisted by the committee referred to in Article 14, should determine in the work programme the funding conditions for each action, in particular (a) a description of action involving cooperation for common procurement with a view to addressing the most urgent and critical capacity needs, (b) the milestones for the implementation of the action, (c) the rough order of magnitude expected from the common procurement and (d) the maximum Union contribution available</b><b>priorities and the applicable funding conditions in the work programme.</b></p>	<p><del>the form of financing not linked to costs, the Commission</del><b>The Commission, assisted by the committee referred to in Article 14, should determine in the work programme the funding conditions for each action, in particular (a) a description of action involving cooperation for common procurement with a view to addressing the most urgent and critical capacity needs, (b) the milestones for the implementation of the action, (c) the rough order of magnitude expected from the common procurement and (d) the maximum Union contribution available</b><b>priorities and the applicable funding conditions in the <u>multiannual</u> work programme.</b></p>
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		requirements of high intensity and long-lasting combat operations and of the related training.		
29a		(20a) To foster the development of critical components in the Union, the Commission, working in cooperation with the European Defence Agency and benefitting from the expertise of the EU Observatory of Critical Technologies, should prepare a list of critical components of third-country origin for which no alternative exists in the Union. Based on that list, appropriate measures should be taken to support the development of such critical components in the Union.		
Recital 21				
30	(21) To generate the incentive effect, the level of Union contribution may be differentiated based on factors such as (a) the	(21) To generate the incentive effect, the level of Union contribution may be differentiated based on factors such as (a) the	(21) To generate the incentive effect, the level of Union contribution <del>may</del> <b>for each action should be able to be</b>	(21) To generate the incentive effect, the level of Union contribution <del>may</del> <b>for each action should be able to be</b>

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	<p>complexity of the common procurement, for which a proportion of the anticipated size of the procurement contract, based on experience gained in similar actions, may serve as an initial proxy, (b) the characteristics of the cooperation, such as joint usage, stockpiling, ownership or maintenance, which are likely to induce stronger interoperability outcomes and long-term investment signals to industry, and (c) the number of participating Member States or associated countries or the inclusion of additional Member States or associated countries to existing cooperations.</p>	<p>complexity of the common procurement, for which a proportion of the anticipated size of the procurement contract, based on experience gained in similar actions, may serve as an initial proxy, (b) the characteristics of the cooperation, such as joint usage, stockpiling, ownership or maintenance, <b>as well as the replacement of stockpiles of obsolete military equipment solutions designed and/or produced in the Soviet Union or later military equipment solutions based on them with European solutions</b> which are likely to induce stronger interoperability outcomes and long-term investment signals to industry, <b>and</b> (c) the number of participating Member States or associated countries or the inclusion of additional Member States or associated countries to existing cooperations <b>and (d) the contribution of the action to supporting the participation of SMEs and mid-caps in common procurement.</b></p>	<p>differentiated based on factors such as <del>(a)</del> the complexity of the common procurement, <del>for which a proportion of the anticipated size of the procurement contract, based on experience gained in similar actions, may serve as an initial proxy, (b)</del> the characteristics of the cooperation, <del>such as joint usage, stockpiling, ownership or maintenance, which are likely to induce stronger interoperability outcomes and long-term investment signals to industry, and (c)</del> or the number of participating Member States or associated countries or the inclusion of additional Member States or associated countries to existing cooperations.</p>	<p>differentiated based on factors such as <del>(a)</del> the complexity of the common procurement, <del>for which a proportion of the anticipated size of the procurement contract, based on experience gained in similar actions, may serve as an initial proxy, (b)</del> the characteristics of the cooperation, <del>such as joint usage, stockpiling, ownership or maintenance, which are likely to induce stronger interoperability outcomes and long-term investment signals to industry, and (c)</del> or the number of participating Member States or associated countries or the inclusion of additional Member States or associated countries to existing cooperations.</p>
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30a		<p><b>(21a) The brutal and unprovoked Russian war of aggression against Ukraine became a turning point for European security, and in particular for countries that are bordering Russia and Ukraine or have their territorial waters or exclusive economic zones adjacent to those of Russia and Ukraine. Those Member States have become the target of threatening rhetoric and hostile actions by Russia, supported by Belarus. Despite facing fundamental threats to their own security, they continue to support Ukraine in providing assistance, including military assistance. The Instrument should therefore provide for incentives for the participation of those of those Member States that significantly depleted their own stockpiles by granting higher Union contribution to actions where at least two such Member States participate. In addition, such a higher Union contribution should also apply</b></p>		
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		<p>for actions in which Member States decide to authorise the procurement agent to procure additional quantities of the respective defence product for Ukraine and Moldova. Given that those countries are partially occupied by Russia or its proxies, and are the targets of the Russian military aggression or are under threat of a direct Russian military intervention, further support for involvement of Ukraine and Moldova, which are Union candidate countries, into procurement of defence products together with Member States, would substantially contribute to European security, while strengthening the EDTIB and fostering cooperation in defence procurement.</p>		
30b		<p>(21b) The major part of the Union contribution should foster the objectives of the Instrument. Where a</p>		

		derogation from this principle applies and where simultaneously it cannot be established that the estimated value of the common procurement contract does not comprise any value added tax, it should be possible to differentiate the level of Union contribution based on those factors in order to ensure that at least 70 % of the Union contribution will benefit the EDTIB.		
Recital 22				
31	(22) Member States should appoint a procurement agent to conduct a common procurement on their behalf. The procurement agent should be a contracting authority established in a Member State or an associated third country, including Union bodies or international organisations, such as the Organisation Conjointe de Coopération en matière d'Armement (OCCAR).	(22) Member States should appoint a procurement agent to conduct a common procurement on their behalf. The procurement agent should be a contracting authority established in a Member State or an associated <del>third</del> country, including Union <b>institutions, bodies and agencies</b> or international organisations. <b>The application of the Instrument should be without prejudice to the rules laid down in particular by Directive</b>	(22) Member States should appoint a procurement agent to conduct a common procurement on their behalf. The procurement agent should be a contracting authority <b>as defined in Directives 2014/24/EU and 2014/25/EU</b> , established in a Member State or an associated <del>third</del> country, <del>including Union bodies or international organisations, such as the Organisation Conjointe de Coopération en matière</del>	

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		<p><b>2009/81/EC on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security. Additional eligibility requirements as set out in this Regulation should be part of the tender documents and should prevail over any conflicting national law in the Member State in which the procurement agent is established,</b> such as the Organisation Conjointe de Coopération en matière d'Armement (OCCAR).</p>	<p><del>d'Armement (OCCAR) or the European Defence Agency or an international organisation.</del></p>	
Recital 23				
32	<p>(23) In accordance with Article 193(2) of the Financial Regulation, a grant may be awarded for an action which has already begun, provided that the applicant can demonstrate the need for starting the action prior to signature of the grant agreement. However, financial contribution should not cover a</p>	<p><b>(23) Regulation (EU, Euratom) No 2018/1046 of the European Parliament and of the Council<sup>1</sup> (the ‘Financial Regulation’) applies to this Programme. It lays down rules on the implementation of the Union budget, including the rules on grants.</b> In accordance with Article 193(2) of the Financial</p>	<p>(23) In accordance with Article 193(2) of the Financial Regulation, a grant may be awarded for an action which has already begun, provided that the applicant can demonstrate the need for starting the action prior to signature of the grant agreement. However, financial contribution should not cover a</p>	<p><b>(23) Regulation (EU, Euratom) No 2018/1046 of the European Parliament and of the Council<sup>1</sup> (the ‘Financial Regulation’) applies to this Programme. It lays down rules on the implementation of the Union budget, including the rules on grants.</b> In accordance with Article 193(2) of the Financial</p>

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	<p>period prior to the date of submission of the grant application, except in duly justified exceptional cases. In order to avoid any disruption in Union support which could be prejudicial to the interests of the Union, it should be possible to provide in the financing decision for financial contributions to actions that cover a period from the 24 February 2022, even if they have started before the grant application was submitted.</p>	<p>Regulation, a grant may be awarded for an action which has already begun, provided that the applicant can demonstrate the need for starting the action prior to signature of the grant agreement. However, financial contribution should not cover a period prior to the date of submission of the grant application, except in duly justified exceptional cases. In order to avoid any disruption in Union support which could be prejudicial to the interests of the Union, it should be possible to provide in the financing decision for financial contributions to actions, <b>even if they have started before the grant application was submitted. By way of derogation from Article 193(2) of the Financial Regulation, cooperation between Member States established between that cover a period from the 24 February 2022 and the entry into force of this Regulation, and addressing the most urgent and critical defence product needs, should be retroactively eligible for</b></p>	<p>period prior to the date of submission of the grant application, except in duly justified exceptional cases. In order to avoid any disruption in Union support which could be prejudicial to the interests of the Union, it should be possible to provide in the financing decision for financial contributions to actions, <b>even if they have started before the grant application was submitted. Russia's illegal, unprovoked and unjustified aggression against Ukraine dramatically changed the European security context, and led to the need to adapt armed forces' capabilities and stocks to the possibility of a high intensity conflict. Resulting new defence equipment needs provoked a structural change of the European defence equipment market, to which defence industry needs to adapt urgently. Increasing manufacturing capacities and production rate requires modification of production systems and reduction of lead</b></p>	<p>Regulation, a grant may be awarded for an action which has already begun, provided that the applicant can demonstrate the need for starting the action prior to signature of the grant agreement. However, financial contribution should not cover a period prior to the date of submission of the grant application, except in duly justified exceptional cases. In order to avoid any disruption in Union support which could be prejudicial to the interests of the Union, it should be possible to provide in the financing decision for financial contributions to actions, <b>even if they have started before the grant application was submitted. Russia's illegal, unprovoked and unjustified aggression against Ukraine dramatically changed the European security context, and led to the need to adapt armed forces' capabilities and stocks to the possibility of a high intensity conflict. Resulting new defence equipment needs provoked a structural change of the</b></p>
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		<p>funding for as long as it can be demonstrated that the perspective of Union funding has provided an incentive for cooperation and that they contribute to the objectives of this Regulation and comply with its requirements, even if they have started before the grant application was submitted.</p> <p>1. Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).</p>	<p>times, while safeguarding cost efficiency. Thus, by derogation from Article 193(2) of the Financial Regulation, cooperations between Member States established after the date of the publication of the Commission proposal for the Instrument, that is 19 July that cover a period from the 24 February 2022, even if they have started before the grant application was submitted but before its entry into force, and addressing the most urgent and critical defence product needs, should be retroactively eligible for funding as long as it can be demonstrated that the perspective of the EU funding has incentivised the cooperation and that they contribute to the objectives of the Regulation and comply with its requirements.</p>	<p>European defence equipment market, to which defence industry needs to adapt urgently. Increasing manufacturing capacities and production rate requires modification of production systems and reduction of lead times, while safeguarding cost efficiency. Thus, by derogation from Article 193(2) of the Financial Regulation, cooperations between Member States established after the date of the publication of the Commission proposal for the Instrument, that is 19 July that cover a period from the 24 February 2022, even if they have started before the grant application was submitted but before its entry into force, and addressing the most urgent and critical defence product needs, should be retroactively eligible for funding as long as it can be demonstrated that the perspective of the EU funding has incentivised the cooperation and that they contribute to the objectives of the Regulation and comply with its requirements.</p>
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Recital 23a				
32a			<p>(23a) This Regulation is without prejudice to the rules laid down in particular by Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security. However, this Regulation provides for more specific eligibility requirements in Article 8. Directive 2009/81/EC provides that Member States may include in their laws the possibility to impose, in the contract documentation, requirements related to the protection of security of supply or the protection of the security of information. Article 8 of this Regulation builds upon these provisions and creates obligations for the procurement agent regarding eligibility</p>	<p>(23a) This Regulation is without prejudice to the rules laid down in particular by Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security. However, this Regulation provides for more specific eligibility requirements in Article 8. Directive 2009/81/EC provides that Member States may include in their laws the possibility to impose, in the contract documentation, requirements related to the protection of security of supply or the protection of the security of information. Article 8 of this Regulation builds upon these provisions and creates obligations for the procurement agent regarding eligibility</p>

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			requirements to be included in the contract documentation. These obligations should prevail over conflicting laws of the Member State in which the procurement agent is established.	requirements to be included in the contract documentation. These obligations should prevail over conflicting laws of the Member State in which the procurement agent is established.
Recital 24				
33	(24) Regulation (EU, Euratom) No 2018/1046 (the 'Financial Regulation') applies to this Programme. It lays down rules on the implementation of the Union budget, including the rules on grants.	<del>(24) Regulation (EU, Euratom) No 2018/1046 (the 'Financial Regulation') applies to this Programme. It lays down rules on the implementation of the Union budget, including the rules on grants.</del> <b>deleted</b>	(24) Regulation (EU, Euratom) No 2018/1046 (the 'Financial Regulation') applies to this Programme. It lays down rules on the implementation of the Union budget, including the rules on grants.	[Moved to row 32]
Recital 25				
34	(25) This Regulation lays down a financial envelope for the Fund, which is to constitute the prime reference amount, within the meaning of point 18 of the Inter-institutional Agreement of 16 December 2020 between the European Parliament, the Council and the European Commission on budgetary discipline, on	(25) This Regulation lays down a financial envelope for the Fund, which is to constitute the prime reference amount, within the meaning of point 18 of the Inter-institutional Agreement of 16 December 2020 between the European Parliament, the Council and the European Commission on budgetary discipline, on	(25) This Regulation lays down a financial envelope for the Fund <b>for the period from the entry into force of this Regulation to 31 December 2024</b> , which is to constitute the prime reference amount, within the meaning of point 18 of the Inter-institutional Agreement of 16 December 2020 between the European	(25) This Regulation lays down a financial envelope for the Fund <b>for the period from the entry into force of this Regulation to 31 December 2024</b> , which is to constitute the prime reference amount, within the meaning of point 18 of the Inter-institutional Agreement of 16 December 2020 between the European

