Council of the European Union

Brussels, 25 February 2026
(OR. en)

6731/26

Interinstitutional File:
2025/0555 (COD)

LIMITE

COMPET 241	ECOFIN 259
IND 144	COH 37
MI 180	INDEF 67
CADREFIN 80	CULT 24
FIN 317	CYBER 82
RECH 79	JAI 247
ESPACE 32	DIGIT 50
CONSOM 56	DATAPROTECT 63
DUAL USE 16	FREMP 70
EDUC 60	RELEX 268
TELECOM 90	COPS 116
ENER 89	UD 42
ENV 165	AUDIO 31
CLIMA 90	PROCIV 35
AGRI 139	IPCR 19
TRANS 101	MAP 66
SAN 109	FISC 92
PHARM 23	CODEC 321
BIOTECH 15	IA 39
POLMIL 101	CSC 142
POLGEN 45	

NOTE

From:	Presidency
To:	Delegations
No. prev. doc.:	15348/1/25 REV 1
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on establishing the European Competitiveness Fund ('ECF'), including the specific programme for defence research and innovation activities, repealing Regulations (EU) 2021/522, (EU) 2021/694, (EU) 2021/697, (EU) 2021/783, and amending Regulations (EU) 2021/696, (EU) 2023/588, (EU) [EDIP] *- Revised Presidency text on Chapter VII section 2 (Defence)*

Delegations will find below a revised Presidency text on Chapter VII section 2 (Defence) with a view to the meeting of the Ad hoc Working Party on the Multiannual Financial Framework (European Competitiveness Fund) on 4 March 2026.

Changes in comparison to the previous Presidency text (document 15348/1/25 REV 1) are marked in **bold** for additions and in ~~strikethrough~~ for deletions.

The numbering of the Commission proposal remains unchanged until the end of the negotiations.

General scrutiny reservation: All delegations.

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2025/0555 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on establishing the European Competitiveness Fund ('ECF'), including the specific programme for defence research and innovation activities, repealing Regulations (EU) 2021/522, (EU) 2021/694, (EU) 2021/697, (EU) 2021/783, and amending Regulations (EU) 2021/696, (EU) 2023/588, (EU) [EDIP]

(36) In addition, the geopolitical context, in particular Russia's unprovoked and unjustified war of aggression against Ukraine, has exposed the Union and its Member States to a high risk of materialisation of conventional military threats, in particularly to the ones bordering Russia, Belarus and Ukraine, thereby making increased investment in defence a priority. Defence industry and space are key ecosystems to ensure the European Union's resilience, preparedness and strategic autonomy and increase the Union's defence readiness ~~in line with the White Paper for European Defence – Readiness 2030~~.[1] It also supports the Union's focus on sustainability, competitiveness, resilience and security and the Union position in the world. A strong European Defence Technological and Industrial Base (EDTIB) is an indispensable prerequisite of defence readiness and capability development. It is also essential for the protection of European citizens, ensuring the Union's ability to respond to emerging security challenges, to support Ukraine, and to uphold Europe's position as a global actor. The EDTIB is recognised as a strategic asset, contributing to

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~~1~~ ~~Joint White Paper by the Commission and the High Representative for European Defence Readiness 2030, 19.03.2025.~~

the Union's economic resilience and security, innovation, technological leadership and strategic autonomy. Across the Union and its Member States, the defence sector is evolving rapidly, with cutting-edge technologies and new actors playing an increasingly important role. Innovation cycles are also accelerating, with growing emphasis on rapid prototyping, testing and validation, including in real operational environments. To improve military mobility, investments in new civilian-military assets, including mobile assets and dual-use infrastructure need to be developed. Coordinated and sustained support to the EDTIB, including through the development of Union-wide defence projects of common interest, is therefore key to reinforce the collective security of the Union and its Member States and Europe's defence readiness. [In relation to this, actions supporting the reinforcement of the Ukrainian defence technological and industrial base should be also financed, as its industry will be essential to support European increased defence needs.] The support to defence industrial policy under the ECF should be implemented taking into account the objectives of the Strategic Compass for Security and Defence and should be consistent with the defence capability priorities commonly agreed by Member States within the framework of the Common Foreign and Security Policy (CFSP), in particular within the context of the Capability Development Plan (CDP), and with the collaborative opportunities identified in the Coordinated Annual Review on Defence (CARD). Further, the ECF should duly take into account Member States' cooperation within the framework of the Permanent Structured Cooperation (PESCO), the European Defence Agency's (EDA) initiatives and projects, as well as the relevant activities carried out by the North Atlantic Treaty Organisation (NATO), including the NATO Defence Planning Process.

(40) Increasingly, we see the same technologies used for civilian and defence applications, often driven by startups and innovators. It is therefore imperative to seek measures to better exploit the potential civilian-defence synergies and of dual-use technologies. Dual-use technologies, materials, knowledge, or products that can be used for both civilian and military purposes may be supported across the ECF, to ensure a better connection of the Union's technological industry to its defence industrial base as well as to the technological innovation capital of Europe.

