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NOTE

From: Presidency
To: Permanent Representatives Committee

Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the European Defence Industry Programme and a framework of measures to ensure the timely availability and supply of defence products (EDIP):
- Preparation for the trilogue

I. INTRODUCTION

1. On 5 March 2024, the Commission submitted to the Council a proposal for a Regulation establishing the European Defence Industry Programme and a framework of measures to ensure the timely availability and supply of defence products (EDIP)¹.
2. On 23 June 2025, the Permanent Representatives Committee granted a mandate for negotiations with the European Parliament on the EDIP Regulation².

¹ Document 7340/25.

² Document 10204/25 REV1.

3. Three political trilogues as well as 15 technical meetings have taken place so far. A 16th technical meeting is foreseen for 14 October 2025; a fourth political trilogue is scheduled for 16 October 2025.
4. The Presidency informed Council preparatory bodies about the state of interinstitutional negotiations on 22 July, 9 and 25 September 2025 (Working Party on Defence Industry) as well as on 26 September, 3 and 8 October 2025 (Permanent Representatives Committee).

II. STATE OF PLAY OF NEGOTIATIONS

5. The table contained in the Addendum sets out the state-of-play of negotiations on the file. The main elements of this provisional compromise text are the following:
 - a) **Structure:** Separate chapters are created for the provisions on the “Ukraine Support Instrument” (new chapter IIa), “European Defence Projects of Common Interest” (new chapter IIb) and the “European Military Sales Mechanism” (new chapter IIc). The Council proposal to move several provisions³ to a new location in the draft Regulation has been retained.
 - b) **Budget:** The text of the provisional compromise includes EUR 300m out of the proposed EUR 1.5 billion earmarked for the Ukraine Support Instrument, reflecting the Council mandate. Co-legislators also tentatively agreed that any possible flexibilities for a top-up of EDIP be explored in the context of upcoming annual budgetary procedures and that any future financial contributions by third countries under Art. 17 of the SAFE Regulation be channelled towards EDIP. A joint declaration to this end is being prepared between the Parliament and the Council. Moreover, the text clarifies that the costs of the purchase and of the maintenance of defence products for military or defence purposes must not be covered by Union funding under the Programme and the Ukraine Support Instrument.

³ This refers notably to the “budget” article (moved to chapter I), the provisions on “procurement with support by the Commission”, “advance purchase of defence products” and “facilitating off-take agreements”, which are replicated in both chapters II and IIa, and the article on the “defence security of supply board” (moved to chapter IV).

- c) **EDPCI:** It has been provisionally agreed with the European Parliament that “European Defence Projects of Common Interest” are also open to Ukraine, even if Ukraine is not eligible for funding. As regards the identification of concrete EDPCI, the compromise text reflects the Council mandate in that any such identification is to take place through Council implementing acts. There is no separate delegated act for the award of funding, in line with the Council mandate.
- d) **European Military Sales Mechanism:** Under the envisaged agreement, “Defence Industrial Readiness Pools” would only be eligible for funding under EDIP if they are established in the context of a SEAP.
- e) **SEAP:** The text tentatively agreed for chapter III on the Structures for a European Armament Programme (SEAP) gives more flexibility to SEAP members to decide on the voting procedures for amending the statutes within the context of the SEAP, except for those elements which pertain to exports and to the liability regime. The rest of the chapter remains very similar to the Council mandate, including the provisions on the delegation of tasks to other contracting authorities.
- f) **Security of supply:** Articles 34 and 34a, which aim at facilitating cooperative defence procurement, replicate the Council mandate. In the rest of the chapter, one difference vis-à-vis the Council text is that there are two distinct supply-crisis states, as originally proposed by the Commission, addressing crisis-relevant non-defence and defence products separately. To comply with the requirements set by the legal basis (Art. 114 TFEU) and the principle of proportionality, the scope of the measures that can be taken in those two supply-crisis states has been narrowed in line with the Council mandate. In addition, the role of the Member State where relevant economic operators are established has been strengthened throughout, especially with regard to information requests to economic operators and prioritisation measures. To note that – upon the request of the European Parliament – the text of the provisional compromise does not make the adoption of priority-rated orders for crisis-relevant non-defence products contingent on the relevant economic operator having received Union funding beforehand, but rather makes it contingent on the agreement of the Member State where the relevant economic operator is located and the Member State in which the executive management structure of the economic operator is located. Finally, the limitation period for penalties has been retained as in the Council mandate.

- g) **Governance:** The role of the “Board” reflects the Council mandate, being limited to an advisory function for the implementation of the security of supply chapter (i.e. “Defence Security of Supply Board”). Furthermore, co-legislators agree that the Commission and the rotating Presidency should co-chair Board meetings. As is the case for the European Semiconductor Board in the Chips Act, as well as for the Internal Market Emergency and Resilience Board in the Internal Market Emergency Instrument (IMERA), the compromise text provides that representatives of the European Parliament will be invited to attend as observers. The changes pertaining to the protection of classified and confidential information have been retained as in the Council mandate.
6. The issue pending agreement in the interinstitutional negotiations is the eligibility provisions, especially the Council proposal for Art. 13(2a). The European Parliament has expressed strong scepticism towards this derogation in its entirety, but has indicated willingness to move towards the Council mandate on all other eligibility elements. Further, the Parliament has indicated willingness to engage on the Commission’s proposal to assess the “design authority” criteria at the end of a funding action, as presented during the trilogue on 7 October⁴. The Presidency will orally present elements for a compromise on this topic on which guidance will be sought by the Permanent Representatives Committee.

III. CONCLUSION

7. In light of the above, and with a view to a fourth trilogue scheduled for 16 October 2025, the Permanent Representatives Committee is invited to confirm agreement on the text of the provisional compromise set out in the Addendum and to provide further guidance on the eligibility issue mentioned in point 6.

⁴ WK 13204/25.