	<p>cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources<sup>1</sup> (Interinstitutional Agreement of 16 December 2020), for the European Parliament and for the Council during the annual budgetary procedure.</p> <p><sup>1</sup> OJ L 433I, 22.12.2020, p. 28.</p>	<p>cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources<sup>1</sup> (Interinstitutional Agreement of 16 December 2020), for the European Parliament and for the Council during the annual budgetary procedure.</p> <p><sup>1</sup> OJ L 433I, 22.12.2020, p. 28.</p>	<p>Parliament, the Council and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources<sup>1</sup> (Interinstitutional Agreement of 16 December 2020), for the European Parliament and for the Council during the annual budgetary procedure.</p> <p><sup>1</sup> OJ L 433I, 22.12.2020, p. 28.</p>	<p>Parliament, the Council and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources<sup>1</sup> (Interinstitutional Agreement of 16 December 2020), for the European Parliament and for the Council during the annual budgetary procedure.</p> <p><sup>1</sup> OJ L 433I, 22.12.2020, p. 28.</p>
34a		<p><b>(25a) In order to encourage Member States' participation in the Instrument, the Commission should endeavour to organise briefings and training programmes.</b></p>		
Recital 26				
35	<p>(26) In accordance with the Financial Regulation, Regulation</p>	<p>(26) In accordance with the Financial Regulation, Regulation</p>	<p>(26) In accordance with the Financial Regulation, Regulation</p>	<p>(26) In accordance with the Financial Regulation, Regulation</p>

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	<p>(EU, Euratom) No 883/2013 of the European Parliament and of the Council<sup>1</sup>, Council Regulation (Euratom, EC) No 2988/95<sup>2</sup>, Council Regulation (Euratom, EC) No 2185/96<sup>3</sup> and Council Regulation (EU) 2017/1939<sup>4</sup>, the financial interests of the Union are to be protected through proportionate measures, including the prevention, detection, correction and investigation of irregularities and fraud, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, the imposition of administrative sanctions. In particular, in accordance with Regulation (EU, Euratom) No 883/2013 and Regulation (Euratom, EC) No 2185/96 the European Anti-Fraud Office (OLAF) may carry out investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. In accordance with Regulation (EU) 2017/1939, the European Public Prosecutor's</p>	<p>(EU, Euratom) No 883/2013 of the European Parliament and of the Council<sup>1</sup>, Council Regulation (Euratom, EC) No 2988/95<sup>2</sup>, Council Regulation (Euratom, EC) No 2185/96<sup>3</sup> and Council Regulation (EU) 2017/1939<sup>4</sup>, the financial interests of the Union are to be protected through proportionate measures, including the prevention, detection, correction and investigation of irregularities and fraud, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, the imposition of administrative sanctions. In particular, in accordance with Regulation (EU, Euratom) No 883/2013 and Regulation (Euratom, EC) No 2185/96 the European Anti-Fraud Office (OLAF) may carry out investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. In accordance with Regulation (EU) 2017/1939, the European Public Prosecutor's</p>	<p>(EU, Euratom) No 883/2013 of the European Parliament and of the Council<sup>1</sup>, Council Regulation (Euratom, EC) No 2988/95<sup>2</sup>, Council Regulation (Euratom, EC) No 2185/96<sup>3</sup> and Council Regulation (EU) 2017/1939<sup>4</sup>, the financial interests of the Union are to be protected through proportionate measures, including the prevention, detection, correction and investigation of irregularities and fraud, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, the imposition of administrative sanctions. In particular, in accordance with Regulation (EU, Euratom) No 883/2013 and Regulation (Euratom, EC) No 2185/96 the European Anti-Fraud Office (OLAF) may carry out investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. In accordance with Regulation (EU) 2017/1939, the European Public Prosecutor's</p>	<p>(EU, Euratom) No 883/2013 of the European Parliament and of the Council<sup>1</sup>, Council Regulation (Euratom, EC) No 2988/95<sup>2</sup>, Council Regulation (Euratom, EC) No 2185/96<sup>3</sup> and Council Regulation (EU) 2017/1939<sup>4</sup>, the financial interests of the Union are to be protected through proportionate measures, including the prevention, detection, correction and investigation of irregularities and fraud, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, the imposition of administrative sanctions. In particular, in accordance with Regulation (EU, Euratom) No 883/2013 and Regulation (Euratom, EC) No 2185/96 the European Anti-Fraud Office (OLAF) may carry out investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. In accordance with Regulation (EU) 2017/1939, the European Public Prosecutor's</p>
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<p>Office (EPPO) may investigate and prosecute fraud and other illegal activities affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council<sup>5</sup>. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the Union's financial interests, to grant the necessary rights and access to the Commission, OLAF, the EPPO and the European Court of Auditors (ECA) and to ensure that any third parties involved in the implementation of Union funds grant equivalent rights.</p> <p>1. 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 L248, 18.9.2013, p. 1.</p> <p>2. Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.95,</p>	<p>Office (EPPO) may investigate and prosecute fraud and other illegal activities affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council<sup>5</sup>. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the Union's financial interests, to grant the necessary rights and access to the Commission, OLAF, the EPPO and the European Court of Auditors (ECA) and to ensure that any third parties involved in the implementation of Union funds grant equivalent rights.</p> <p>1. 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 L248, 18.9.2013, p. 1.</p> <p>2. Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.95,</p>	<p>Office (EPPO) may investigate and prosecute fraud and other illegal activities affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council<sup>5</sup>. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the Union's financial interests, to grant the necessary rights and access to the Commission, OLAF, the EPPO and the European Court of Auditors (ECA) and to ensure that any third parties involved in the implementation of Union funds grant equivalent rights.</p> <p>1. 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 L248, 18.9.2013, p. 1.</p> <p>2. Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.95,</p>	<p>Office (EPPO) may investigate and prosecute fraud and other illegal activities affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council<sup>5</sup>. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the Union's financial interests, to grant the necessary rights and access to the Commission, OLAF, the EPPO and the European Court of Auditors (ECA) and to ensure that any third parties involved in the implementation of Union funds grant equivalent rights.</p> <p>1. 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 L248, 18.9.2013, p. 1.</p> <p>2. Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.95,</p>
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	<p>p.1).</p> <p>3. 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 L292,15.11.96 , , p.2).</p> <p>4. Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L283, 31.10.2017, p.1).</p> <p>5. Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).</p>	<p>p.1).</p> <p>3. 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 L292,15.11.96 , , p.2).</p> <p>4. Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L283, 31.10.2017, p.1).</p> <p>5. Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).</p>	<p>p.1).</p> <p>3. 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 L292,15.11.96 , , p.2).</p> <p>4. Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L283, 31.10.2017, p.1).</p> <p>5. Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).</p>	<p>p.1).</p> <p>3. 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 L292,15.11.96 , , p.2).</p> <p>4. Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L283, 31.10.2017, p.1).</p> <p>5. Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).</p>
<b>Recital 27</b>				
36	<p>(27) Pursuant to Article 94 of Council Decision 2013/755/EU<sup>1</sup>, persons and entities established in overseas countries and territories (OCTs) are eligible for funding subject to the rules and objectives of the Instrument and possible arrangements applicable to the Member State to which the relevant overseas country or territory is linked.</p> <p>_____</p>	<p>(27) Pursuant to Article 94 of Council Decision 2013/755/EU<sup>1</sup>, persons and entities established in overseas countries and territories (OCTs) are eligible for funding subject to the rules and objectives of the Instrument and possible arrangements applicable to the Member State to which the relevant overseas country or territory is linked.</p> <p>_____</p>	<p>(27) Pursuant to Article 94 of Council Decision 2013/755/EU<sup>1</sup>, persons and entities established in overseas countries and territories (OCTs) are eligible for funding subject to the rules and objectives of the Instrument and possible arrangements applicable to the Member State to which the relevant overseas country or territory is linked.</p> <p>_____</p>	<p>(27) Pursuant to Article 94 of Council Decision 2013/755/EU<sup>1</sup>, persons and entities established in overseas countries and territories (OCTs) are eligible for funding subject to the rules and objectives of the Instrument and possible arrangements applicable to the Member State to which the relevant overseas country or territory is linked.</p> <p>_____</p>

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	1. Council Decision 2013/755/EU of 25 November 2013 on the association of the overseas countries and territories with the European Union (Overseas Association Decision) (OJ L 344, 19.12.2013, p. 1).	1. Council Decision 2013/755/EU of 25 November 2013 on the association of the overseas countries and territories with the European Union (Overseas Association Decision) (OJ L 344, 19.12.2013, p. 1).	1. Council Decision 2013/755/EU of 25 November 2013 on the association of the overseas countries and territories with the European Union (Overseas Association Decision) (OJ L 344, 19.12.2013, p. 1).	1. Council Decision 2013/755/EU of 25 November 2013 on the association of the overseas countries and territories with the European Union (Overseas Association Decision) (OJ L 344, 19.12.2013, p. 1).
Recital 27a				
36a			<p><b>(27a) For the purposes of this Regulation, defence products should be understood as products within the scope of Article 2 of Directive 2009/81/EC, in particular as the product types included in the list of arms, munitions and war material adopted by the Council in its Decision 255/58 of 15 April 1958. This list includes only equipment which is designed, developed and produced for specifically military purposes. However, the list is generic and is to be interpreted in a broad way in the light of the evolving character of technology, procurement policies and military requirements which lead to the development of new types of equipment, for instance on the basis of the Common</b></p>	<p><b>(27a) For the purposes of this Regulation, defence products should be understood as products within the scope of Article 2 of Directive 2009/81/EC, in particular as the product types included in the list of arms, munitions and war material adopted by the Council in its Decision 255/58 of 15 April 1958. This list includes only equipment which is designed, developed and produced for specifically military purposes. However, the list is generic and is to be interpreted in a broad way in the light of the evolving character of technology, procurement policies and military requirements which lead to the development of new types of equipment, for instance on the basis of the Common</b></p>

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			<b>Military List of the Union. For the purposes of this Regulation, defence products should also cover products which, although initially designed for civilian use, are later adapted to military purposes to be used as arms, munitions or war material.</b>	<b>Military List of the Union. For the purposes of this Regulation, defence products should also cover products which, although initially designed for civilian use, are later adapted to military purposes to be used as arms, munitions or war material.</b>
Recital 27b				
36b			<b>(27b) In accordance with Article 4(2) TEU, national security remains the sole responsibility of each Member State. Member States determine among themselves the arrangements applicable to the protection of classified information for the purposes of the common procurements, in accordance with national laws and regulations.</b>	<b>(27b) In accordance with Article 4(2) TEU, national security remains the sole responsibility of each Member State. Member States determine among themselves the arrangements applicable to the protection of classified information for the purposes of the common procurements, in accordance with national laws and regulations.</b>
Recital 27c				
36c			<b>(27c) The Commission protects EU classified information in accordance with the security</b>	<b>(27c) The Commission protects EU classified information in accordance with the security</b>



			rules set out in Decision (EU, Euratom) 2015/444. In line with Agreement 2011/C 202/05 and Council Decision 2013/488/EU, Member States provide an equivalent degree of protection to EU classified information to that provided by the security rules of the Council set out in Council Decision 2013/488/EU.	rules set out in Decision (EU, Euratom) 2015/444. In line with Agreement 2011/C 202/05 and Council Decision 2013/488/EU, Member States provide an equivalent degree of protection to EU classified information to that provided by the security rules of the Council set out in Council Decision 2013/488/EU.
Recital 27d				
36d				<u>(27d) The Commission should produce an evaluation report for the Instrument not later than 31 December 2025 and submit it to the European Parliament and to the Council. The report should evaluate the impact and effectiveness of the actions taken under the Instrument. Furthermore, the report should identify shortfalls and critical dependencies on non-associated third countries with regard to raw materials, components and production capacities, building on work undertaken in the context of the observatory of critical</u>

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				<b><u>technologies. The report should inform the Commission's work on technology roadmaps, including mitigating measures to address those shortfalls and critical dependencies.</u></b>
Recital 27e				
36e			<b>(27e) This Regulation is without prejudice to Member States' discretion as regards their policy on the export of defence-related products.</b>	<b>(27e) This Regulation is without prejudice to Member States' discretion as regards their policy on the export of defence-related products.</b>
Recital 28				
37	(28) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.	(28) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.	(28) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.	(28) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

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Formula				
38	HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION:
Article 1				
39	Article 1 Subject matter	Article 1 Subject matter	Article 1 Subject matter	Article 1 Subject matter
Article 1, first paragraph				
40	This Regulation establishes the European Defence Industry Reinforcement through common Procurement Act (the ‘Instrument’).	This Regulation establishes <del>thea</del> <b>short-term instrument for</b> European Defence Industry Reinforcement through common Procurement Act (the ‘Instrument’).	This Regulation establishes <b>an instrument for the reinforcement of</b> the European defence industry Reinforcement through common procurement Act (the ‘Instrument’), <b>for the period from the entry into force of this Regulation to 31 December 2024.</b>	This Regulation establishes <b>a short-term instrument for the reinforcement of</b> the European defence industry Reinforcement through common procurement Act ( <b>EDIRPA</b> ) (the ‘Instrument’), <b>for the period from the entry into force of this Regulation to 31 December 2024.</b>
Article 2				
41	Article 2 Definitions	Article 2 Definitions	Article 2 Definitions	Article 2 Definitions