Chapter I

General Provisions

SECTION 1

OBJECTIVES AND STRUCTURE OF THE FUND

Article 2

Definitions

1. For the purposes of this Regulation, the following definitions apply:

(21a) 'dynamic availability management' means the provision of defence products in time, at the agreed location and to the agreed levels of availability, as well as managing availability risks that could materialise in the form of shortages of the defence product concerned; in this context, 'availability' means the ability of the defence product to function faultlessly under defined conditions and to be ready to use when required;

(21b) 'maintenance of defence products' means all actions taken to ensure the readiness and operational capability of a defence product, in particular to retain equipment in, or restore it to, specified conditions until the end of its use, including mission readiness, longevity and upgrades, customisation and specialisation, inspection, overhaul, testing, servicing, modifications, classification as to serviceability, repair, recovery, rebuilding, reclamation, salvage and cannibalisation;

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Article 3

Objectives

2. Under the general objectives set out in paragraph 1, the ECF shall in particular pursue the following specific objectives:

(d) For support to 'Resilience and Security, Defence Industry and Space' policy, respectively the specific objectives of:

(2) For support to the European Defence Technological and Industrial Base (EDTIB), the specific objectives of:

(a) Promoting defence industrial readiness of the Union and its Member States through the strengthening of the long-term competitiveness, responsiveness and resilience of the EDTIB, including support to startups, scaleups and SMEs, fostering an innovative EU defence industrial ecosystem;

(b) Collaborative research and development of defence products and technologies, including disruptive technologies for defence;

(c) Cooperation throughout the life-cycle of defence equipment, in particular in defence procurement and for the development of European defence projects of common interest;

(d) Adjustment of the EDTIB to structural changes, including its ability to ensure the timely availability and supply of defence products.

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CHAPTER VII
SUPPORT FOR RESILIENCE AND SECURITY, DEFENCE INDUSTRY AND SPACE

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Article 40

~~Subject matter~~ Specific activities to support resilience, security, defence industry and space

1. Actions supported under this Section shall contribute to the general objectives set out in Article 3(1) and the specific objectives set out in Article 3(2), point (d).

2. Support for actions under this Chapter shall be financed from the budget set out in Article 4(2), point (e), and any additional contributions assigned in accordance with Article 5.

Article 41

Space and defence synergies

1. A Space and Defence Advisory Board is set up and may advice the Commission on the coordination and complementarity between space activities and defence industry **activities** as laid down Article 3(2)(d), sub-points (2) and (3) and related financial tools to increase efficiency of investments and effectiveness of results. The members of the Advisory Board shall be appointed by Member States.

SECTION 2

SUPPORT FOR DEFENCE INDUSTRY POLICY

Article 44

Specific activities to support defence industry policy

1. Support for defence industry policy shall be implemented in particular through the following activities:

(a) Support to the deployment of European Defence Projects of Common Interest as referred to in Article 45 of this Regulation.

(b) Support to Defence R & D, Innovation and Technological Superiority as referred to in Article 46;

(c) Support to Defence Industrial Responsiveness, Industrial Scale-Up, and Resilience, as referred to in Article 47;

(ca) Support to defence internal market enablers as referred to in Article 47a;

(d) Support to cooperation in Defence Procurement, Maintenance and Availability as referred to in Article 48;

(e) **Support to industrial enablers for** military logistics ~~Enablement and Support~~ as referred to in Article 49;

(ea) Support to ~~new entrants,~~ innovative ~~startups, SMEs and scaleups in a dedicated EU~~**and scalable activities for all stages of the life-cycle of** defence ~~Innovation Scheme (EUDIS)~~**products**, as referred to in Article 49a.

3. **Union** support provided through the activities referred to in paragraph 1, may be provided in any form, including ~~through~~**for** collaborative research~~,~~ **and** innovation activity support to single entities ~~and financial instruments~~.

3a. The activities under this section shall be pursued with an emphasis on consistency with **strategic guidance by the European Council,** the objectives of the Strategic Compass for Security and Defence, ~~with the Roadmap for European Defence Readiness 2030~~ and with the capability priorities identified in the context of CFSP, including the Capability Development Plan (CDP) and the collaborative opportunities identified in the context of the Coordinated Annual Review on Defence (CARD). The ECF shall duly take into account the Member States' cooperation within the framework of the Permanent Structured Cooperation (PESCO), the European Defence Agency (EDA) initiatives and projects, as well as relevant activities carried out by the North Atlantic Treaty Organization (NATO), such as the NATO Defence Planning Process.

Article 45

European Defence Projects of Common Interest

1. European Defence Projects of Common Interest (EDPCI) shall consist of collaborative industrial projects aimed at reinforcing the competitiveness of the EDTIB throughout the Union while contributing to the development of Member States' military capabilities critical for the security and defence interests of the Union and its Member States, including those capabilities securing access to all operational domains, namely land, maritime, air, space and cyber.

2. The Council, acting upon a proposal from the Commission, may adopt implementing acts updating or identifying EDPCIs acting by qualified majority. The Council may amend the proposal from the Commission acting by qualified majority.

2a. Member States shall coordinate to prepare project proposals for possible EDPCIs in an inclusive way, with the support of the EDA where necessary.

