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'I' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
No. Cion doc.:	10084/18 + ADD 1 + ADD 2
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the European Defence Fund (First reading) - Partial mandate for negotiations with the European Parliament

I. INTRODUCTION

1. On 13 June 2018, the Commission submitted to the European Parliament and the Council its proposal establishing the European Defence Fund¹.
2. At its meeting on 19 November 2018, the Council reached a partial General Approach² on the proposal.

¹ 10084/18 + ADD 1.

² 14094/1/18 REV 1

3. The European Parliament adopted its report at committee level on 21 November 2018³. On 12 December 2018, the plenary adopted the report and provided the mandate to enter into informal negotiations with the Council.

II. STATE OF PLAY

4. Following the trilogues held on 16 January and a technical meeting, the Friends of the Presidency group on the European Defence Fund (EDF) aimed at preparing further negotiations with the European Parliament and reached agreement on a draft text at its meeting of 22 and 23 January 2019, as set out in the Annex to this note.
5. Since the proposed Regulation is one of the package of proposals linked to the MFF, all provisions with budgetary implications or of horizontal nature have been set aside, and thus excluded from the partial General Approach, pending further progress on the MFF. These provisions, which appear between square brackets, concern the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States (Recital 37), the overall target of the EU budget expenditures supporting climate objectives (Recital 41), the overall financial envelope for the implementation of the Programme (Article 4(1)) and the indicative amounts allocated to research and development actions (Article 4(2)), provisions regarding the resources allocated to Member States under shared management (Article 4(5)), and the reference to the InvestEU Regulation (Article 8(2a)).
6. Provisions on the protection of the Union's financial interests (Recitals 38 and 39 and Article 34) have also been adapted in the Annex to this note in line with horizontal guidance⁴.
7. Provisions related to third countries to be considered associated countries under the Fund (Article 5), which in the Commission proposal concern exclusively European Free Trade Association (EFTA) members which are members of the European Economic Area (EEA), were also bracketed and thus excluded from the informal negotiations with the Parliament. For its part, however, the Parliament expressed its desire to also include this element in the negotiations.

³ A8-0412/2018, the responsible committee: the Committee on Industry, Research and Energy (ITRE), rapporteur Mr Zdzisław Krasnodębski; Mr David McAllister (AFET) as co-rapporteur.

⁴ 5146/19 and 5148/19.

III. CONCLUSION

8. Coreper is invited to endorse the overall approach as set out in the Annex, thus granting a negotiating mandate on this basis with a view to the second trilogue on 5 February 2019.
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STATE OF PLAY FOLLOWING THE FOP EDF MEETING OF 22-23 JANUARY 2019

Explanatory note

The **fourth column** contains both compromise proposals (including provisional agreements) and explanations. Regarding the compromise proposals: 1) *underlined italics* text indicates text as it was proposed by the EP; 2) **underlined bold** text indicates text from the Council revised negotiating mandate; 3) ***underlined italics bold*** text indicated text that is identical in both the EP and Council texts; and 4) **bold only** text indicates compromise texts proposed by the Presidency. If both the first (i.e. Commission proposal) and the fourth columns are left empty, it indicates that the relevant EP amendment and/or the Council addition is not taken.

Row no	COMMISSION PROPOSAL 2018/0254 (COD) doc. 10084/18 + ADD 1 + ADD 2	EP amendments	Council partial General Approach doc. 14094/1/18 REV 1	Provisional compromise proposals and comments
1.	<p>Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the European Defence Fund (Text with EEA relevance)</p>	Commission proposal unchanged	Commission proposal unchanged	<p>Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the European Defence Fund (Text with EEA relevance)</p>
2.	<p>THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, Having regard to the Treaty on the Functioning of the European Union, and in particular Article 173(3), Article 182(4), Article 183 and the second paragraph of Article 188 thereof, Having regard to the proposal from the European Commission, After transmission of the draft legislative act to the national parliaments, Having regard to the opinion of the European Economic and Social Committee, Acting in accordance with the ordinary legislative procedure, Whereas:</p>	Commission proposal unchanged	Commission proposal unchanged	<p>THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, Having regard to the Treaty on the Functioning of the European Union, and in particular Article 173(3), Article 182(4), Article 183 and the second paragraph of Article 188 thereof, Having regard to the proposal from the European Commission, After transmission of the draft legislative act to the national parliaments, Having regard to the opinion of the European Economic and Social Committee, Acting in accordance with the ordinary legislative procedure, Whereas:</p>