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Article 2, first paragraph				
42	For the purposes of this Regulation, the following definitions apply:	For the purposes of this Regulation, the following definitions apply:	For the purposes of this Regulation, the following definitions apply:	For the purposes of this Regulation, the following definitions apply:
Article 2, first paragraph, point (1)				
43	(1) ‘common procurement’ means a cooperative procurement jointly conducted by at least three Member States;	(1) ‘common procurement’ means a cooperative procurement jointly conducted by at least three Member States;	(1) ‘common procurement’ means a <del>cooperative</del> procurement jointly conducted by <del>at least three</del> Member States;	(1) ‘common procurement’ means a <del>cooperative</del> procurement jointly conducted by <b>at least three</b> Member States;
Article 2, first paragraph, point (2)				
44	(2) ‘control by a non-associated third country or by a non-associated third country entity’ means the ability to exercise a decisive influence on a legal entity directly, or indirectly through one or more intermediate legal entities;	(2) ‘control by a non-associated third country or by a non-associated third country entity’ means the ability to exercise a decisive influence on a legal entity directly, or indirectly through one or more intermediate legal entities;	(2) ‘control by a non-associated <del>third country or by a non-associated third country entity</del> of a <b>contractor or subcontractor</b> ’ means the ability to exercise a decisive influence on a <del>legal entity</del> <b>contractor or subcontractor</b> directly, or indirectly through one or more intermediate legal entities;	(2) ‘control by a non-associated <del>third country or by a non-associated third country entity</del> of a <b>contractor or subcontractor</b> ’ means the ability to exercise a decisive influence on a <del>legal entity</del> <b>contractor or subcontractor</b> directly, or indirectly through one or more intermediate legal entities;
Article 2, first paragraph, point (3)				
45	(3) ‘executive management	(3) ‘executive management	(3) ‘executive management	(3) ‘executive management

	structure' means a body of a legal entity, appointed in accordance with national law, and, where applicable, reporting to the chief executive officer, which is empowered to establish the legal entity's strategy, objectives and overall direction, and which oversees and monitors management decision-making;	structure' means a body of a legal entity, appointed in accordance with national law, and, where applicable, reporting to the chief executive officer, which is empowered to establish the legal entity's strategy, objectives and overall direction, and which oversees and monitors management decision-making;	structure' means a body of a legal entity, appointed in accordance with national law, and, where applicable, reporting to the chief executive officer, which is empowered to establish the legal entity's strategy, objectives and overall direction, and which oversees and monitors management decision-making;	structure' means a body of a legal entity, appointed in accordance with national law, and, where applicable, reporting to the chief executive officer, which is empowered to establish the legal entity's strategy, objectives and overall direction, and which oversees and monitors management decision-making;
Article 2, first paragraph, point (4)				
46	(4) 'non-associated third-country entity' means a legal entity that is established in a non-associated third country or, where it is established in the Union or in an associated country, that has its executive management structures in a non-associated third country;	(4) 'non-associated third-country entity' means a legal entity that is established in a non-associated third country or, where it is established in the Union or in an associated country, that has its executive management structures in a non-associated third country;	(4) 'non-associated third-country entity' means a legal entity that is established in a non-associated third country or, where it is established in the Union or in an associated country, that has its executive management structures in a non-associated third country;	(4) 'non-associated third-country entity' means a legal entity that is established in a non-associated third country or, where it is established in the Union or in an associated country, that has its executive management structures in a non-associated third country;
Article 2, first paragraph, point (5)				
47	(5) 'procurement agent' means a contracting authority established in a Member State or an associated country designated by at least three Member States to conduct a common procurement	(5) 'procurement agent' means a contracting authority <b>as defined in Article 2(1), point 1), of Directive 2014/24/EC* that is</b> established in a Member State or <b>in</b> an associated country, <b>the</b>	(5) 'procurement agent' means a contracting authority, <b>as defined in Directives 2014/24/EU and 2014/25/EU</b> , established in a Member State or an associated country, <b>or the European</b>	(5) 'procurement agent' means a contracting authority, <b>as defined in Directives 2014/24/EU and 2014/25/EU</b> , established in a Member State or an associated country, <b>or the European</b>

	on their behalf, including Union bodies or international organisations;	<b>European Defence Agency or an international organisation,</b> designated by at least three Member States to conduct a common procurement on their behalf, <del>including Union bodies or international organisations;</del>	<b>Defence Agency or an international organisation,</b> <del>designated by</del> <del>at least three Member States to</del> conduct a common procurement on their behalf, <del>including Union bodies or international organisations;;</del>	<b>Defence Agency or an international organisation,</b> <del>designated by</del> <del>at least three Member States to</del> conduct a common procurement on their behalf, <del>including Union bodies or international organisations;;</del>
Article 2, first paragraph, point (5a)				
47a		<b>(5a) ‘defence products’ mean products awarded in the fields of defence and security within the meaning of Article 2 of Directive 2009/81/EC, as well as combat medical equipment; defence products include equipment, services, works and supplies necessary to achieve the objective set out in Article 3 of this Regulation;</b>	<b>(5a) ‘defence products’ means products within the scope of Article 2 of Directive 2009/81/EC.</b>	<b>(5a) ‘defence products’ means products within the scope of Article 2 of Directive 2009/81/EC, <u>including combat medical equipment</u>;</b>
Article 2, first paragraph, point (5b)				
47b			<b>(5b) ‘classified information’ means information or material, in any form, the unauthorised disclosure of which could cause varying degrees of prejudice to</b>	<b>(5b) ‘classified information’ means information or material, in any form, the unauthorised disclosure of which could cause varying degrees of prejudice to</b>

			the interests of the Union, or of one or more of the Member States, and which bears an EU classification marking or a corresponding classification marking, as established in the Agreement between the Member States of the European Union, meeting within the Council, regarding the protection of classified information exchanged in the interests of the European Union.	the interests of the Union, or of one or more of the Member States, and which bears an EU classification marking or a corresponding classification marking, as established in the Agreement between the Member States of the European Union, meeting within the Council, regarding the protection of classified information exchanged in the interests of the European Union.
Article 2, first paragraph, point (5c)				
47c			(5c) ‘sensitive information’ means unclassified information and data that is to be protected from unauthorised access or disclosure because of obligations laid down in Union or national law, where applicable, or in order to safeguard the privacy or security of a natural or legal person;	(5c) ‘sensitive information’ means unclassified information and data that is to be protected from unauthorised access or disclosure because of obligations laid down in Union or national law, where applicable, or in order to safeguard the privacy or security of a natural or legal person;
Article 2, first paragraph, point (6)				

48	(6) 'third country' means a country that is not member of the Union.	(6) 'third country' means a country that is not member of the Union;	(6) <del>'third country' means a country that is not member of the Union.</del>	[deleted]
48a		<b>(6a) 'classified information' means information or material, in any form, the unauthorised disclosure of which could cause varying degrees of harm to the interests of the Union, or to one or more of the Member States, and which bears an EU classification marking or a corresponding classification marking, as established in the Agreement of May 2011 between the Member States of the European Union, meeting within the Council, regarding the protection of classified information exchanged in the interests of the Union;</b>		[Moved to row 47b]
48b		<b>(6b) 'sensitive information' means information and data</b>		[Moved to row 47c]



		that is not classified and that is to be protected from unauthorised access or disclosure pursuant to Union or national law, where applicable, or in order to safeguard the privacy or security of a natural or legal person.		
Article 3				
49	Article 3 Objectives	Article 3 Objectives	Article 3 Objectives	Article 3 Objectives
Article 3(1)				
50	1. The Instrument has the following objectives:	1. The Instrument has the following objectives:	1. The Instrument has the following objectives:	1. The Instrument has the following objectives:
Article 3(1), point (a)				
51	(a) to foster the competitiveness and efficiency of the European Defence Technological and Industrial Base (EDTIB) for a more resilient Union, in particular by speeding up, in a collaborative manner, the adjustment of industry to structural changes,	(a) to foster the competitiveness and efficiency of the <b>EDTIB, including SMEs and mid-capitalisation companies (mid-caps)</b> <del>European Defence Technological and Industrial Base (EDTIB)</del> , for a more resilient <b>and secure</b> Union, in particular by	(a) to foster the competitiveness and efficiency of the European Defence Technological and Industrial Base (EDTIB), <b>including SMEs and mid-capitalisation companies (mid-caps)</b> , for a more resilient Union, in particular by speeding up, in a	(a) to foster the competitiveness and efficiency of the European Defence Technological and Industrial Base (EDTIB), <b>including SMEs and mid-capitalisation companies (mid-caps)</b> , for a more resilient <b>and secure</b> Union, in particular by

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	including ramp-up of its manufacturing capacities;	speeding up, in a collaborative manner, the adjustment of industry, <b>in a cost-efficient way</b> , to structural <b>and technological</b> changes, including <del>ramp-up</del> <b>enhancing</b> its manufacturing capacities <b>through technological innovation and the opening of the supply chains with cross-border engagement throughout the Union, thereby enhancing the EDTIB's capacity to provide the most critical and urgent defence products needed by Member States;</b>	collaborative manner, the adjustment of industry to structural changes, including <b>the creation and</b> ramp-up of its manufacturing capacities <b>and the opening of the supply chains throughout the Union, thereby allowing the EDTIB to provide the defence products needed by Member States;</b>	speeding up, in a collaborative manner, the adjustment of industry to structural changes, including <b>the creation and</b> ramp-up of its manufacturing capacities <b>and the opening of the supply chains for cross-border cooperation throughout the Union, thereby allowing the EDTIB to provide the defence products needed by Member States;</b>
Article 3(1), point (b)				
52	(b) to foster cooperation in defence procurement process between participating Member States contributing to solidarity, interoperability, prevention of crowding-out effects, avoiding fragmentation and increasing the effectiveness of public spending.	(b) to foster cooperation in defence procurement process between <del>participating</del> Member States <del>contributing</del> <b>in order to contribute</b> to solidarity, interoperability, <b>and the</b> prevention of crowding-out effects, <del>avoiding</del> <b>as well as the reduction of</b> fragmentation and <del>increasing</del> <b>the increase of</b> the effectiveness of public spending <b>and to foster a closer convergence of national</b>	(b) to foster cooperation in defence procurement process between <del>participating</del> Member States <del>contributing</del> <b>in order to contribute</b> to solidarity, interoperability; <b>and the</b> prevention of crowding-out effects, <del>avoiding</del> <b>to avoid</b> fragmentation and <del>increasing</del> <b>to increase</b> the effectiveness of public spending.	(b) to foster cooperation in defence procurement processes <u>between participating Member States <del>contributing</del> <b>in order to contribute</b> to solidarity, interoperability, <b>and the</b> prevention of crowding-out effects, <del>avoiding</del> <b>to avoid</b> fragmentation and <del>increasing</del> <b>to increase</b> the effectiveness of public spending <b>and reduce excessive fragmentation, ultimately leading to an</b></u>

		standards and requirements in the field of the procurement of defence products, whilst preserving the competitiveness and diversity of products available to Member States and in the supply chain.		<u>increase in the standardisation of defence systems and a greater interoperability between Member States' capabilities, whilst preserving the competitiveness and diversity of products available to Member States and in the supply chain.</u>
Article 3(2)				
53	2. The objectives shall be pursued with an emphasis on strengthening and developing the Union defence industrial base to allow it to address in particular the most urgent and critical defence products needs, especially those revealed or exacerbated by the response to the Russian aggression against Ukraine, taking into account the work of the Defence Joint Procurement Task Force.	2. The objectives <b>referred to in paragraph 1</b> shall be pursued with an emphasis on strengthening, <b>developing and expanding EDTIB throughout and developing the Union defence industrial base in accordance with the legal basis of the Instrument</b> to allow it to address in particular the most urgent and critical defence products needs, especially those revealed or exacerbated by the response to the Russian aggression against Ukraine, taking into account the <b>Joint Communication of the Commission and the High Representative of 18 May 2022</b>	2. The objectives shall be pursued with an emphasis on strengthening and developing the <del>Union defence industrial base</del> <b>EDTIB throughout the Union</b> to allow it to address in particular the most urgent and critical defence <del>products</del> <b>product</b> needs, <del>especially</del> <b>including</b> those revealed or exacerbated by the response to the Russian aggression against Ukraine, <del>taking into account</del> <b>such as the shipment of defence products to Ukraine, considering</b> the work of the Defence Joint Procurement Task Force <b>and in line with the objectives of the Strategic Compass. This can be achieved</b>	2. The objectives shall be pursued with an emphasis on strengthening and developing the Union defence industrial base <b>EDTIB throughout the Union</b> to allow it to address in particular the most urgent and critical defence products <b>product</b> needs, especially <b>including</b> those revealed or exacerbated by the response to the Russian aggression against Ukraine, taking into account <b>such as the shipment of defence products to Ukraine, taking into account the objectives of the Strategic Compass and considering</b> the work of the Defence Joint Procurement Task Force <del>and in</del>