2b. Before proposing the implementing acts as referred to in paragraph 2, the Commission shall verify the compliance of the project proposals referred to in paragraph 2a with all the criteria listed in paragraph 4 and:

(a) consult Member States in an inclusive manner and take into account their views and project proposals for possible EDPCIs;

(b) invite the High Representative of the Union for Foreign Affairs and Security Policy and the EDA to provide their expertise with a view to ensuring consistency with the priorities and objectives referred to in paragraph 4(b), in particular the defence capability priorities commonly agreed by Member States within the framework of CFSP, in particular as jointly expressed in the context of the CDP, to complement the information provided by Member States regarding project proposals; and

(c) verify that all Member States and associated countries were informed of the emergence of a project and were given the opportunity to participate.

3. In the implementing acts referred to in paragraph 2, the Council shall:

(a) set out the objectives and characteristics of the EDPCI in relation to the ~~critieria~~**criteria** set out in paragraph 4;

(b) estimate the overall financial size of the EDPCI; and

(c) establish the list of countries participating in the EDPCI at the date of the adoption of the implementing act.

4. EDPCIs shall meet all the following criteria:

(-a) the project significantly strengthens the competitiveness, efficiency and innovation capacity of the EDTIB, in particular by contributing to the establishment of new or the broadening of existing cross-border cooperation, including with SMEs and mid-caps, by creating positive spill-over effects in the internal market, by significantly contributing to market integration and reduction of market fragmentation, by improving the interoperability and interchangeability of defence products, and by aiming to ~~gradually~~ reduce strategic dependencies, including by means of supply diversification and scaling up capacities;

(a) the project involves at least four Member States, and all Member States and associated countries are given a genuine opportunity to participate in the EDPCI;

(b) the project contributes to the development of Member States' military capabilities critical for the security and defence interests of the Union and are consistent with the objectives of the Strategic Compass for Security and Defence, with the defence capability priorities commonly agreed by Member States within the framework of the CFSP, in particular in the context of the CDP, and with the collaborative opportunities identified in the context of CARD; they take into account Member States' cooperation in the framework of PESCO and EDA initiatives and projects; they take into account the relevant activities carried out by NATO, such as the NATO Defence Planning Process, where such activities serve the security and defence interests of the Union;

(c) the benefits of the project extend to a wider part of the Union;

(d) the projects shall be particularly significant in size or scope, or aim at mitigating a considerable level of technological or financial risk, or both;

(e) the potential overall benefits of the project outweigh its costs, including in the longer term.

4a. The deployment of an EDPCI, which is eligible for Union funding, shall consist of one or more activities related to:

(a) the common procurement of defence products;

(b) accelerating the adjustment to structural changes of the production capacity of defence products, as well as related supporting activities;

(c) the research or development of new defence products or the upgrading of existing ones;

(d) the development and procurement of necessary infrastructure.

4b. The participating Member States shall ensure that criteria equivalent to those set out in Article 51 are applied in the contracts relating to the EDPCI activities supported by Union funding**, depending on the type of the activities as referred to in paragraph 4**.

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4c. The participating Member States in an EDPCI shall ensure that the EDPCI activities, including those not supported by Union funding, comply with the objectives set out in Article 3(2), point d, sub-point (2) and in paragraph 1 of this Article and do not affect compliance of the EDPCI with the criteria set out in paragraph 4 of this Article.

5. Participating Member States may **unanimously** decide to involve the European Commission, the High Representative ~~and~~**or** the EDA as observers to an EDPCI where relevant.

6. An EDPCI, as well as its specific activities, may be established in the framework of Structures for European Armament Programmes (SEAP) established in accordance with Regulation (EU) [XXX] [European Defence Industry Programme].

6a. Only Member States and associated countries, as well as SEAPs consisting of Member States or of Member States and associated countries, shall be eligible for funding under EDPCI activities.

7. Member States may, without prejudice to Articles 107 and 108 TFEU, apply support schemes and provide for administrative support to EDPCIs.

8. The planning, construction and operation of production facilities related to an EDPCI may be considered an imperative reason of overriding public interest within the meaning of Article 6(4) and Article 16(1), point (c), of Directive 92/43/EEC and Article 4(7) of Directive 2000/60/EC of the European Parliament and of the Council, in the interests of defence within the meaning of Article 2(3) of Regulation (EC) No 1907/2006 of the European Parliament and of the Council, and in the interests of public health and safety within the meaning of Article 9(1), point (a), of Directive 2009/147/EC of the European Parliament and of the Council, provided that the other conditions set out in these provisions are fulfilled.

8a. Member States participating in an EDPCI shall submit to the Commission, on an annual basis, a joint report on the implementation of the EDPCI activities, including on compliance with the requirements set out in paragraph 4c of this Article.

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8b. Upon a proposal from the Commission, the Council, acting by qualified majority, may amend the implementing acts adopted pursuant to paragraph 2, including by removing a project as an EDPCI or by reflecting changes to the elements set out in paragraph 3.

8c. All Member States and associated countries shall have the opportunity to join an EDPCI after its establishment, subject to the approval of all Member States participating in the EDPCI.

