

UK participation in the EDA and the new EU defence package in the context of Brexit

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Key takeaways

To continue United Kingdom participation in European Union defence cooperation:

- The UK, the European Commission and EU member states should strive to avoid near-term decisions that would shut out the UK from future participation in EU defence policies.
- Pursue agreement on the nature of a 'third-state' position as applied to the UK, ensuring the goals of Brussels and London are met.
- Identify ways for London to show its commitment to supporting the EU's defence ambitions, signalling clearly a change from previous opposition.
- Brussels and London need to agree the key preconditions that will underpin any deal over the European Defence Agency (EDA), the European Defence Fund (EDF) and Permanent Structured Cooperation (PESCO).
- The UK should aim to ensure a single point of entry through the European Defence Agency for defence cooperation with the EU, in the absence of a Commission directorate-general for security and defence.
- Reach agreement on an overarching financial contribution covering access to the EDA, the EDF and PESCO, while London also commits to contributing funding to specific projects it wishes to take part in.

UK participation in European Union initiatives for defence cooperation: breaking the stalemate

The European Union is pushing ahead with a range of defence initiatives just as the United Kingdom is exiting the EU. The risk for the UK is not being able to take advantage of defence-industrial opportunities, research and development (R&D) funding and capability-development projects stemming from the EU's new mechanisms: the Coordinated Annual Review on Defence (CARD), the European Defence Fund (EDF) and Permanent Structured Cooperation (PESCO).

While the UK is calling for a 'deep and special relationship' on defence cooperation – which, in essence, entails modifying existing rules and designing a tailor-made framework for the UK that is different from the existing EU 'third-state' status – the EU is wary of such adjustments. At the same time, the UK looks to participate in EU defence decision-making processes, while the EU insists its decision-making autonomy is not up for negotiation.

At first glance, these respective positions seem irreconcilable. Yet both parties share an interest in remaining closely involved in defence in order to share costs and resources. Furthermore, the UK could be an important market for the commercialisation phase of EDF/PESCO projects. Indeed, to retain UK cooperation on operational aspects of the Common Security and Defence Policy (CSDP), the EU should be open to industrial cooperation – otherwise, this would amount to the EU 'cherry-picking' aspects of UK cooperation. For the UK, cooperation with the EU allows it to participate in projects that would be either impossible to fund nationally, or where cooperation with the United States would mean being a marginal partner, which could be detrimental to the UK defence industry in the long run. Being involved would also allow the UK to exert some degree of influence over this emerging EU policy field. Finally, the UK has an interest in ensuring a close link between EU and NATO defence planning and capability development, so that resources are used efficiently and unnecessary duplication is avoided.

An encompassing and specific Administrative Arrangement with the EDA

An Administrative Arrangement (AA) between the UK and the European Defence Agency (EDA) should seek to specify the UK's conditions for involvement in the EDF and PESCO. In other words, the UK could propose that third-country participation be conditional on having an EDA AA. As a side effect, this would require a corresponding expansion of the scope of existing AAs with Norway, Serbia, Switzerland and Ukraine to cover the EDF and PESCO. This proposal would help mitigate EU fears that other countries such as Turkey or the US could claim automatic access to EDF and PESCO following the UK precedent. The UK could furthermore suggest that third-party participation in these mechanisms should be conditional on those third states supporting the security and defence interests of the EU and its member states, and respect for the rule of law. This would mirror conditions the Commission itself suggested in relation to the European Structural and Investment Funds in its latest budget proposal. Given that future PESCO projects will likely be selected with a view to their relevance to the EU's Capability Development Plan, it is all the more important for the UK to tie an AA with the EDA to PESCO/EDF.

For this to work, however, this AA needs to go beyond what previous AAs have offered. The EU should agree to grant to the UK and other AA countries 'observer' status in EDA meetings related to activities and projects those third states are involved in. Ad hoc invitations to enable participation at all levels of the EDA's Steering Board meetings (one at ministerial and three at director level) should also be considered. The expanded and reshaped AAs should envisage seconding national experts at project levels. In PESCO projects, such as Military Mobility, decision-making powers should be devolved to the project level, with the AA giving third states full voting rights within the project setting.

Participation in these activities requires trust and transparency from both sides. The UK could decide to formally commit to the priorities of the 2016 EU Global Strategy as part of the AA. An annex to the AA could furthermore record specific areas of mutual interest where the EU and the UK would seek to collaborate closely, and where UK contributions would be of particular relevance.