		<p><b>on the Defence Investment Gaps Analysis and Way Forward, and the work of the Defence Joint Procurement Task Force. This can be achieved through the replenishment of stockpiles which are depleted as a result of defence products transfers to Ukraine, including with the equipment available on the market, as well as through the replacement of obsolete equipment, in particular military equipment solutions designed and/or produced in the Soviet Union or later military equipment solutions based on them, and the reinforcement of overall defence capabilities.</b></p>	<p><b>through the replenishment of stockpiles and the replacement and reinforcement of capabilities.</b></p>	<p><b><del>line with the objectives of the Strategic Compass. This can</del> may be achieved through the replenishment of stockpiles <u>which are depleted as a result of defence products transfers to Ukraine, including with equipment available on the market, as well as through</u> and the replacement of obsolete equipment, and the reinforcement of capabilities.</b></p>
Article 4				
54	Article 4 Budget	Article 4 Budget	Article 4 Budget	Article 4 Budget
Article 4(1)				
55	1. The financial envelope for the implementation of the Instrument	1. The financial envelope for the implementation of the Instrument	1. The financial envelope for the implementation of the Instrument	1. The financial envelope for the implementation of the Instrument

	for the period from the entry into force of this Regulation to 31 December 2024 shall be EUR 500 million in current prices.	for the period from the entry into force of this Regulation to 31 December 2024 shall be EUR <del>500 million</del> <b>1 billion</b> in current prices.	for the period from the entry into force of this Regulation to 31 December 2024 shall be EUR <del>260500</del> million in current prices.	for the period from the entry into force of this Regulation to 31 December 2024 shall be EUR <del>260500</del> million in current prices.
Article 4(2)				
56	2. The amount referred to in paragraph 1 may be used for technical and administrative assistance for the implementation of the Instrument, such as preparatory, monitoring, control, audit and evaluation activities including corporate information technology systems.	2. The amount referred to in paragraph 1 may be used for technical and administrative assistance for the implementation of the Instrument, such as preparatory, monitoring, control, audit and evaluation activities including corporate information technology systems.	2. The amount referred to in paragraph 1 may be used for technical and administrative assistance for the implementation of the Instrument, such as preparatory, monitoring, control, audit and evaluation activities including corporate information technology systems.	2. The amount referred to in paragraph 1 may be used for technical and administrative assistance for the implementation of the Instrument, such as preparatory, monitoring, control, audit and evaluation activities including corporate information technology systems.
Article 4(3)				
57	3. Resources allocated to Member States under shared management may, at their request, be transferred to the Instrument subject to the conditions set out in the relevant provisions of the Common Provisions Regulation for 2021-2027. The Commission shall implement those resources directly in accordance with point (a) of the first subparagraph of	3. Resources allocated to Member States under shared management may, at their request, be transferred to the Instrument subject to the conditions set out in the relevant provisions of the Common Provisions Regulation for 2021-2027. The Commission shall implement those resources directly in accordance with point (a) of the first subparagraph of	3. Resources allocated to Member States under shared management may, at their request, be transferred to the Instrument subject to the conditions set out in the relevant provisions of the Common Provisions Regulation for 2021-2027. The Commission shall implement those resources directly in accordance with point (a) of the first subparagraph of	3. Resources allocated to Member States under shared management may, at their request, be transferred to the Instrument subject to the conditions set out in the relevant provisions of the Common Provisions Regulation for 2021-2027. The Commission shall implement those resources directly in accordance with point (a) of the first subparagraph of

	Article 62(1) of Regulation (EU, Euratom) No 2018/1046 (the ‘the Financial Regulation’). Those resources shall be used for the benefit of the Member State concerned.	Article 62(1) of Regulation (EU, Euratom) No 2018/1046 (the ‘the Financial Regulation’). Those resources shall be used for the benefit of the Member State concerned.	Article 62(1) of Regulation (EU, Euratom) No 2018/1046 (the ‘the Financial Regulation’). Those resources shall be used for the benefit of the Member State concerned.	Article 62(1) of Regulation (EU, Euratom) No 2018/1046 (the ‘the Financial Regulation’). Those resources shall be used for the benefit of the Member State concerned.
Article 4(4)				
58	4. Budgetary commitments for activities extending over more than one financial year may be broken down over several years into annual instalments.	4. Budgetary commitments for activities extending over more than one financial year may be broken down over several years into annual instalments.	4. Budgetary commitments for activities extending over more than one financial year may be broken down over several years into annual instalments.	4. Budgetary commitments for activities extending over more than one financial year may be broken down over several years into annual instalments.
Article 5				
59	Article 5 Third countries associated to the Instrument	Article 5 <del>Third</del> <b>Associated</b> countries associated to the Instrument <b>and additional arrangements applicable to other third countries</b>	Article 5 <del>Third</del> <b>Associated</b> countries associated to the Instrument	Article 5 <del>Third</del> <b>Associated</b> countries associated to the Instrument
Article 5, first paragraph				
60	The Instrument shall be open to the participation of Member States and members of the	The Instrument shall be open to the participation of Member States and members of the	The Instrument shall be open to the participation of <del>Member</del> States and members of the	The Instrument shall be open to the participation of <del>Member</del> States and members of the

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	European Free Trade Association which are members of the European Economic Area (associated countries), in accordance with the conditions laid down in the Agreement on the European Economic Area.	European Free Trade Association which are members of the European Economic Area (associated countries), in accordance with the conditions laid down in the Agreement on the European Economic Area.	European Free Trade Association which are members of the European Economic Area (associated countries), in accordance with the conditions laid down in the Agreement on the European Economic Area.	European Free Trade Association which are members of the European Economic Area (associated countries), in accordance with the conditions laid down in the Agreement on the European Economic Area.
60a		<b>The agreement between the participating Member States and the procurement agent referred to in Article 8(2) may authorise the procurement agent, following unanimous approval of the agreement's participating Member States, to invite and enter into an agreement for procuring additional quantities of the defence product subject to the common procurement with those third countries which are candidates for accession to the Union and whose territory is in immediate proximity or affected by the war on Ukrainian territory and whose territory is occupied by forces supported by the Russian</b>		

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		<b>Federation, such as Ukraine and Moldova. Such additional procurement arrangements shall be without prejudice to the applicable provisions of Union law and any relevant international obligations of the participating Member States.</b>		
60b		<b>The Instrument shall not fund the procurement of additional quantities of defence products subject to common procurement under this paragraph. It shall be used only to fund the costs of cooperation in the context of common procurement of such additional quantities.</b>		
Article 6				
61	Article 6 Implementation and forms of EU funding	Article 6 Implementation and forms of EU funding	Article 6 Implementation and forms of EU funding	Article 6 Implementation and forms of EU funding
Article 6(1)				



62	1. The Instrument shall be implemented in direct management in accordance with the Financial Regulation.	1. The Instrument shall be implemented in direct management in accordance with the Financial Regulation.	1. The Instrument shall be implemented in direct management in accordance with the Financial Regulation.	1. The Instrument shall be implemented in direct management in accordance with the Financial Regulation.
Article 6(2)				
63	2. The EU funding shall incentivize the cooperation between Member States to fulfil the objectives referred to in Article 3. The financial contribution shall be set up taking into consideration the collaborative nature of the common procurement plus an appropriate amount to create the incentive effect necessary to induce cooperation.	2. The EU funding shall incentivize the cooperation between Member States to fulfil the objectives referred to in Article 3. The financial contribution shall be set up taking into consideration the collaborative nature of the common procurement <del>plus an appropriate amount</del> to create the incentive effect necessary to induce cooperation.	2. The EU funding shall incentivize the cooperation between Member States to fulfil the objectives referred to in Article 3. The financial contribution shall be set up taking into consideration the collaborative nature of the common procurement plus an appropriate amount to create the incentive effect necessary to induce cooperation.	2. The EU funding shall incentivize the cooperation between Member States to fulfil the objectives referred to in Article 3. The financial contribution shall be set up taking into consideration the collaborative nature of the common procurement <del>plus an appropriate amount</del> <b>and the need</b> to create the incentive effect necessary to induce cooperation.
Article 6(3)				
64	3. Where necessary for the implementation of an action, financial contributions may cover a period prior to the date of the request for financial contributions for that action, provided that the action has not started prior to the	3. <b>By way of derogation to Article 193 of the Financial Regulation and</b> , where necessary, for the implementation of an action, financial contributions may cover a <del>period</del> <b>actions started</b> prior to the	3. <b>By way of derogation to Article 193 of the Financial Regulation, and</b> where necessary for the implementation of an action, financial contributions may cover a <del>period</del> <b>actions started</b> prior to the date of the	3. <b>By way of derogation to Article 193 of the Financial Regulation, and</b> where necessary for the implementation of an action, financial contributions may cover a <del>period</del> <b>actions started</b> prior to the date of the

	24 February 2022.	date of the request for financial contributions for that action, provided that the action has not started prior to the 24 February 2022 <b>and was not completed before the signature of the grant agreement.</b>	request for financial contributions for that action, provided that <del>these action have</del> not started prior to <b>19 July 2022 and have not been completed before the signature of the grant agreement. Retroactively eligible actions must comply with all eligibility criteria provided for in Articles 7 and 8</b> <del>the 24 February 2022.</del>	request for financial contributions for that action, provided that <del>these action have</del> not started prior to <b>19 July 2022 and have not been completed before the signature of the grant agreement. Retroactively eligible actions must comply with all eligibility criteria provided for in Articles 7 and 8</b> <del>the 24 February 2022.</del>
Article 6(4)				
65	4. Grants implemented under direct management shall be awarded and managed in accordance with Title VIII of the Financial Regulation.	4. Grants implemented under direct management shall be awarded and managed in accordance with Title VIII of the Financial Regulation.	4. Grants implemented under direct management shall be awarded and managed in accordance with Title VIII of the Financial Regulation.	4. Grants implemented under direct management shall be awarded and managed in accordance with Title VIII of the Financial Regulation.
Article 6a				
65a			<b>Article 6a Use of financing not linked to costs</b>	<b>Article 6a Use of financing not linked to costs</b>
Article 6a(1)				
65b			<b>1. Grants shall take the form of</b>	<b>1. Grants shall take the form of</b>

			<b>financing not linked to costs referred to in Article 180(3) of the Financial Regulation.</b>	<b>financing not linked to costs referred to in Article 180(3) of the Financial Regulation.</b>
<b>Article 6a(2)</b>				
65c			<b>2. The level of Union contribution attributed to each action may be defined based on factors such as:</b>	<b>2. The level of Union contribution attributed to each action may be defined based on factors such as:</b>
<b>Article 6a(2)(a)</b>				
65d			<b>(a) the complexity of the common procurement, for which a proportion of the estimated value of the common procurement contract and the experience gained in similar actions, may serve as an initial proxy;</b>	<b>(a) the complexity of the common procurement, for which a proportion of the estimated value of the common procurement contract and the experience gained in similar actions, may serve as an initial proxy;</b>
<b>Article 6a(2)(b)</b>				
65e			<b>(b) the characteristics of the cooperation, which are likely to induce stronger interoperability outcomes and long-term investment signals to industry;</b>	<b>(b) the characteristics of the cooperation, which are likely to induce stronger interoperability outcomes and long-term investment signals to industry;</b>

			or	or
Article 6a(2)(c)				
65f			(c) the number of participating Member States and associated countries or the inclusion of additional Member States and associated countries to existing cooperations.	(c) the number of participating Member States and associated countries or the inclusion of additional Member States and associated countries to existing cooperations.
Article 6a(3)				
65g			3. The Union financial contribution to each action shall be capped at 15 per cent of the estimated value of the common procurement contract per consortium of Member States and associated countries.	3. The Union financial contribution to each action shall <u>not exceed 15 per cent of the amount referred to in Article 4(1)</u> and shall be capped at 15 per cent of the estimated value of the common procurement contract per consortium of Member States and associated countries.
Article 6a(4)				
		<u>4. By way of derogation from the first sub-paragraph of this paragraph, the Union financial</u>		

65h		<u>contribution to each action may amount to up to 20 per cent of the amount referred to in Article 4(1) and shall be capped at 20 per cent of the estimated value of the common procurement contract where at least one of the following conditions is met:</u>		
65i		a) <u>Consortia with Member States and associated countries that transferred significant amounts of military aid to Ukraine;</u>		
65j		b) <u>Ukraine or Moldova are one of the recipients of additional quantities in the procurement action, in accordance with Article 8(new 2a)</u>		
65k		c) <u>At least 15 per cent of the estimated value of the common procurement contract is allocated to SMEs or midcaps as contractors or subcontractors.</u>		
Article 7				
66				