Article 46

Collaborative Defence Research and Development, Innovation and Technological Superiority

1. Activities supporting Defence R&D, Innovation and Technological Superiority may cover, in particular:

(a) collaborative research actions for defence, from basic to applied research, in accordance with Article 44(3a);

(b) collaborative development actions for new **or upgraded** defence products and technologies, including system prototyping, testing, qualification, or certification **and the development of technologies or assets increasing the efficiency across the life-cycle of defence products and technologies**;

(c) actions to support disruptive technologies for defence;

(d) actions to support faster innovation cycles and technology integration for defence, including continuous research and development and technological challenges;

(e) spin-in actions to adapt civilian technologies for defence.

~~1a. The actions shall be carried out by legal entities cooperating within a consortium of at least three eligible legal entities which are established in at least three different Member States or associated countries. At least three of those eligible legal entities established in at least two different Member States or associated countries shall not, during the entire period in which the action is carried out, be controlled, directly or indirectly, by the same legal entity and shall not control each other.~~

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Article 47

Defence industrial Responsiveness, Scale-Up and Resilience

1. Activities supporting the enhancement of the Responsiveness, Scale-Up and Resilience of the European Defence Technological and Industrial Base related to the adjustment of the production capacity of defence products, including their components and corresponding raw materials insofar as they are intended or used wholly for the production of defence products, may cover in particular:

(a) the optimisation, expansion, modernisation, including automation, upgrading or repurposing of existing, or the establishment of new, production capacity of defence products, components and raw materials , in particular with a view to increasing production capacity or reducing lead production and delivery times, including on the basis of the procurement or acquisition of the requisite machine tools and any other necessary input;

(b) the establishment of cross-border industrial partnerships, including through public private partnerships or other forms of industrial cooperation, including SME's, in a joint industrial effort, such as cross-border joint ventures including activities that aim to coordinate the sourcing or reservation and stockpiling of defence products, components and corresponding raw materials as well as to coordinate production capacities and production plans;

(c) the building-up and making available of reserved surge manufacturing capacities of defence products, their components and corresponding raw materials, in accordance with ordered or planned production volumes;

(d) fostering the industrialisation and commercialisation of defence products developed in the framework of actions funded by the Union or of other cooperative activities conducted with support by at least two Member States including through the establishment of cross-border industrial partnerships, public private-partnerships or other forms of industrial cooperation and through the ramping-up of initial production and of licensing production, where appropriate;

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(e) the testing, including the necessary infrastructure, and, as appropriate, reconditioning certification of defence products with a view to addressing their obsolescence and making them useable by end users;

(f) ~~gradually~~ reducing industrial strategic dependencies, including with a view to the replacement of components subject to restrictions by a non-associated third country or non-associated third country entity, or the development of the ability to substitute or remove such components.

1a. For actions supported under this Article, the Commission shall be allowed to provide the Member States and associated countries with the relevant action documentation upon request in order to avoid double funding of the same costs.

Article 47a

Support to defence internal market enablers

1. **Activities supporting defence internal market enablers may cover in particular:**

(a) support to the European Military Sales Mechanism (MSM) as established under [EDIP] to ensure the availability of defence products in time and in volume thereby fostering the competitiveness of the EDTIB [as well as, where relevant, of the Ukrainian DTIB], in particular:

(i) the possibility to establish, manage and maintain defence industrial readiness pools, as well as the continuation of such pools established under [EDIP]~~, including support to the establishment and functioning of a SEAP for the purpose of managing and maintaining such a pool~~;

(ii) the update and maintenance of the European Military Sales Catalogue as established under [EDIP]; [and the Ukrainian DTIB].

(b) support for the establishment and functioning of Structures for European Armament Programme, established in accordance with [the EDIP Regulation];

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3. ~~A Defence Industrial Readiness pool, as referred to in paragraph 1, point (fa)(i), shall only be established, managed and maintained by a consortium of Member States or associated countries, or a SEAP, as set out in Regulation [EDIP].~~ The Member States, associated countries and SEAPs that establish a defence industrial readiness pool shall grant all Member States, associated countries and Ukraine an immediate and preferential purchase, use or lease option for the defence products part of that pool. ~~For the purposes of this paragraph, a consortium of Member States or associated countries shall consist of at least three of those countries, of which at least two shall be Member States~~. For the purpose of Member States or, where applicable, associated countries buying from the defence industrial readiness pool established, managed and maintained by a SEAP, the procurement shall be considered as a contract awarded by a government to another government as referred to in Article 13, point (f), of Directive 2009/81/EC.

4. The Commission, having consulted the EDA, shall keep up-to-date the European Military Sales Catalogue referred to in the paragraph 1, point (fa)(ii) , as established in Regulation [EDIP]. Member States, [Ukraine] and economic operators shall be invited to populate that catalogue on a voluntary basis.

~~4a. For actions supported under this Article, the Commission shall be allowed to provide the Member States and associated countries with the relevant action documentation upon request in order to avoid double funding of the same costs.~~

Article 48

Common Defence Procurement, Maintenance and Availability

1. Activities supporting common procurement, maintenance, and availability may cover in particular cooperation among Member States and associated countries in:

(a) joint certification of defence products;

(b) development of common requirements for defence products;

(c) procurement of defence products;

(d) maintenance of defence products;

(e) **dynamic** availability **management** of defence products.