PESCO: balancing rights and obligations

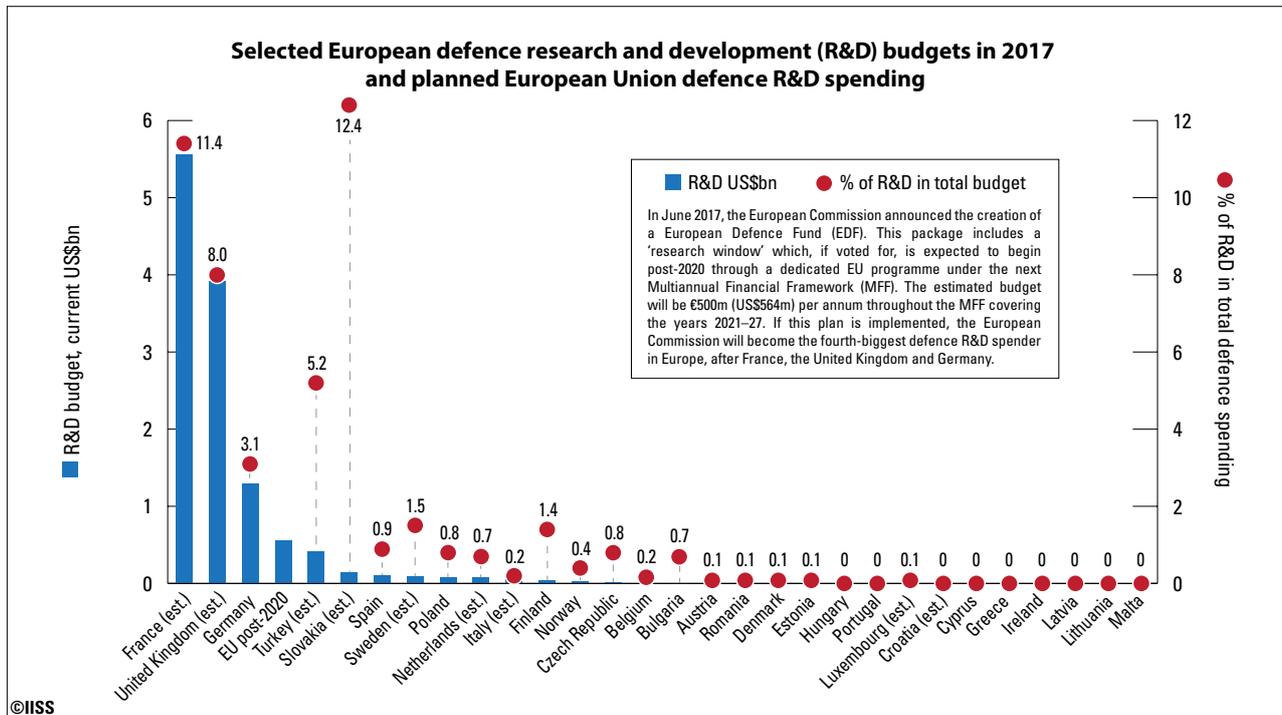
Constructive engagement with PESCO could start with a UK proposal to help define third-country-participation rules – a task the EU seeks to complete before the end of 2018. To this end, the UK could put forward the following proposal to help shape the debate, with two conditions: (1) participation in PESCO could be tied to having an expanded AA with the EDA, along the lines described above; (2) third-state participation could be authorised only if it is in the defence and security interests of the Union and of its member states, and if the third state respects the rule of law.

As PESCO membership comes with a list of binding commitments including, among other things, increasing defence budgets and considering the joint use of existing capabilities, the UK could subscribe to these goals to show its commitment to EU defence cooperation. Such commitments should explicitly include the use of PESCO-developed programmes for CSDP operations. To underline the desire for constructive engagement with PESCO, the UK could identify which projects it would be interested in from the existing list and seek to insert its own ideas for future projects to the second list, currently under discussion. Such an approach would support the argument that the UK should be granted decision-making rights at the project level and observer status at the PESCO-governance level.

EDF access: constraints and flexibility

The EDF (through both its research and capability 'windows') is at the heart of the EU's renewed involvement in defence matters. The UK should expect to pay a high price to participate, all the more so as the current proposed rules are strict. However, given that the terms for third-party involvement are not yet confirmed, there may still be room for negotiation.