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	Article 7 Eligible actions	Article 7 Eligible actions	Article 7 Eligible actions	Article 7 Eligible actions
Article 7(1)				
67	1. Only actions fulfilling all of the following criteria shall be eligible for funding:	1. Only actions fulfilling all of the following criteria shall be eligible for funding <b>under the Instrument:</b>	1. Only actions fulfilling all of the following criteria shall be eligible for <b>Union</b> funding <b>under the Instrument:</b>	1. Only actions fulfilling all of the following criteria shall be eligible for <b>Union</b> funding <b>under the Instrument:</b>
Article 7(1), point (a)				
68	(a) the actions shall involve cooperation for common procurement of the most urgent and critical defence products between eligible entities implementing the objectives referred to in Article 3;	(a) the actions shall involve cooperation <b>between eligible entities as referred to in Article 9</b> for common procurement <del>of</del> <b>addressing</b> the most urgent and critical defence products <del>between eligible entities</del> <b>needs while</b> implementing the objectives referred to in Article 3;	(a) the actions shall involve cooperation <b>between eligible entities, as referred to in Article 9</b> , for common procurement <del>of</del> <b>addressing</b> the most urgent and critical defence products <del>between eligible entities</del> <b>product needs as</b> referred to in Article 3 <b>paragraph 2 and implementing the objectives of the Instrument;</b>	(a) the actions shall involve cooperation <b>between eligible entities as referred to in Article 9</b> for common procurement <del>of</del> <b>addressing</b> the most urgent and critical defence products <del>between eligible entities</del> <b>needs while</b> implementing the objectives referred to in Article 3;
Article 7(1), point (b)				
69	(b) the actions shall involve new cooperation or an extension of	(b) the actions shall involve new cooperation or an extension of	(b) the actions shall involve new cooperation or an extension of	(b) the actions shall involve new cooperation or an extension of

	existing cooperation to new Member States or associated countries;	existing cooperation to new Member States or associated countries;	existing cooperation to <b>at least one</b> new Member States or associated countries;	existing cooperation to <b>at least one</b> new Member States or associated countries;
Article 7(1), point (c)				
70	(c) the actions shall be carried out by a consortium of at least three Member States;	(c) the actions shall be carried out by a consortium of at least three Member States;	(c) the actions <b>involving new cooperation, including within an existing framework, or an extension of existing cooperation</b> shall be carried out by a consortium of at least three Member States;	(c) the actions <b>involving new cooperation, including within an existing framework, or an extension of existing cooperation</b> shall be carried out by a consortium of at least three Member States;
Article 7(1), point (d)				
71	(d) the actions shall fulfil the additional conditions as set out in Article 8.	(d) the actions shall fulfil the additional conditions as set out in Article 8.	(d) the actions shall fulfil the additional conditions as set out in Article 8.	(d) the actions shall fulfil the additional conditions as set out in Article 8.
Article 7(2)				
72	2. The following actions shall not be eligible for funding:	2. The following actions shall not be eligible for funding:	2. The following actions shall not be eligible for funding:	2. The following actions shall not be eligible for funding:
Article 7(2), point (a)				
73	(a) actions for common	(a) actions for common	(a) actions for common	(a) actions for common

	procurement of goods or services which are prohibited by applicable international law;	procurement of goods or services which are prohibited by applicable international law;	procurement of goods or services which are prohibited by applicable international law;	procurement of goods or services which are prohibited by applicable international law;
Article 7(2), point (b)				
74	(b) actions for common procurement of lethal autonomous weapons without the possibility for meaningful human control over selection and engagement decisions when carrying out strikes against humans.	(b) actions for common procurement of lethal autonomous weapons without the possibility for meaningful human control over selection and engagement decisions when carrying out strikes against humans.	(b) actions for common procurement of lethal autonomous weapons without the possibility for meaningful human control over selection and engagement decisions when carrying out strikes against humans.	(b) actions for common procurement of lethal autonomous weapons without the possibility for meaningful human control over selection and engagement decisions when carrying out strikes against humans.
Article 8				
75	Article 8 Additional funding conditions	Article 8 Additional <del>funding</del> <b>eligibility</b> conditions	Article 8 Additional <del>funding</del> <b>eligibility</b> conditions	Article 8 Additional <del>funding</del> <b>eligibility</b> conditions
Article 8(1)				
76	1. Member States or associated third countries shall appoint a procurement agent to act on their behalf for the purpose of the common procurement. The procurement agent shall carry out	1. Member States or associated <del>third</del> countries shall appoint <b>by consensus</b> a procurement agent to act on their behalf for the purpose of the common procurement. The procurement agent shall carry out	1. Member States or associated <del>third</del> countries shall appoint a procurement agent to act on their behalf for the purpose of the common procurement. The procurement agent shall carry out	1. Member States or associated <del>third</del> countries shall appoint <b>by unanimity</b> a procurement agent to act on their behalf for the purpose of the common procurement. The procurement

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	the procurement procedures and conclude the resulting agreements with contractors on behalf of the participating Member States.	the procurement procedures and conclude the resulting <del>agreements</del> <b>contracts</b> with contractors on behalf of the <del>countries</del> participating <del>Member States</del> <b>in the common procurement. This Regulation is without prejudice to the rules on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security as laid down in particular in Directive 2009/81/EC.</b>	the procurement procedures and conclude the resulting <del>agreements</del> <b>contracts</b> with contractors on behalf of the <del>Member States and associated countries</del> participating <b>in the common procurement. The procurement agent may participate in the action as beneficiary and act as coordinator of the consortium and therefore may be able to manage and combine funds from the Instrument and funds from the Member States.</b>	agent shall carry out the procurement procedures and conclude the resulting <del>agreements</del> <b>contracts</b> with contractors on behalf of the <del>Member States and associated countries</del> <u>countries</u> participating <del>Member States</del> <b>in the common procurement. The procurement agent may participate in the action as beneficiary and act as coordinator of the consortium and therefore may be able to manage and combine funds from the Instrument and funds from the Member States. <u>This Regulation is without prejudice to the rules on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security as laid down in particular in Directive 2009/81/EC.</u></b>
Article 8(2)				
77	2. The procurement procedures referred to in paragraph 1 shall be based on an agreement to be	2. The procurement procedures referred to in paragraph 1 shall be based on an agreement to be	2. The procurement procedures referred to in paragraph 1 shall be based on an agreement to be	2. The procurement procedures referred to in paragraph 1 shall be based on an agreement to be

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	signed by the participating Member States with the procurement agent under the conditions set out in the work programme referred to in Article 11.	signed by the participating <del>Member States</del> <b>countries</b> with the procurement agent under the conditions set out in the work programme referred to in Article 11. <b>The agreement shall specify, inter alia, the details of the procedure and the reason of its choice, the assessment of the tenders and the award of the contract.</b>	signed by the participating Member States with the procurement agent under the conditions set out in the work programme referred to in Article 11. <b>The agreement shall in particular determine the practical arrangements governing the common procurement and the decision-making process with regard to the choice of the procedure, the assessment of the tenders and the award of the contract.</b>	signed by the participating Member States with the procurement agent under the conditions set out in the work programme referred to in Article 11. <b>The agreement shall in particular determine the practical arrangements governing the common procurement and the decision-making process with regard to the choice of the procedure, the assessment of the tenders and the award of the contract.</b>
77a				<b><u>2a. The agreement referred to in paragraph 2 of this Article may authorise the procurement agent to procure additional quantities of the concerned defence product for Ukraine or the Republic of Moldova. This authorisation shall be unanimously approved by the Member States participating in the procurement. Such additional procurement arrangements shall be without prejudice to the applicable provisions of Union law and be</u></b>

				<b><u>in line with Member States' national laws and regulations regarding the export of defence-related products.</u></b>
Article 8(3)				
78	3. Common procurement procedures and contracts shall include participation requirements for contractors and subcontractors involved in the common procurement as referred to in paragraphs 4 to 10.	3. Common procurement procedures and contracts shall include participation requirements for contractors and subcontractors involved in the common procurement as referred to in paragraphs 4 to 10.	3. Common procurement procedures and contracts shall include participation requirements for contractors and subcontractors involved in the common procurement as referred to in paragraphs 4 to <del>10</del> 11.	3. Common procurement procedures and contracts shall include participation requirements for contractors and subcontractors involved in the common procurement as referred to in paragraphs 4 to <del>10</del> 11.
Article 8(4)				
79	4. Contractors and subcontractors involved in the common procurement shall be established and have their executive management structures in the Union. They shall not be subject to control by a non-associated third country or by a non-associated third country entity.	4. Contractors and subcontractors involved in the common procurement shall be established and have their executive management structures in the Union <b>or associated country</b> . They shall not be subject to control by a non-associated third country or by a non-associated third country entity. <b>Alternatively they shall have been subject to screening within the meaning of Regulation (EU)</b>	4. Contractors and subcontractors involved in the common procurement shall be established and have their executive management structures in the Union <b>or in an associated country</b> . They shall not be subject to control by a non-associated third country or by a non-associated third country entity <b>or, alternatively, shall have been subject to screening within the meaning of</b>	4. Contractors and subcontractors involved in the common procurement shall be established and have their executive management structures in the Union <b>or in an associated country</b> . They shall not be subject to control by a non-associated third country or by a non-associated third country entity <b>or, alternatively, shall have been subject to screening within the meaning of</b>

		2019/452 and, where necessary, mitigation measures, taking into account the objectives referred to in Article 3 of this Regulation.	Regulation (EU) 2019/452 and, where necessary, mitigation measures, taking into account the objectives referred to in Article 3.	Regulation (EU) 2019/452 and, where necessary, mitigation measures, taking into account the objectives referred to in Article 3.
Article 8(5)				
80	5. By way of derogation from paragraph 4, a legal entity established in the Union or in an associated third country and controlled by a non-associated third country or a non-associated third country entity may participate as contractor and subcontractor involved in the common procurement only if it provides guarantees approved by the Member State or associated third country in which the contractor is established.	5. By way of derogation from paragraph 4 <b>of this Article</b> , a legal entity established in the Union or in an associated <del>third</del> country and controlled by a non-associated third country or a non-associated third country entity may participate <del>as contractor and subcontractor involved in the common procurement only</del> if it provides guarantees <del>approved</del> <b>verified</b> by the Member State or associated <del>third</del> country in which the contractor <b>or subcontractor involved in the common procurement</b> is established. <b>The guarantees shall provide assurances that the involvement of the contractor or subcontractor in the common procurement does not contravene the security and defence interests of the Union</b>	5. By way of derogation from paragraph 4, a legal entity established in the Union or in an associated <del>third</del> country and controlled by a non-associated third country or a non-associated third country entity may participate <del>as contractor and subcontractor involved in the common procurement only</del> if it provides guarantees <del>approved</del> <b>verified</b> by the Member State or associated <del>third</del> country in which the contractor <b>or subcontractor involved in the common procurement</b> is established. <b>The guarantees shall provide assurances that the involvement of the contractor or subcontractor involved in the common procurement does not contravene the security and</b>	5. By way of derogation from paragraph 4, a legal entity established in the Union or in an associated <del>third</del> country and controlled by a non-associated third country or a non-associated third country entity may participate <del>as contractor and subcontractor involved in the common procurement only</del> if it provides guarantees <del>approved</del> <b>verified</b> by the Member State or associated <del>third</del> country in which the contractor <b>or subcontractor involved in the common procurement</b> is established. <b>The guarantees shall provide assurances that the involvement of the contractor or subcontractor involved in the common procurement does not contravene the security and</b>

		and its Member States as established in the framework of Common Foreign and Security Policy (CFSP) pursuant to Title V of the TEU, or the objectives set out in Article 3 of this Regulation.	defence interests of the Union and its Member States as established in the framework of the CFSP pursuant to Title V of the TEU, or the objectives set out in Article 3.	defence interests of the Union and its Member States as established in the framework of the CFSP pursuant to Title V of the TEU, or the objectives set out in Article 3.
Article 8(6)				
81	6. The participating Member States shall provide to the Commission a notification from the procurement agent on the guarantees provided by a contractor or subcontractor involved in the common procurement that is established in the Union or an associated third country and controlled by a non-associated third country or a non-associated third country entity. The guarantees and related provisions in the procurement contract shall be made available to the Commission upon request. The guarantees shall provide assurances that the involvement of the contractor or subcontractor involved in the common procurement does not contravene	6. The participating Member States shall provide to the Commission a notification from the procurement agent on the guarantees provided by a contractor or subcontractor involved in the common procurement that is established in the Union or an associated third country and controlled by a non-associated third country or a non-associated third country entity referred to in paragraph 5 of this Article. The guarantees and related provisions in the procurement contract shall be made available to the Commission upon request. The guarantees shall provide assurances that the involvement of the contractor or subcontractor	6. <del>The participating Member States shall provide to the Commission a notification from the procurement agent on the guarantees provided by a contractor or subcontractor involved in the common procurement that is established in the Union or an associated third country and controlled by a non-associated third country or a non-associated third country entity. The guarantees and related provisions in the procurement contract shall be made available to the Commission upon request. The guarantees shall provide assurances that the involvement of the contractor or subcontractor involved in the common procurement does not contravene</del>	[Moved to rows 82 and following.]

	the security and defence interests of the Union and its Member States as established in the framework of the CFSP pursuant to Title V of the TEU, or the objectives set out in Article 3.	involved in the common procurement does not contravene the security and defence interests of the Union and its Member States as established in the framework of the CFSP pursuant to Title V of the TEU, or the objectives set out in Article 3 <b>of this Regulation.</b>	<del>the security and defence interests of the Union and its Member States as established in the framework of the CFSP pursuant to Title V of the TEU, or the objectives set out in Article 3.</del>	
Article 8(7)				
82	7. The guarantees shall in particular substantiate that, for the purposes of the common procurement, measures are in place to ensure that:	<b>7. The guarantees referred to in paragraph 6 shall be based on a standardised template adopted by the Commission by means of implementing acts by ... [1 month after the date of entry into force of this Regulation]. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 14(3). The guarantees and the template shall be part of the tender specification.</b> The guarantees shall in particular substantiate that, for the purposes of the common-procurement, measures are in place to ensure that:	<b>7. The guarantees as referred to in paragraph 5 may be based on a standardised template provided by the Commission, assisted by the Committee referred to in Article 14, and shall be part of the tender specifications, to ensure a harmonised use throughout the European Union.</b> The guarantees shall in particular substantiate that, for the purposes of the common-procurement, measures are in place to ensure that:	<b>7. The guarantees as referred to in paragraph 5 may be based on a standardised template provided by the Commission, assisted by the Committee referred to in Article 14, and shall be part of the tender specifications, to ensure a harmonised use throughout the European Union.</b> The guarantees shall in particular substantiate that, for the purposes of the common-procurement, measures are in place to ensure that:

Article 8(7), point (a)				
83	(a) control over the contractor or subcontractor involved in the common procurement is not exercised in a manner that restrains or restricts its ability to carry out the order and to deliver results and;	(a) control over the contractor or subcontractor involved in the common procurement is not exercised in a manner that restrains or restricts its ability to carry out the order and to deliver results and;	(a) control over the contractor or subcontractor involved in the common procurement is not exercised in a manner that restrains or restricts its ability to carry out the order and to deliver results and;	(a) control over the contractor or subcontractor involved in the common procurement is not exercised in a manner that restrains or restricts its ability to carry out the order and to deliver results and;
Article 8(7), point (b)				
84	(b) access by a non-associated third country or by a non-associated third-country entity to sensitive information is prevented and the employees or other persons involved in the common procurement have national security clearance issued by a Member State.	(b) access by a non-associated third country or by a non-associated third-country entity to sensitive information is prevented and the employees or other persons involved in the common procurement have national security clearance issued by a Member State.	(b) access by a non-associated third country or by a non-associated third-country entity to <del>sensitive</del> <b>classified</b> information <b>relating to the common procurement</b> is prevented and the employees or other persons involved in the common procurement have a national security clearance issued by a Member State, <b>in accordance with national laws and regulations.</b>	(b) access by a non-associated third country or by a non-associated third-country entity to <del>sensitive</del> <b>classified</b> information <b>relating to the common procurement</b> is prevented and the employees or other persons involved in the common procurement have a national security clearance issued by a Member State, <b>in accordance with national laws and regulations.</b>
Article 8(7a)				
84a			<b>7a. The procurement agent shall provide to the</b>	<b>7a. The procurement agent shall provide to the</b>

			Commission a notification on the mitigation measures applied within the meaning of Regulation (EU) 2019/452 referred to in paragraph 4 or the guarantees referred to in paragraph 5. Further information on the mitigation measures applied or the guarantees shall be made available to the Commission upon request. The Commission shall inform the committee referred to in Article 14 of any notification provided in accordance with this paragraph.	Commission a notification on the mitigation measures applied within the meaning of Regulation (EU) 2019/452 referred to in paragraph 4 or the guarantees referred to in paragraph 5. Further information on the mitigation measures applied or the guarantees shall be made available to the Commission upon request. The Commission shall inform the committee referred to in Article 14 of any notification provided in accordance with this paragraph.
Article 8(8)				
85	8. The infrastructure, facilities, assets and resources of the contractors and subcontractors involved in the common procurement which are used for the purposes of the common procurement shall be located on the territory of a Member State or of an associated third country. Where no competitive substitutes are readily available in the Union	8. The infrastructure, facilities, assets and resources of the contractors and subcontractors involved in the common procurement which are used for the purposes of the common procurement shall be located on the territory of a Member State or of an associated third country. Where <del>no competitive substitutes</del> <b>are there are no</b> readily available	8. The infrastructure, facilities, assets and resources of the contractors and subcontractors involved in the common procurement which are used for the purposes of the common procurement shall be located on the territory of a Member State or of an associated third country. Where <del>no competitive substitutes</del> <b>are readily available in the Union</b>	8. The infrastructure, facilities, assets and resources of the contractors and subcontractors involved in the common procurement which are used for the purposes of the common procurement shall be located on the territory of a Member State or of an associated third country. <b><u>Where no competitive substitutes are contractors or</u></b>



	or in an associated third country, contractors and subcontractors involved in the common procurement may use their assets, infrastructure, facilities and resources located or held outside the territory of the Member States or of the associated third countries provided that such use does not contravene the security and defence interests of the Union and its Member States and is consistent with the objectives set out in Article 3.	<b>alternatives or relevant infrastructure, facilities, assets and resources</b> in the Union or in an associated <del>third</del> country, contractors and subcontractors involved in the common procurement may use their assets, infrastructure, facilities and resources located or held outside the territory of the Member States or of the associated <del>third</del> countries provided that such use does not contravene the security and defence interests of the Union and its Member States and is consistent with the objectives set out in Article 3.	<del>or in an associated third country,</del> Contractors and subcontractors involved in the common procurement may use their assets, infrastructure, facilities and resources located or held outside the territory of the Member States or of the associated third countries, <b>if they do not have relevant infrastructure, facilities, assets and resources in the Union or in an associated country</b> , provided that such use does not contravene the security and defence interests of the Union and its Member States and is consistent with the objectives set out in Article 3.	<b><u>subcontractors have no readily available alternatives or relevant infrastructure, facilities, assets and resources in the Union or in an associated third country</u></b> , contractors and subcontractors involved in the common procurement may use their assets, infrastructure, facilities and resources located or held outside the territory of the Member States or of the associated <del>third</del> countries, <del>if they do not have relevant infrastructure, facilities, assets and resources in the Union or in an associated country</del> provided that such use does not contravene the security and defence interests of the Union and its Member States and is consistent with the objectives set out in Article 3.
Article 8(9)				
86	9. Common procurement procedures and contracts shall also include a requirement for the defence product to not be subject to a restriction by a non-associated third country or a non-	9. Common procurement procedures and contracts shall also include a requirement for the defence product to not be subject to a restriction by a non-associated third country or a non-	9. Common procurement procedures and contracts shall also include a requirement for the defence product to not be subject to a restriction by a non-associated third country or a non-	9. Common procurement procedures and contracts shall also include a requirement for the defence product to not be subject to a restriction by a non-associated third country or a non-

	associated third country entity.	associated third country entity <b>that limits Member States' ability to use that defence product.</b>	associated third country entity <b>directly, or indirectly through one or more intermediary legal entities, that limits Member States' ability to use it.</b>	associated third country entity <b>directly, or indirectly through one or more intermediary legal entities, that limits Member States' ability to use it.</b>
Article 8(9a)				
86a		<b>9a. By way of derogation from paragraph 9, the requirement for the defence product referred to in that paragraph shall not apply where all of the following conditions are met:</b>	<b>9a. By way of derogation from paragraph 9, in light of the current situation and the urgency to procure with the support of the Instrument, the requirement referred to in paragraph 9 does not apply to urgent and critical defence products, provided all the following conditions are met:</b>	<b>9a. By way of derogation from paragraph 9, in light of the current situation and the urgency to procure with the support of the Instrument, the requirement referred to in paragraph 9 does not apply to urgent and critical defence products, provided all the following conditions are met:</b>
Article 8(9a), point (a)				
86b		<b>(a) common procurement procedures and contracts refer to urgent and critical defence products needs that are needed to replenish stocks that have been reduced as a result of the response to the Russian military aggression against Ukraine;</b>	<b>(a) Member State or associated countries participating in the common procurement commit to study the feasibility of replacing the components that cause the restriction by an alternative restriction-free component of EU origin;</b>	<b>(a) Member State or associated countries participating in the common procurement commit to study the feasibility of replacing the components that cause the restriction by an alternative restriction-free component of EU origin;</b>

Article 8(9a), point (b)				
86c		<b>(b) the capacity of the EDTIB to fill the most urgent and critical gaps in the stocks of the Member States is not sufficient or is not able to provide the defence products in an adequate timeframe;</b>	<b>(b) the procured products were in use prior to 24 February 2022 within the armed forces of a majority of the Member States participating in the common procurement.</b>	<b>(b) the procured products were in use prior to 24 February 2022 within the armed forces of a majority of the Member States participating in the common procurement.</b>
Article 8(9a), point (c)				
86d		<b>(c) Member States or associated countries participating in the common procurement have carefully assessed the feasibility of replacing the components that cause the restriction by an alternative restriction-free component of Union origin;</b>		
Article 8(9a), point (d)				
86e		<b>(d) the procured products were in use prior to 24 February 2022 within the armed forces of at least two Member States participating in the common</b>		

		<b>procurement.</b>		
Article 8(10)				
87	10. For the purposes of this Article, ‘subcontractors involved in the common procurement’ means all of the following:	10. For the purposes of this Article, ‘subcontractors involved in the common procurement’ means all of the following:	10. For the purposes of this Article, ‘subcontractors involved in the common procurement’ means <b>any entity which provides critical inputs that possess unique attributes essential for the functioning of a product and is allocated at least 10 per cent of the following value of the contract.</b>	10. For the purposes of this Article, ‘subcontractors involved in the common procurement’ means <b>any entity which provides critical inputs that possess unique attributes essential for the functioning of a product and is allocated at least 10 per cent of the following value of the contract.</b>
Article 8(10), point (a)				
88	(a) subcontractors with a direct contractual relationship to a contractor;	(a) <del>subcontractors with a direct contractual relationship to a contractor;</del> <b>deleted</b>	(a) <del>subcontractors with a direct contractual relationship to a contractor;</del>	[deleted]
Article 8(10), point (b)				
89	(b) other subcontractors to which at least 10 % of the work share is allocated;	(b) <del>other subcontractors</del> <b>entities</b> to which at least <del>10</del> <b>20</b> % of the <del>work share</del> <b>contract value</b> is allocated;	(b) <del>other subcontractors to which at least 10 % of the work share is allocated;</del>	[deleted]
Article 8(10), point (c)				

90	(c) subcontractors which may require access to classified information in order to carry out the common procurement.	(c) subcontractors which may require access to classified information in order to carry out the common procurement.	(c) subcontractors which may require access to classified information in order to carry out the common procurement.	[deleted]
Article 8(10a)				
90a		<b>10a. The proportion of the components originating from non-associated third countries shall not exceed 40 % of the estimated value of the procurement contract. No components shall be sourced from non-associated third countries that contravene the security and defence interests of the Union and its Member States, including respect for the principle of good neighbourly relations.</b>	<b>10a. The cost of components originating in non-associated third countries shall not exceed 30 per cent of the value of the end product. No components shall be sourced from non-associated third countries that contravene the security and defence interests of the Union and its Member States, including respect for the principle of good neighbourly relations.</b>	<b>10a. The cost of components originating in the <u>European Union or associated countries</u> shall not be lower than 65 per cent of the estimated value of the end product. No components shall be sourced from non-associated third countries that contravene the security and defence interest of the Union and its Member States, including respect for the principle of good neighbourly relations.</b>
Article 9				
91	Article 9 Eligible entities	Article 9 Eligible entities	Article 9 Eligible entities	Article 9 Eligible entities
Article 9, first paragraph				

92	Provided that they comply with the eligibility criteria set out in Article 197 of the Financial Regulation, the following entities are eligible for funding:	Provided that they comply with the eligibility criteria set out in Article 197 of the Financial Regulation, the following entities are eligible for funding:	Provided that they comply with the eligibility criteria set out in Article 197 of the Financial Regulation, the following entities are eligible for funding are:	Provided that they comply with the eligibility criteria set out in Article 197 of the Financial Regulation, the following entities are eligible for funding are:
Article 9, first paragraph, point (a)				
93	<p>(a) public contracting authorities or contracting entities as defined in Directives 2014/24/EU<sup>1</sup> and 2014/25/EU<sup>2</sup> of the European Parliament and of the Council;</p> <p>1. Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).</p> <p>2. Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).</p>	<p>(a) <del>the</del> public contracting authorities or <del>contracting entities</del> as defined in Directives 2014/24/EU<sup>1</sup> and 2014/25/EU<sup>2</sup> of the European Parliament and of the Council of Member States;</p> <p>1. Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).</p> <p>2. Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).</p>	<p>(a) public contracting authorities or contracting entities as defined in Directives 2014/24/EU<sup>1</sup> and 2014/25/EU<sup>2</sup> of the European Parliament and of the Council of Member States;</p> <p>1. Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).</p> <p>2. Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).</p>	<p>(a) public contracting authorities or contracting entities as defined in Directives 2014/24/EU<sup>1</sup> and 2014/25/EU<sup>2</sup> of the European Parliament and of the Council of Member States;</p> <p>1. Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).</p> <p>2. Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).</p>
Article 9, first paragraph, point (b)				
94	(b) public authorities of	(b) public authorities of	(b) public authorities of	(b) public authorities of

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	associated third countries.	associated <del>third</del> countries-;	associated third countries-;	associated third countries-;
Article 9, first paragraph, point (ba)				
94a		<b>(ba) procurement agents as referred to in Article 2(5).</b>	<b>(ba) procurement agents as referred to in Article 2 paragraph 5.</b>	<b>(ba) procurement agents as referred to in Article 2 paragraph 5.</b>
Article 10				
95	Article 10 Award criteria	Article 10 Award criteria	Article 10 Award criteria	Article 10 Award criteria
Article 10(1)				
96	The Commission shall evaluate the proposals submitted on the basis of the following award criteria:	The Commission shall evaluate the proposals submitted on the basis of the following award criteria:	<b>1. The Commission shall evaluate the proposals submitted on the basis of the following <b>criteria for the award criteria of the grant:</b></b>	<b>1. The Commission shall evaluate the proposals submitted on the basis of the following <b>criteria for the award criteria of the grant:</b></b>
Article 10(1), point (a)				
96a	4. the number of Member States or associated countries participating in the common procurement;		<b>4.(a)</b> the number of Member States or associated countries participating in the common procurement	<b>4.(a)</b> the number of Member States or associated countries participating in the common procurement;
Article 10(1), point (b)				