Activities under this Article should aim to reduce fragmentation and enhance interoperability, achieving economies of scale, ensuring faster access to needed equipment, and strengthening the Union's defence readiness.

1a. Only the following legal entities shall be eligible for actions related to common defence procurement, maintenance and availability:

(a) contracting authorities of Member States or associated countries;

(b) international organisations;

(c) SEAPs;

(d) the EDA.

~~1b. Common procurement actions shall be carried out by:~~

~~(a) a consortium of legal entities as referred to in paragraph 1a, including at least three entities referred to in paragraph 1a, point (a), from at least three Member States or associated countries of which at least two shall be contracting authorities of two Member States; or~~

~~(b) a SEAP~~

2. Member States and associated countries carrying out an action related to common defence procurement, including in relation to maintenance and availability, shall appoint, by unanimity, an eligible legal entity as agent to act on their behalf for the purposes of that action. The agent shall, in particular, carry out the procurement procedures and conclude the resulting contracts with contractors on behalf of the participating countries. The procurement agent may participate in the action as a beneficiary and act as the coordinator of the consortium, therefore being able to manage and combine funds from the Programme and funds from the participating Member States and associated countries.

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3. The procurement agent shall apply criteria equivalent to those set out in Article 51 to its procurement procedures and contracts with contractors, and require that those criteria are applied to subcontractors.

4. The procurement agents shall notify the Commission of the guarantees referred to in Article 51 (3). Further information on those guarantees and mitigation measures shall be made available to the Commission upon request. The Commission shall inform the committee referred to in Article 83(1), point e, of any notification provided in accordance with this paragraph.

4a. Where the Union supports common procurement of defence products, participating Member States and associated countries shall make a relevant set of information, such as main characteristics, performances, unit costs and delivery times, available to other Member States and associated countries upon request to allow them to join the procurement at a later stage under fair and reasonable conditions.

5. Any contract resulting from an action related to Common defence procurement, maintenance and availability shall include provisions governing the purchase of additional quantities of defence products for other Member States, associated countries or Ukraine.

6. For the purpose of this article, 'agent' means a contracting authority as defined in Article 2(1), point (1), of Directive 2014/24/EU and Article 3(1) of Directive 2014/25/EU established in a Member State or an associated country, the European Defence Agency, a Structure for European Armament Programme or an international organisation that is designated by Member States, associated countries or Ukraine to conduct a common procurement on their behalf.

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Article 49

Support to industrial enablers of military logistics ~~Enablement and Support~~

1. Activities related to the ~~enhancement~~**support to industrial enablers** of military mobility in the Union ~~by supporting dual use of civilian military assets, including equipment, infrastructure and superstructures, facilitating, enabling and supporting military movements and access to military mobility capabilities, including, through the pooling and sharing of military mobility assets,; this also includes supporting military bases, encompassing housing for military personnel and social infrastructure, to enable and sustain increased stationing of military personnel in Member States;~~ may cover:

(a) The incentivisation of the procurement of products which enable or enhance the movement, transportation, or deployment of military personnel, equipment, or supplies, and improve the access to military mobility capabilities.

(b) The assistance to Member States in identifying and accessing transport and logistical resources and equipment that may be available from the commercial market or other sources for the purpose of supporting military mobility**, including with a view to pooling and sharing of military mobility assets as well as military bases and stationing**.

(c) The support to the digitalisation of Military Mobility related processes, to ensure and facilitate direct and secure exchange of information between Member States requesting and approving military movement and other relevant procedures.

(d) The reinforcement, modernisation, expansion and repurposing of industrial capacities for the production and maintenance of products directly contributing to and improving military mobility in the Union.

(e) The training, reskilling, and upskilling of personnel to enhance the availability of skilled personnel for the **secure handling and** transportation of defence products, components and supplies, notably for the safe and efficient movement of oversized, overweight, and dangerous goods.

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(f) The enhancement of the protection and resilience of infrastructures that are strategic for military mobility especially for those located on a military mobility corridor and those having a European impact.

(g) Support actions for the development, implementation, monitoring and enforcement of relevant Union legislation and policy. This includes supporting the relevant institutions, the cooperation between national authorities and with stakeholders, studies, the development and deployment of tools and infrastructures, including IT infrastructure and tools.

2. Activities will be implemented in complementarity with Regulation (EU) [XXX] [CEF] **and Regulation (EU) [YYY] [Military Mobility]**.

Article 49a

Support to innovative and scalable activities for all stages of the life-cycle of defence products

(EU Defence Innovation Scheme**)**

1. ~~Support to new entrants, innovative startups, SMEs and scaleups shall take the form of a dedicated EU Defence Innovation Scheme (EUDIS). The EUDIS shall include~~**Activities supporting** innovative and scalable activities that can address all stages of the life-cycle of defence products, including in support to disruptive technologies and to single entities (including **new entrants,** ~~SMEs), such as: matchmaking events and business coaching for innovators, agile funding mechanisms, challenges, hackathons, support to~~**,** innovative ~~procurement~~**start-ups**~~, iterative upgrade procurement models for rapidly evolving systems and any other actions for shorter innovation cycles and technology integration~~ **SMEs and scale-ups) shall include**~~, validation and experimentation. The support may be provided through or in conjunction with the activities referred to in Article 45 to 49.~~ **in particular:**

(a) matchmaking events and business coaching for innovators;

(b) agile funding mechanisms;

(c) challenges and hackathons;

(d) support to innovative procurement and iterative upgrade procurement models for rapidly evolving systems; and

(e) any other actions for shorter innovation cycles and technology integration, validation and experimentation.