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3.		<p><i>(-1a) Defence is considered to be a clear example of how a greater effectiveness could be achieved by transferring certain competences and actions currently performed by the Member States and the corresponding appropriations to the European level, resulting in a demonstration of the European added value and allowing a limitation of the overall burden of public expenditure in the Union.</i></p>		
4.		<p><i>(-1b) The Union's geopolitical context has changed dramatically in the last decade. The situation in Europe's neighbouring regions is unstable and the Union faces a complex and challenging environment combining the emergence of new threats like hybrid and cyber-attacks and the return of more conventional challenges. Faced with that context both European citizens and their political leaders share the view that more has to be done collectively in the area of defence. 75 % of Europeans support a common defence and security policy. The Rome Declaration of the leaders of 27 Member States and of the European Council, the European Parliament and the Commission of 25 March 2017 stated that the Union will strengthen its common security</i></p>		<p><i><u>(-1b) The Union's geopolitical context has changed dramatically in the last decade. The situation in Europe's neighbouring regions is unstable and the Union faces a complex and challenging environment, combining the emergence of new threats, like hybrid and cyber attacks, and the return of more conventional challenges. Faced with that context, both European citizens and their political leaders share the view that more has to be done collectively in the area of defence.</u></i></p>

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		<i>and defence and foster a more competitive and integrated defence industry.</i>		
5.	<p>(1) In the European Defence Action Plan, adopted on 30 November 2016, the Commission committed to complement, leverage and consolidate collaborative efforts by Member States in developing defence technological and industrial capabilities to respond to security challenges, as well as to foster a competitive, innovative and efficient European defence industry. It proposed in particular to launch a European Defence Fund (the 'Fund') to support investments in joint research and the joint development of defence products and technologies, thus fostering synergies and cost-effectiveness, and to promote the Member States' joint purchase and maintenance of defence equipment. This Fund would complement national funding already used for this purpose and should act as an incentive for Member States to cooperate and invest more in defence. The Fund would support cooperation during the whole cycle of defence products and technologies.</p>	<p>(1) In <i>its Communication of 30 November 2016 on</i> the European Defence Action Plan, adopted on 30 November 2016, the Commission committed to complement, leverage and consolidate collaborative efforts by Member States in developing defence technological and industrial capabilities to respond to security challenges, as well as to foster a competitive, innovative and efficient European defence industry <i>and to create a more integrated defence market throughout the Union</i>. It proposed in particular to launch a European Defence Fund (the 'Fund') to support investments in joint research and the joint development of defence products and technologies, thus fostering synergies and cost-effectiveness, and to promote the Member States' joint purchase and maintenance of defence equipment. This Fund would complement national funding already used for this purpose and should act as an incentive for Member States to cooperate <i>cross-border</i> and invest more in defence. The Fund would support cooperation during the whole cycle of defence products and</p>	<p>(1) In the European Defence Action Plan, adopted on 30 November 2016, the Commission committed to complement, leverage and consolidate collaborative efforts by Member States in developing defence technological and industrial capabilities to respond to security challenges, as well as to foster a globally competitive, innovative and efficient European defence industry throughout the Union. It proposed in particular to launch a European Defence Fund (the 'Fund') to support investments in joint research and the joint development of defence products and technologies, thus fostering synergies and cost-effectiveness, and to promote the Member States' joint purchase and maintenance of defence equipment. This Fund would complement national funding already used for this purpose and should act as an incentive for Member States to cooperate and invest more in defence. The Fund would support cooperation during the whole life cycle of defence products and technologies.</p>	<p>(1) In the European Defence Action Plan, adopted on 30 November 2016, the Commission committed to complement, leverage and consolidate collaborative efforts by Member States in developing defence technological and industrial capabilities to respond to security challenges, as well as to foster a globally competitive, innovative and efficient European defence industry throughout the Union, thus also supporting the creation of <u>a more integrated defence market in Europe and notably fostering the internal market uptake of European defence products and technologies</u>. It proposed in particular to launch a European Defence Fund (the 'Fund') to support investments in joint research and the joint development of defence products and technologies, thus fostering synergies and cost-effectiveness, and to promote the Member States' joint purchase and maintenance of defence equipment. This Fund would complement national funding already used for this purpose and should act as an incentive for Member States to cooperate and invest more in defence. The Fund would support cooperation during the whole cycle of defence products and technologies.</p>

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		technologies.		
6.		<p><i>(1a) On 7 June 2017, the Commission adopted a Communication launching the European Defence Fund. A two-step approach was proposed: first, in order to test the approach, initial financing for both research and development has been made available under the 2014-2020 Multi-Annual Financial Framework ('MFF') by the adoption of Regulation (EU) 2018/1092 of the European Parliament and of the Council¹; second, a dedicated Fund would be established under the MFF 2021 to 2027, scaling up the funding for collaborative research in innovative defence products and technologies and for subsequent stages of the development cycle, including the development of prototypes. There should be a consistent and coherent approach between those two steps.</i></p> <p>-----</p> <p><i>¹ Regulation (EU) 2018/1092 of the European Parliament and of the Council of 18 July 2018 establishing the European Defence Industrial Development Programme aiming at supporting the competitiveness and innovation capacity of the Union's</i></p>		