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96b			(b) the estimated value of the common procurement;	(b) the estimated value of the common procurement;
Article 10(1), point (c)				
97	1. The contribution of the action to strengthening and developing the Union defence industrial base to allow it to address in particular the most urgent and critical defence products needs as referred to in Article 3, including with respect to procurement procedure and delivery lead times, replenishment of stocks, availability and supply;	1. The contribution of the action to strengthening and developing the Union defence industrial base <b>strengthen the competitiveness, adaptation and further development and modernising of the EDTIB</b> to allow it to address in particular the most urgent and critical defence products needs as referred to in Article 3, including with respect to procurement procedure and delivery lead times, replenishment of stocks, availability and supply;	<del>1.(c) the contribution</del> <b>demonstration</b> of the action's <b>contribution</b> to strengthening and developing the Union defence industrial base <b>EDTIB</b> to allow it to address in particular the most urgent and critical defence products needs as referred to in Article 3, including with respect to procurement procedure and delivery lead times, replenishment of stocks, availability and supply;	<del>1.(c) "the contribution</del> <b>demonstration</b> of the action's <b>contribution</b> to the strengthening and developing the Union defence industrial base <b>of the EDTIB's competitiveness, adaptation, modernisation and development</b> to allow it to address in particular the most urgent and critical defence products needs as referred to in Article 3, including with respect to procurement procedure and delivery lead times, replenishment of stocks, availability and supply;"
Article 10(1), point (d)				
97a			(d) the demonstration of the action's contribution to the	(d) the demonstration of the action's contribution to the



			replenishment of stockpiles, including those that have been depleted as a result of the response to the unprovoked and unjustified military aggression against Ukraine, as well as the replacement and reinforcement of capabilities as referred to in Article 3;	replenishment of stockpiles, including those that have been depleted as a result of the response to the unprovoked and unjustified military aggression against Ukraine, as well as the replacement and reinforcement of capabilities as referred to in Article 3;
97b		(1a) The contribution of the action to the replenishment of stocks that have been depleted due to unprovoked and unjustified military aggression against Ukraine, taking into account the rate of depletion of participating Members States stockpiles of the category of procured defence products since 24 February 2022;		
Article 10, first paragraph, point (2)				
98	2. the contribution of the action to competitiveness and adaptation of the EDTIB, including through the envisaged ramp-up of its	<del>2. the contribution of the action to competitiveness and adaptation of the EDTIB, including through the envisaged ramp-up of its</del>	<del>2. the contribution of the action to competitiveness and adaptation of the EDTIB, including through the envisaged ramp-up of its</del>	[deleted]

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	manufacturing capacities, reservation of manufacturing capacities, its reskilling and upskilling, and overall modernization;	<del>manufacturing capacities, reservation of manufacturing capacities, its reskilling and upskilling, and overall modernization;</del> <b>deleted</b>	<del>manufacturing capacities, reservation of manufacturing capacities, its reskilling and upskilling, and overall modernization;</del>	
Article 10(1), point (e)				
99	3. the contribution of the action to strengthening cooperation among Member States or associated countries and interoperability of products;	3. the contribution of the action to strengthening cooperation among Member States or associated countries and interoperability of products;	<del>3(e). the contribution</del> <b>extent</b> of the action's <b>contribution</b> to strengthening cooperation among Member States or associated countries, <b>in particular the proportional sharing of technical financial risks and opportunities, based on a genuinely cooperative concept, as well as the and</b> interoperability of products <b>procured under this Regulation;</b>	<del>3(e). the contribution</del> <b>extent</b> of the action's <b>contribution</b> to strengthening cooperation among Member States or associated countries, <b>in particular the proportional sharing of technical financial risks and opportunities, based on a genuinely cooperative concept, as well as the and</b> interoperability of products <b>procured under this Regulation;</b>
Article 10, first paragraph, point (4)				
100	4. the number of Member States or associated countries participating in the common procurement;	4. the number of Member States or associated countries participating in the common procurement;	[Moved to row 96a]	[Moved to row 96a]
Article 10, first paragraph, point (5)				

101	5. the estimated size of the common procurement and any declaration by the participants that they will jointly use, stockpile, own or maintain the procured defence products;	5. the estimated <del>size</del> <b>value</b> of the common procurement and any <del>declaration by the participants that they will jointly use,</del> stockpile, own or maintain the procured defence products;	5. <del>the estimated size of the common procurement and any declaration by the participants that they will jointly use,</del> stockpile, own or maintain the procured defence products;	[Moved to row 96b]
Article 10(1), point (ea)				
102	6. catalytic effect of Union financial support through demonstration of how the Union contribution can overcome obstacles to common procurement;	6. <del>catalytic effect of Union financial support through demonstration of how the Union contribution can overcome obstacles to common</del> <b>procurementthe action's contribution to overcoming obstacles to common procurement and to the creation of new supply chains throughout the Union;</b>	6. <del>catalytic effect of Union financial support through demonstration of how the Union contribution can overcome obstacles to common</del> procurement;	<b><u>(ea) the action's contribution to overcoming obstacles to common procurement.</u></b>
Article 10(1), point (f)				
102a			<b>(f) the extent of the action's contribution to the competitiveness and adaptation of the EDTIB, including through the envisaged creation or ramp-up of manufacturing</b>	<b>(f) the extent of the action's contribution to the competitiveness and adaptation of the EDTIB <u>to structural changes, including technological ones,</u> including</b>

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			capacities, reservation of manufacturing capacities, and security of supply;	<u>inter alia</u> through the envisaged creation or ramp-up of manufacturing capacities, reservation of manufacturing capacities, and security of supply;
Article 10(1), point (g)				
102b			(g) the participation of SMEs and mid-caps as well as new cross-border cooperation between contractors and subcontractors in the supply chains throughout the Union;	<u>(g) the participation of SMEs and mid-caps;</u>
Article 10(1), point (ga)				
102c				<u>(ga) new cross-border cooperation between contractors and subcontractors in the supply chains throughout the Union.</u>
Article 10(1), point (h)				
103	7. quality and efficiency of the plans for carrying out of the action.	7. <del>the</del> quality and efficiency of the plans for carrying out of the action-;	<del>7(h).</del> quality and efficiency of the plans for carrying out of the action-;	<del>7(h).</del> quality and efficiency of the plans for carrying out of the action-;

103a		(7a) the participation of Union SMEs and mid-caps as contractors and subcontractors or in the manufacturing process of procured products, as well the contribution of the action to diversifying the supply chain.		
Article 10(2)				
103b			2. The weighting of the award criteria shall be determined by the Commission, assisted by the Committee as referred to in Article 14.	<u>2. The work programme shall lay down further details concerning the application of the award criteria laid down in paragraph 1, including any weighting. The work programme shall not set individual thresholds.</u>
Article 10(3)				
103c			3. Upon request, the Commission shall share its evaluation as well as the underlying information submitted by the applicants with the committee referred to in Article 14.	<u>3. The Commission shall share the call evaluation report with the committee referred to in article 14. The Commission shall share with the applicants a detailed report of the outcome of the evaluation of their</u>

				<u>proposal.</u>
Article 11				
104	Article 11 Work programme	Article 11 Work programme	Article 11 Work programme	Article 11 Work programme
Article 11(1)				
105	1. The Instrument shall be implemented through a work programme as referred to in Article 110 of the Financial Regulation.	1. The Instrument shall be implemented through a <b>multiannual</b> work programme as referred to in Article 110 of the Financial Regulation.	1. The Instrument shall be implemented through a <b>multiannual</b> work programme as referred to in Article 110 of the Financial Regulation.	1. The Instrument shall be implemented through a <b>multiannual</b> work programme as referred to in Article 110 of the Financial Regulation.
Article 11(2)				
106	2. The Commission shall, by means of an implementing act, adopt the work programme referred to in paragraph 1. The implementing act shall be adopted in accordance with the examination procedure referred to in Article 14 paragraph 3.	2. <b>By ... [three months after the entry into force of this Regulation],</b> the Commission shall, by means of <del>an implementing act, adopt the work programme referred to in paragraph 1. The implementing act shall be adopted in accordance with the examination procedure</del> <b>a delegated act, in accordance with Article 13a, supplement this Regulation by adopting the</b>	2. The Commission shall, by means of an implementing act, adopt the work programme referred to in paragraph 1. The implementing act shall be adopted in accordance with the examination procedure referred to in Article 14 paragraph 3.	2. The Commission shall, by means of an implementing act, adopt the work programme referred to in paragraph 1. The implementing act shall be adopted in accordance with the examination procedure referred to in Article 14 paragraph 3.

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		<b>work programme</b> referred to in <del>Article 14</del> paragraph <del>3</del> <b>1</b> .		
Article 11(2a)				
106a			<b>2a. The work programme shall set out:</b>	<b>2a. The work programme shall set out:</b>
106b			<b>(a) the funding priorities concerned, in line with the needs referred to in paragraph 2 of Article 3, a description of actions involving cooperation for common procurement and the estimated value of the common procurement, and the procedure for the evaluation and selection of the proposals;</b>	
106c			<b>(b) the overall amount of the Union contribution for each funding priority concerned;</b>	

106d			(c) the minimum value of each joint procurement action and the indicative amount of financial support for actions carried out by Member States as well as, where applicable, incentives for procurement of higher value and inclusion of additional Member States or associated countries;	
106e			(d) a description of the milestones, designed in such a way as to mark substantial progress in implementing the respective action or the results to be achieved, as well as the associated amounts for disbursement;	
106f			(e) the arrangements for verification of the milestones and of the fulfilment of conditions or achievement of results; and	



106g			(f) the methods for determination and adjustment of the amounts, where applicable.	
Article 11(3)				
107	3. The work programme shall set out the minimum financial size of the joint procurement actions and determine the indicative amount of financial support for actions carried out by the minimum number of Member States as referred to in point c) of Article 7 paragraph 1 as well as incentives for procurement of higher value and inclusion of additional Member States or associated countries.	3. The work programme shall set out the minimum financial size of the joint procurement actions and determine the indicative amount of financial support for actions carried out by the minimum number of Member States as referred to in point c) of Article 7 paragraph 1 as well as incentives for procurement of higher value and inclusion of additional Member States or associated countries.:	3. The work programme shall set out the minimum financial size of the joint procurement actions and determine the indicative amount of financial support for actions carried out by the minimum number of Member States as referred to in point c) of Article 7 paragraph 1 as well as incentives for procurement of higher value and inclusion of additional Member States or associated countries.	[deleted]
Article 11(2a), point (a)				
107a		(a) the minimum financial size of the joint procurement actions;		(a) the minimum financial size of the joint procurement actions;

Article 11(2a), point (b)				
107b		<b>(b) the indicative amount of financial support for actions carried out by the minimum number of Member States as referred to in point c) of Article 7 paragraph 1;</b>		<b>(b) the indicative amount of financial support for actions carried out by the minimum number of Member States as referred to in point c) of Article 7, paragraph 1;</b>
Article 11(2a), point (c)				
107c		<b>(c) incentives for procurement of higher value and inclusion of additional Member States or associated countries or countries referred to in Article 5(2);</b>		<b>(c) incentives for procurement of higher value and inclusion of additional Member States or associated countries;</b>
Article 11(2a), point (d)				
107d		<b>(d) the overall amount of the Union contribution to each funding priority;</b>		<b>(d) the overall amount of the Union contribution to each funding priority;</b>
Article 11(2a), point (e)				
107e		<b>(e) a description of actions</b>		<b>(e) a description of actions</b>

		<b>involving cooperation for common procurement;</b>		<b>involving cooperation for common procurement;</b>
Article 11(2a), point (f)				
107f		<b>(f) the estimated value of the common procurement;</b>		<b>(f) the estimated value of the common procurement;</b>
Article 11(2a), point (g)				
107g		<b>(g) the procedure for evaluation and selection of the proposals;</b>		<b>(g) the procedure for evaluation and selection of the proposals;</b>
Article 11(2a), point (h)				
107h		<b>(h) the description of the monitoring and disbursement process throughout the implementation of the relevant action.</b>		<b>(h) a description of the milestones, designed in such a way as to mark substantial progress in implementing the respective action or the results to be achieved, as well as the associated amounts for disbursement;</b>
Article 11(2a), point (i)				
108	4. The work programme shall set out the funding priorities in line	4. The work programme shall set out the funding priorities in line	<del>4. The work programme shall set out the funding priorities in line</del>	<b>(i) the arrangements for the verification of the milestones</b>

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	with the needs referred to in Article 3 paragraph 2.	with the needs referred to in Article 3 paragraph 2-, <b>which fulfil the requirements of high intensity and long-lasting combat operations and of the related training, and which aim to ensure availability of sufficient quantities of, in particular:</b>	<del>with the needs referred to in Article 3 paragraph 2.</del>	<b>and of the fulfilment of conditions or achievement of results; and</b>
Article 11(2a), point (j)				
108a		<b>(a) all types of ammunition for ground combat, including specific missiles;</b>		<b>(j) the methods for determination and adjustment of the amounts, where applicable.</b>
Article 11(3)				
108b		<b>(b) mid-range and long-range air-to-ground ammunitions, in particular precision guided munitions and cruise missiles;</b>		<b>3. The work programme shall set out the funding priorities in line with the needs referred to in Article 3(2), which aim to ensure availability of sufficient quantities of the most urgent and critical defence products to fill the most urgent capability gaps, as referred to in Chapter 4 of the Joint Communication on Defence Investment Gaps Analysis of 18 May 2022.</b>

108c		<b>(c) air defence-specific effectors, in particular short range air defence and ground-based air defence;</b>		
108d		<b>(d) logistic supplies and logistic support, transport enablers, military engineering, petrol, oil and lubricants supply;</b>		
108e		<b>(e) combat medical equipment, in the context of which the agreement referred to in Article 8(2) shall contain provisions for close cooperation between the procurement agent and the European medical command;</b>		
108f		<b>(f) protected combat and combat support equipment;</b>		

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108g		<b>(g) force protection equipment adapted to the operational context;</b>		
108h		<b>(h) multi-domain command and control capabilities as well as interoperable communications and information systems;</b>		
108i		<b>(i) training support equipment and training facilities with regard to points (a) to (h).</b>		
Article 11a				
108j		<b>Article 11a Application of the rules on classified and sensitive information</b>		<b>Article 11a Application of the rules on classified and sensitive information</b>
Article 11a(1)				
108k		<b>1. Within the scope of this</b>		<b>1. Within the scope of this</b>