2. The support may be provided through or in conjunction with the activities referred to in Article 45 to 49.

Article 50

Complementary rules on the association of third countries

1. ~~By derogation from~~**In accordance with** the rules **laid down** in Article 11, actions under ~~the specific objective referred to in Article 3(2), point d, sub-point (2)~~**this section** shall **only** be open to the participation of:

(a) Members of the European Free Trade Association (EFTA) which are members of the European Economic Area (EEA), in accordance with the conditions laid down in the Agreement on the EEA;

(b) Ukraine, in accordance with the EU-Ukraine Association Agreement.

(ba) other third countries with which the Union has entered into a Security and Defence Partnership.

2. Complementary to ~~provisions required~~**the requirements laid down** in Article 11, **paragraphs 2 to 4,** the ~~association~~ agreement ~~with~~**for the participation in the ECF of the** third countries ~~other than those~~ referred to in paragraph 1**(ba) of this Article** shall **also**:

(a) specify how **the** eligibility conditions ~~as~~ set out in Article 51 are to be ~~adapted~~**applied**, in particular **with regard** to ~~enable the participation of~~ entities established in the ~~associated~~**third** country but controlled by another third country or by another third country' entity**, taking into account the security and defence interests of the Union and its Member States**;

(b) lay down appropriate measures to ensure security of supply as well as any other measure required for the protection of the security and defence interests of the European Union and of the Member States; **and**

(c) contribute to an increase in the standardisation of defence systems in accordance with NATO standards and a greater interoperability between Member States' and those ~~other~~ third countries' capabilities.

Article 51

Complementary eligibility rules

1. In addition to fulfilling any conditions of eligibility provided under Article 9 of this Regulation, recipients of Union funding under this section shall comply with the obligations included in paragraphs 2 to 17.

2. Recipients of Union funding under this section shall be established in and have their executive management structures in the Union or in an associated country.

2a. Recipients of Union funding under this section shall not be subject to control by a non-associated third country or by a non-associated third-country entity.

3. By derogation from paragraph 2a a legal entity established in the Union or in an associated country and controlled by a non-associated third country or by a non-associated third country entity shall be eligible to be a recipient of Union funding if guarantees approved in accordance with the national procedures of a Member State or associated country in which it is established, such as adequate measures pursuant to screenings, as defined in Article 2, point (3), of Regulation (EU) 2019/452, are made available to the Commission.

These guarantees shall provide assurances that the involvement in an action of a legal entity would 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.

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Guarantees as referred to in this paragraph shall in particular substantiate that, for the purposes of an action, measures are in place to ensure that:

(a) control over the legal entity is not exercised in a manner that restrains or restricts its ability to carry out the action and to deliver results, that imposes restrictions concerning its infrastructure, facilities, assets, resources, intellectual property or knowhow needed for the purposes of the action, or that undermines its capabilities and standards necessary to carry out the action;

(b) access by a non-associated third country or by a non-associated third-country entity to classified or sensitive information relating to the action is prevented and the employees or other persons involved in the action have national security clearance issued by a Member State or an associated country, where appropriate, in accordance with national laws and regulations;

(c) ownership of the intellectual property arising from, and the results of, the actions referred to in Article 44**, paragraph 1**, point (b), remain within the recipient during and after completion of the action, are not subject to control or restriction by a non-associated third country or by a non-associated third-country entity, and are neither exported outside the Union or outside associated countries nor accessible from outside the Union or outside associated countries without the approval of the Member State or the associated country in which the legal entity is established and in accordance with the objectives set out in Article 3.

If considered to be appropriate by the Member State or the associated country in which the legal entity is established, additional guarantees may be provided.

The Commission shall inform the committee referred to in Article 83(1), point (e) of any legal entity considered to be eligible to be a recipient of Union funding in accordance with this paragraph.

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3a. Paragraphs 2a and 3 shall not apply to:

(a) contracting authorities of Member States and associated countries;

(b) international organisations;

(c) SEAPs;

(d) the EDA.

8. Unless **in certain duly substantiated, exceptional circumstances,** where ~~recepients~~**recipients** of Union funding have no readily available alternatives, the infrastructure, facilities, assets and resources of the recipients of Union funding involved in an action which are used for the purposes of that action shall be located on the territory of a Member State or of an associated country for the entire duration of the action.

9. For actions referred to in Article 44(1), points (b), (e) and (ea), conditions referred to in paragraphs 2 to 8 shall apply to subcontractors involved in the action. 'Subcontractors involved in an action' refers to subcontractors with a direct contractual relationship to a recipient, other subcontractors to which at least 10 % of the total eligible costs of the action is allocated, and subcontractors which may require access to classified information in order to carry out the action. Subcontractors involved in an action are not members of the consortium.