The UK will likely have to accept existing (and potentially future) rules on EU defence markets (e.g., the 2009 defence package) and intellectual-property rights, as Norway does. This entails a mechanism for dispute resolution involving the Court of Justice of the European Union (CJEU). For those EDF projects where it is involved, the UK would therefore need to accept the role of the CJEU. The British government has already adopted this position for civil research programmes.²



Accessing the EDF will also require a financial commitment by the UK. If the AA with the EDA is linked to access to the EDF, it would make sense to negotiate one major financial contribution for access to all three mechanisms (the EDA, EDF and PESCO). In addition, the UK would make financial contributions on a project-by-project basis. Such an overarching contribution would avoid a 'cherry-picking' approach and show that the UK is committed to defence-capacity cooperation with the EU. The level of this financial contribution will inevitably be above what would be the UK's expected 'fair share' if it had remained a member state. Based on Norway's current contribution to the Preparatory Action on Defence Research, the UK's share could be up to 17% of total EDF funding (estimated at €1.5 billion per year, or £1.32bn). A significant gesture could therefore mean the UK proposing to contribute €285 million per year (£250m), i.e. 19% of EDF funding.

In exchange for such a contribution, the UK would seek to gain flexibility on the EU side, to revise the rules of the European Defence Industrial Development Programme. The UK should be able to negotiate to be part of the EDF committees and their discussions – although without a vote – and therefore influence project discussions at an early stage. A potential compromise between the EU and the UK positions in this regard would enable the UK (and other third states

meeting the overall conditions) to be invited on an ad hoc basis to EDF governance meetings, on areas of mutual interest. The UK would still need to accept having no voting rights.

To facilitate the negotiations, the UK might offer a two-step approach. If the EU is not willing for the time being to change its rules specifically for the UK, the UK will first need to show good will and commitment to EU defence to obtain such specific rules in the future, for example by maintaining regulatory alignment on EU defence-market rules and expressing support for the CSDP. The near-term objective for the UK is to convince member states and the Commission to leave the door open to British participation. This would also allow extra time for discussions on export and technology controls within the framework of PESCO and EDF cooperation. This may involve formal or informal dialogue between the UK and the Commission's Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs on EDF projects, as proposed by the British government.

Should these proposals be accepted, it could mean that UK defence companies, which are keen to be able to benefit from the EDF in future, could participate in joint capability-development projects, funded by the UK government. UK companies could also bid on research projects, just like EU-based defence firms.

The UK (and other third states) should also obtain guarantees for competitive bidding, in return for undertakings to contribute to the development of EU defence capabilities. The UK should also seek to obtain

guarantees on the participation of multinational companies like AgustaWestland and MBDA, whether or not the UK abides by third-party status or obtains a special agreement.

Notes

- 1 The contents of this briefing note are based on a dozen interviews with stakeholders in Brussels and London, conducted in May 2018. The author wishes to thank the interviewees for their time. Key sources include: European Commission, 'Task Force 50: Internal EU27 preparatory discussions on the framework for the future relationship: Security, defence and Foreign Policy', 24 January 2018, https://ec.europa.eu/commission/publications/slides-security-defence-and-foreign-policy_en; Sven Biscop, 'Brexit, Strategy and the EU: Britain Takes Leave', Egmont Paper 100, February 2018, <http://www.egmontinstitute.be/brexit-strategy-and-the-eu-britain-takes-leave>; Bastian Giegerich and Christian Mölling, 'The United Kingdom's contribution to European security and defence', IISS/DGAP, February 2018, <https://www.iiss.org/en/events/events/archive/2018-41aa/february-e9fc/uk-european-defence-2410>; Sophia Besch, 'Plugging in the British. EU defence policy', Centre for European Reform/Konrad Adenauer Stiftung, April 2018, <https://www.cer.eu/publications/archive/policy-brief/2018/plugging-british-eu-defence-policy>; Federico Santopino and Lou Villafranca Izquierdo, 'CSDP after Brexit: the way forward', European Parliament Study, May 2018, [http://www.europarl.europa.eu/thinktank/en/document.html?reference=EXPO_STU\(2018\)603852](http://www.europarl.europa.eu/thinktank/en/document.html?reference=EXPO_STU(2018)603852); HM Government, 'Framework for the UK–EU Security Partnership', 9 May 2018, <https://www.gov.uk/government/publications/framework-for-the-uk-eu-security-partnership>; HM Government, 'Technical Note: Consultation and Cooperation on External Security', 24 May 2018, <https://www.gov.uk/government/publications/technical-note-on-consultation-and-cooperation-on-external-security>.
- 2 HM Government, 'Framework for the UK–EU partnership. Science, research and innovation', 23 May 2018, p. 14, <https://www.gov.uk/government/publications/framework-for-the-uk-eu-partnership-science-research-and-innovation>. ('The UK will respect the remit of the CJEU, where relevant, where we participate in EU programmes.')

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