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		<b>Regulation:</b>		<b>Regulation:</b>
Article 11a(1), point (a)				
108l		<p>(a) each Member State shall ensure that it offers a degree of protection of EU classified information equivalent to that provided by the security rules of the Council set out in Council Decision 2013/488/EU<sup>1</sup>;</p> <p><u>1. Council Decision of 23 September 2013 on the security rules for protecting EU classified information (2013/488/EU) (OJ L 274, 15.10.2013, p. 1).</u></p>		<p>(a) Member States and associated countries participating in a common procurement shall determine among themselves the arrangements applicable to the protection of classified information for the purposes of the common procurement, in accordance with national laws and regulations.</p>
Article 11a(1), point (b)				
108m		<p>(b) the Commission shall protect classified information in accordance with the security rules laid down in Commission Decision (EU, Euratom) 2015/444<sup>1</sup>;</p> <p><u>1. Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53).</u></p>		<p><u>(b) each Member State shall ensure that it offers a degree of protection of EU classified information equivalent to that provided by the security rules of the Council set out in Council Decision 2013/488/EU<sup>1</sup>;</u></p> <p><u>1. Council Decision of 23 September 2013 on the security rules for protecting EU classified information (2013/488/EU) (OJ L 274, 15.10.2013,</u></p>

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				<u>p. 1).</u>
Article 11a(1), point (c)				
108n		<b>2. The use and disclosure of sensitive information shall be governed by relevant Union and national law and subjected to authorisation of the Member States.</b>		<b>(c) The Commission shall protect EU classified information received in relation to the Instrument in accordance with the security rules set out in Decision (EU, Euratom) 2015/444.</b>
Article 11a(2)				
108o		<b>3. The Commission shall use a secured exchange system in order to facilitate the exchange of sensitive and classified information between the Commission and the Member States and associated countries and, where appropriate, with the applicants and the recipients. That system shall take into account the Member States' national security regulations.</b>		<b>2. The Commission shall set up a secured exchange system in order to facilitate the exchange of sensitive and classified information between the Commission and the Member States and associated countries and, where appropriate, with the applicants and the recipients. That system shall take into account the Member States' national security regulations.</b>
Article 12				



109	Article 12 Monitoring and reporting	Article 12 Monitoring and reporting	Article 12 Monitoring and reporting	Article 12 Monitoring and reporting
Article 12(1)				
110	1. The Commission shall draw up an evaluation report for the Instrument not later than 31 December 2024 and submit it to the European Parliament and to the Council. The report shall evaluate the impact and effectiveness of the actions taken under the Instrument.	1. <b>By 31 December 2024</b> , the Commission, <b>in cooperation with the European Defence Agency</b> , shall draw up an evaluation report for the Instrument <del>not later than 31 December 2024</del> and submit it to the European Parliament and to the Council. The report shall evaluate the impact and effectiveness of the actions taken under the Instrument.	1. The Commission shall draw up an evaluation report for the Instrument not later than 31 December <del>2024</del> <b>2025</b> and submit it to the European Parliament and to the Council. The report shall evaluate the impact and effectiveness of the actions taken under the Instrument.	1. The Commission shall draw up an evaluation report for the Instrument not later than 31 December <del>2024</del> <b>2025</b> and submit it to the European Parliament and to the Council. The report shall evaluate the impact and effectiveness of the actions taken under the Instrument.
Article 12(2)				
111	2. The report shall build on consultations of Member States and key stakeholders and shall, in particular, assess the progress made towards the achievement of the objectives set out in Article 3.	2. The report shall build on consultations of Member States and key stakeholders and shall, <del>in particular</del> , assess the progress made towards the achievement of the objectives set out in Article 3. <b>It shall, in particular, evaluate the contribution of the Instrument to the:</b>	2. The report shall build on consultations of Member States and key stakeholders and shall, in particular, assess the progress made towards the achievement of the objectives set out in Article 3.	2. The report shall build on consultations of Member States and key stakeholders and shall, <del>in particular</del> , assess the progress made towards the achievement of the objectives set out in Article 3 <b><u>and evaluate the potential bottlenecks in the functioning of the Instrument. It shall, in particular, evaluate the</u></b>

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				<b><u>contribution of the Instrument to the:</u></b>
Article 12(2), point (a)				
111a		<b>(a) creation of new cross-border cooperation between Member States, associated countries or countries referred to in Article 5(2);</b>		<b><u>(a) cooperation between Member States or associated countries, including the creation of new cross-border cooperation;</u></b>
Article 12(2), point (b)				
111b		<b>(b) participation of SMEs and mid-caps in the action, as contractors or subcontractors in the supply chain;</b>		<b><u>b) the participation of SMEs and mid-caps;</u></b>
Article 12(2), point (c)				
111c		<b>(b) strengthening of the EDTIB throughout the Union and ensuring a level-playing field for suppliers from the Member States;</b>		<b><u>c) new cross-border cooperation between contractors and subcontractors in the supply chains throughout the Union;</u></b>
Article 12(2), point (d)				

111d		(d) replenishment of stockpiles that have been depleted due to transfers of defence products to Ukraine;		<b><u>(d) strengthening of the EDTIB's competitiveness, adaptation, modernisation and development to allow it to address in particular the most urgent and critical defence products;</u></b>
Article 12(2), point (e)				
111e		(e) replacement of obsolete military equipment solutions designed and/or produced in the Soviet Union or later military equipment solutions based on them with Union solutions.		<b><u>(e) the overall contract value of common procurements of the most urgent and critical defence products supported by the Instrument.</u></b>
111f		The report shall identify the involvement of each Member State and evaluate the potential bottlenecks in the functioning of the Instrument.		
Article 12(3)				
111g				

		In addition, the report shall identify, based on considerations of the Union's essential defence capability needs, areas of critical dependencies and shortfalls with regard to raw materials, components and production capacities of third-country origin, including an assessment of the possibilities for the development of alternatives within the Union.		<b><u>3. The report shall identify shortfalls and critical dependencies on non-associated third-countries with regard to raw materials, components and production capacities, building on work undertaken in the context of the observatory of critical technologies. The report shall inform the Commission's work on technology roadmaps, including mitigating measures to address those shortfalls and critical dependencies.</u></b>
Article 12(4)				
111h		2a. For each grant, the Commission, after consulting the consortium of Member States and associated countries concerned, shall appoint an officer from the procurement agent as a monitoring officer. That officer shall monitor the implementation of the common procurement, provide a progress report to the Commission every three months until the end of the disbursement period of the		<b><u>4. All reporting requirements on Member States shall be without prejudice to national laws, rules and regulations as well as article 346 TFEU.</u></b>

		<b>Instrument and shall contribute to the report referred to in paragraph 1.</b>		
111i		<b>2b. The monitoring officer shall be involved in briefing the European Parliament. Upon the request of the European Parliament, such briefings shall be held at the level of EU Restricted.</b>		
111j		<b>Article 12a Development of critical components in the Union</b>	<b>Article 12a Application of the rules on classified information</b>	
111k		<b>1. Within 12 months of the publication of the evaluation report referred to in Article 12, and on the basis of the findings of that report, the Commission, in cooperation with the European Defence Agency,</b>	<b>1. Member States and associated countries participating in a common procurement shall determine among themselves the arrangements applicable to the protection of classified</b>	

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		shall prepare a list of critical components of third-country origin for which no alternative exists in the Union and shall take appropriate measures to foster their development in the Union, including through R&D, and in particular, through the European Defence Fund.	information for the purposes of the common procurement, in accordance with national laws and regulations.	
111l			2. The Commission shall protect EU classified information received in relation to the Instrument in accordance with the security rules set out in Decision (EU, Euratom) 2015/444.	
111m			3. The Commission shall set up a secured exchange system in order to facilitate the exchange of sensitive and classified information between the Commission and the Member States and associated countries and, where appropriate, with	

			the applicants and the recipients. That system shall take into account the Member States' national security regulations.	
Article 13				
112	Article 13 Information, communication and publicity	Article 13 Information, communication and publicity	Article 13 Information, communication and publicity	Article 13 Information, communication and publicity
Article 13(1)				
113	1. The recipients of Union funding shall acknowledge the origin and ensure the visibility of the Union funding (in particular when promoting the actions and their results) by providing coherent, effective and proportionate targeted information to multiple audiences, including the media and the public.	1. The recipients of Union funding shall acknowledge the origin and ensure the visibility of the Union funding (in particular when promoting the actions and their results) by providing coherent, effective and proportionate targeted information to multiple audiences, including the media and the public. <b>In order to facilitate the participation of the SMEs and mid-caps, they shall receive the necessary information for their participation in the common</b>	<b>1. Without prejudice to applicable Union or national laws and regulations for the protection of sensitive and classified information,</b> the recipients of Union funding shall acknowledge the origin and ensure the visibility of the Union funding (in particular when promoting the actions and their results) by providing coherent, effective and proportionate targeted information to multiple audiences, including the media and the public.	<b>1. Without prejudice to applicable Union or national laws and regulations for the protection of sensitive and classified information,</b> the recipients of Union funding shall acknowledge the origin and ensure the visibility of the Union funding (in particular when promoting the actions and their results) by providing coherent, effective and proportionate targeted information to multiple audiences, including the media and the public.

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		<b>procurement process under this Instrument.</b>		
Article 13(2)				
114	2. The Commission shall implement information and communication actions relating to the Instrument, and its actions and results. Financial resources allocated to the Instrument shall also contribute to the corporate communication of the political priorities of the Union, as far as they are related to the objectives referred to in Article 3.	2. The Commission shall implement information and communication actions relating to the Instrument, and its actions and results. Financial resources allocated to the Instrument shall also contribute to the corporate communication of the political priorities of the Union, as far as they are related to the objectives referred to in Article 3.	2. The Commission shall implement information and communication actions relating to the Instrument, and its actions and results. Financial resources allocated to the Instrument shall also contribute to the corporate communication of the political priorities of the Union, as far as they are related to the objectives referred to in Article 3.	2. The Commission shall implement information and communication actions relating to the Instrument, and its actions and results. Financial resources allocated to the Instrument shall also contribute to the corporate communication of the political priorities of the Union, as far as they are related to the objectives referred to in Article 3.
114a		<b>Article 13a Exercise of the delegation</b>		
114b		<b>1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.</b>		



114c		<p><b>2. The power to adopt delegated acts referred to in Article 11 shall be conferred on the Commission from [...] years from ... [ the date of entry into force of this Regulation].</b></p>		
114d		<p><b>3. The delegation of power referred to in Article 11 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.</b></p>		

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114e		<b>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.</b>		
114f		<b>5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.</b>		
114g		<b>6. A delegated act adopted pursuant to Article 11 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 the notification of that act to the European Parliament and</b>		

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		<b>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.</b>		
Article 14				
115	Article 14 Committee procedure	Article 14 Committee procedure	Article 14 Committee procedure	Article 14 Committee procedure
Article 14(1)				
116	1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.	1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.	1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.	1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
Article 14(2)				
117	2. The European Defence Agency shall be invited to provide its views and expertise to the committee as an observer. The	2. The European Defence Agency shall be invited to provide its views and expertise to the committee as an observer. The	2. The European Defence Agency shall be invited to provide its views and expertise to the committee as an observer. The	2. The European Defence Agency shall be invited to provide its views and expertise to the committee as an observer. The

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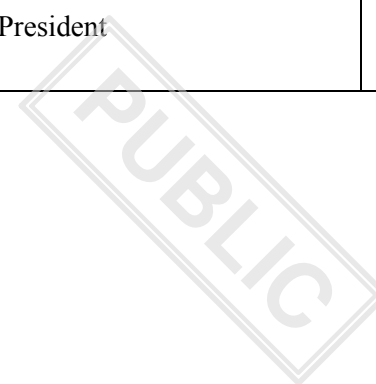
	European External Action Service shall also be invited to assist in the committee.	European External Action Service shall also be invited to assist in the committee.	European External Action Service shall also be invited to assist in the committee.	European External Action Service shall also be invited to assist in the committee.
Article 14(3)				
118	3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.	3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.	3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.  <b>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.</b>	3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.  <b>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.</b>
Article 15				
119	Article 15 Entry into force	Article 15 Entry into force	Article 15 Entry into force	Article 15 Entry into force
Article 15, first paragraph				
120	This Regulation shall enter into force on the day following that of its publication in the Official	This Regulation shall enter into force on the day following that of its publication in the Official	This Regulation shall enter into force on the day following that of its publication in the Official	This Regulation shall enter into force on the day following that of its publication in the Official

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	Journal of the European Union.	Journal of the European Union.	Journal of the European Union.	Journal of the European Union.
Article 15, second paragraph				
121	This Regulation shall be binding in its entirety and directly applicable in all Member States.	This Regulation shall be binding in its entirety and directly applicable in all Member States.	This Regulation shall be binding in its entirety and directly applicable in all Member States.	This Regulation shall be binding in its entirety and directly applicable in all Member States.
Formula				
122	Done at Brussels,	Done at Brussels,	Done at Brussels,	Done at Brussels,
Formula				
123	For the European Parliament	For the European Parliament	For the European Parliament	For the European Parliament
Formula				
124	The President	The President	The President	The President
Formula				
125	For the Council	For the Council	For the Council	For the Council
Formula				
126				The President

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	The President	The President	The President	
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through common Procurement Act 2022/0219(COD)