10. For actions referred to in Article 44(1), point (d), conditions referred to in paragraphs 2 to 8 shall apply to subcontractors involved in the action or in the common procurement. 'Subcontractors involved in the common procurement' means legal entities which provides critical inputs that possess unique attributes essential for the functioning of a product, which is allocated at least 15 % of the value of the contract, and which needs access to classified information for the performance of the contract.

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11. The results of actions referred to in 44(1), points (b) and (ea), as well as the products or technologies stemming from these actions, shall not be subject to any control or restriction by a non-associated third country or by a non-associated third-country entity, directly, or indirectly through one or more intermediate legal entities, including in terms of technology transfer.

12. For actions referred to in Article 44(1), points (c) and (d), the cost of components originating outside the Union and associated countries shall not be higher than 35 % of the estimated cost of the components of the end product or of the product of which the increase in production capacity is supported by Union funding. No components shall be sourced from third countries that contravene the security and defence interests of the Union and the Member States, including respect for the principle of good neighbourly relations.

13. For actions referred to in Article 44(1), points (c) and (d), recipients of Union funding or, where relevant, contractors shall have the ability to decide, without restrictions imposed by non-associated third countries or by non-associated third-country entities, on the definition, adaptation and evolution of the design of the defence product concerned, including the legal authority to substitute or remove components that are subject to restrictions imposed by non-associated third countries or by non-associated third-country entities.

14. For actions referred to in Article 44(1), points (c) and (d), the work programme may provide that eligibility requirements set out in paragraphs 12 and 13 of this Article will be assessed**, at the latest,** at the end of the action.

15. **Except for actions referred to in Article 44, paragraph 1, points (c) and (ea) and Article 47a, paragraph 1, point (a)(ii), Union support shall only be granted to actions carried out by legal entities cooperating within a consortium of at least three eligible legal entities which are established in at least three different Member States or associated countries. At least three of those eligible legal entities established in at least two different Member States or associated countries shall not, during the entire period in which the action is carried out, be controlled, directly or indirectly, by the same legal entity and shall not control each other.**

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15a. **Except for actions referred to in Article 44, points (b) and (ea), Union support may also be granted to actions carried out by a Structure for European Armament Programme established in accordance with Regulation (EU) [XXX][EDIP].**

16. If a register is created at Union level with the aim of increasing the availability of products that enable or enhance the mobility, transportation, or deployment of military personnel, equipment, or supplied, products supported under Article 45a shall be registered in that registry for the purpose of making that product available for the Union or its Member States.

18. Notwithstanding Article 201 of Regulation (EU, Euratom) 2024/2509, only the financial capacity of a coordinator shall be verified.

19. In accordance with Article 153(3) of Regulation (EU, Euratom) 2024/2509, the evaluation committee may be assisted by independent external experts holding valid personal security clearance, if required by the work programme. By way of derogation from Article 242 of the Regulation (EU, Euratom) 2024/2509, the list of independent experts shall not be made public.

Article 52

Funding rates

1. [For actions referred to in Article 44(1), point (a), the Union support may cover up to 100% of the eligible costs.

2. For actions referred to in Article 44(1), point (b), supporting defence research and innovation, Union support may cover up to 100% of the eligible costs.

3. For actions referred to in Article 44(1), point (b), supporting the development of defence technologies and capabilities, Union support may cover up to 50% of the eligible costs or, for procurement of R & D services, up to 50% of the estimated value of the contract.

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4. For actions referred to in Article 44(1), point (c), the Union support may cover up to 50% of the eligible costs.

5. For actions referred to in Article 44(1), point (d), the Union support may cover up to 25% of the estimated value of the common procurement.

6. For actions referred to in Article 44(1), point (e), the Union support may cover:

(a) where the action supports a procurement carried out by Member States up to 25% of the estimated value of the procurement;

(b) where the actions aims at assisting Member States to accessing transport and logistical resources, up to 100% of the eligible costs.

7. In order to properly take into account the particular situation of the Strategic Partner concerned, the Union support may cover up to 100% of the eligible costs for actions referred to in Article 44(1), point ~~(f)~~**(ea)**.]

8. By way of derogation from Article 184(6) of the Financial Regulation, for actions referred to in Article 44(1), point (b), the authorising officer responsible may authorise or impose, in the form of flat-rates, funding of the beneficiary's indirect costs up to a maximum of 25 % total eligible direct costs of the action, excluding direct eligible costs for subcontracting, financial support to third parties and any unit costs or lump sums which include indirect costs.

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Article 53

Award criteria

1. Proposals for actions under this section shall be assessed in accordance with award criteria to be set out in the work programme:

(a) The quality and efficiency of the implementation of the action.

(b) The objectives, priorities and the expected results set for the relevant action, in particular ~~trought~~**through** the evaluation of one or more of the following criteria**, depending also on the nature of the action and on a call-by-call basis**: (i) ~~increase in defence readiness and~~ contribution to excellence in the defence sector, (ii) innovation ~~capacities~~**potential**, (iii) cross-border cooperation, (iiia) cooperation with SMEs and mid-caps that bring substantial added-value to the action, (iv) competitiveness, (v) increase in production capacities and availability, (vi) reduction of lead production and delivery time, (v) increase in interoperability, (vii) increase in interchangeability and (viii) resilience and security of supply throughout the Union in response to identified risks, including in particular high exposure to the risk of materialisation of conventional military threats**, (ix) cost-efficiency and effectiveness**.

Article 54

Ownership of results

1. Where Union support under Article 44 paragraph 1, point (b), is provided in the form of a grant, Union institutions, bodies, offices or agencies as well as granting authorities shall enjoy upon request royalty-free access rights to results for the duly substantiated purpose of developing, implementing and monitoring existing Union policies or programmes in the fields of its competence **for non-commercial purposes** and the right to grant, or to require the recipients to grant, non-exclusive licenses to third parties to exploit the results under fair and reasonable conditions to be set out in the contractual relationships between the interested parties without any right to sublicense unless otherwise specified in the grant agreement.

2. Without prejudice to applicable export control rules under Member States and associated countries responsibility:

(a) The national authorities of Member States and associated countries shall enjoy access rights to the special reports of activities funded under Article 44 paragraph 1, point (b). Such access rights shall be granted on a royalty-free basis and transferred by the Commission to the Member States and associated countries after the Commission has ensured that appropriate confidentiality obligations are in place.

(b) The national authorities of Member States and associated countries shall use the special report solely for purposes related to the use by or for their armed forces, or security or intelligence forces, including within the framework of their cooperative programmes. Such use shall include study, evaluation, assessment, research, design, product acceptance and certification, operation, training and disposal, as well as the assessment and drafting of technical requirements for procurement.

(c) Where two or more Member States or associated countries have, multilaterally or within the framework of the Union, jointly concluded one or several contracts with one or more recipients to further develop together results of activities supported by the ECF under Article 44 paragraph 1, point (b), they shall enjoy access rights to those results insofar as they are owned by such recipients and are necessary for the execution of the contract or contracts. Such access rights shall be granted on a royalty-free basis and under specific conditions aiming to ensure that those rights are used only for the purposes of the contract or contracts and that appropriate confidentiality obligations are put in place.

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(d) For actions supporting development of defence products and technologies under Article 44 paragraph 1, point (b), access rights to the results of development actions shall be granted to the national authorities co-financing the action under fair and reasonable conditions to be agreed upon with the recipients generating those results. Terms and conditions for the exercise of such access rights shall be set out in the contractual relationship between the recipients and the national authorities co-financing the action.

(g) Such access rights shall include the right to authorise other legal entities established in the Union or associated countries to use the results on their behalf, under conditions of confidentiality where appropriate.

3. Any transfer of ownership of results, or the granting of exclusive licences for results, generated with support to legal entities established in non-associated third countries or to non-associated third-country entities under Article 44 paragraph 1, point (b) shall be subject to prior notification and approval by the Commission or the relevant Member State or associated country authorities, which takes place within 3 years after the final payment of the action, under conditions ensuring the protection of the Union's security and defence interests.

Article 55

Additional applicable rules on classified information

1. Natural persons who are resident in and legal persons that are established in a third country may handle Union classified information regarding the Programme only where they are subject, in those countries, to security regulations ensuring a degree of protection at least equivalent to that provided by the security rules of the Commission and of the Council, as set out in Decision (EU, Euratom) 2015/444 and Decision 2013/488/EU, respectively.

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2. Without prejudice to Article 13 of Decision 2013/488/EU and to the rules governing the field of industrial security set out in Decision (EU, Euratom) 2015/444, a natural or legal person, third country or international organisation may be given access to Union classified information where considered to be necessary on a case-by-case basis, according to the nature and content of such information, the recipient's need to know and the degree of advantage to the Union.

3. Where actions involve, require or contain classified information, the relevant funding body shall specify in the documents concerning the call for proposals or tenders the measures and requirements necessary to ensure the security of such information at the requisite level.

4. The equivalence of the security regulations applied in a third country or by an international organisation shall be laid down in a security of information agreement, including industrial security matters if relevant, concluded or to be concluded between the Union and that third country or international organisation in accordance with the procedure provided for in Article 218 TFEU and taking into account Article 13 of Decision 2013/488/EU.

5. The security framework to ensure the appropriate protection of classified foreground information generated in carrying out in an action funded under this Section shall be established in accordance with Decisions (EU, Euratom) 2015/444 and implementing rules, with the assistance of security experts appointed by the Member States and associated countries on whose territory the beneficiaries are established. The Member States and associated countries, in the framework of the works of the Commission Security Expert Group (ComSEG), shall provide the Commission with a jointly agreed security classification guide. If no such specific jointly agreed security classification guide is set up by the Member States and associated countries, the Commission shall set up the security framework for the action in accordance with the applicable Commission security provisions. The classified foreground information generated in carrying out in an action funded under this Section shall not be disseminated further without a certified "need to know" agreed by the participating Member States and associated countries. The applicable security framework for the action shall in any event be put in place before the signature of the funding agreement.

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Chapter VIII
Final Provisions

Article 87

Amendments to Regulation [EDIP]

3. Chapters I, II, IV, V and VIII of Regulation (EU) [EDIP] shall be repealed with effect from 1 January 2028.

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