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		<i>defence industry (OJ L 200, 7.8.2018, p. 30).</i>		
7.		<i>(1b) The defence sector is characterised by increasing costs of defence equipment and by high research and development (R&D) costs that limit the launch of new defence programmes and directly impact on the competitiveness and innovation capacity of the Union's industry. In view of the cost escalation, of the magnitude of non-recurring R&D expenses and of the small series that can be procured nationally, the development of a new generation of major defence systems and of new defence technologies is increasingly beyond the reach of single Member State.</i>		<i>(1b) The defence sector is characterised by increasing costs of defence equipment and by high research and development ('R&D') costs that limit the launch of new defence programmes and directly impact on the competitiveness and innovation capacity of the European Defence Technological and Industrial Base. In view of this cost escalation, the development of a new generation of major defence systems and of new defence technologies should be supported at the Union level.</i>
8.		<i>(1c) In its resolution of 14 March 2018 on the next MFF: Preparing the Parliament's position on the MFF post-2020, the European Parliament reiterated its support for the creation of a European Defence Union, with a specific research programme in the area of defence of the Union and an industrial development programme in which Member States invest, in order to eliminate duplication and increase the strategic autonomy and efficiency of the European defence</i>		

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		<p><i>industry. It also reiterated that the Union could be stronger and more ambitious only if additional financial means were made available to it and called, therefore, for ongoing support to be provided in the context of existing policies which increase resources for the Union's flagship programmes, and for additional responsibilities to be matched with additional financial means.</i></p>		
9.		<p><i>(1d) The situation of the defence sector has been further exacerbated by significant cuts in defence budgets across Europe in the last 10 years, affecting in particular R&D and equipment expenditures. Between 2006 and 2013 real defence expenditure levels in the EDA participating Member States were reduced by 12 %. Considering that defence R&D is the basis for the development of the future cutting-edge defence technologies, such trends are particularly worrying and pose a serious challenge to the capacity to maintain Union's defence industry competitiveness in the long term.</i></p>		
10.		<p><i>(1e) Despite the interplay between increasing costs and decreasing spending, defence planning and</i></p>		

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		<p><i>defence spending on R&D and procurement of equipment has remained largely at national level with very limited cooperation between Member States in defence equipment investments. Additionally, when implemented, only few programmes are also linked to Union capability priorities - in 2015 only 16 % of equipment was procured through European collaborative procurement, far below the agreed collective benchmark of 35 %.</i></p>		
11.	<p>(2) The Fund would contribute to the establishment of a strong, competitive and innovative defence industrial and technological base and go hand in hand with the Union's initiatives towards a more integrated European Defence Market and in particular, the two Directives¹ on procurement and on EU transfers in the defence sector adopted in 2009.</p> <p>-----</p> <p>¹ Directive 2009/43/EC of the European Parliament and of the Council, simplifying terms and conditions of transfers of defence-related products within the Community, OJ L 146, 10.6.2009, p. 1; Directive 2009/81/EC of the European Parliament and of the Council on the</p>	<p>(2) The Fund would contribute to the establishment of a strong, competitive and innovative defence industrial and technological base and go hand in hand with the Union's initiatives towards a more integrated European Defence Market and in particular, the two Directives² on procurement and on EU transfers in the defence sector adopted in 2009. <i>It is therefore of crucial importance that key regulatory preconditions are fulfilled, especially the full implementation of those Directives. The Fund is intended to form the cornerstone of a sound European defence industrial policy.</i></p> <p>-----</p> <p>² Directive 2009/43/EC of the</p>	<p>(2) The Fund would contribute to the establishment of a strong, competitive and innovative European technological and industrial and technological base and go hand in hand with the Union's initiatives towards a more integrated European Defence Market and in particular, the two Directives¹ on procurement and on EU transfers in the defence sector adopted in 2009.</p> <p>-----</p> <p>¹ Directive 2009/43/EC of the European Parliament and of the Council, simplifying terms and conditions of transfers of defence-related products within the Community, OJ L 146, 10.6.2009, p. 1; Directive 2009/81/EC of the European Parliament and of the</p>	<p>(2) The Fund would contribute to the establishment of a strong, competitive and innovative European technological and industrial base and go hand in hand with the Union's initiatives towards a more integrated European Defence Market and in particular, the two Directives¹ on procurement and on EU transfers in the defence sector adopted in 2009.</p> <p>-----</p> <p>¹ Directive 2009/43/EC of the European Parliament and of the Council, simplifying terms and conditions of transfers of defence-related products within the Community, OJ L 146, 10.6.2009, p. 1; Directive 2009/81/EC of the European Parliament and of the Council on the coordination of</p>

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	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, OJ L 216, 20.8.2009, p. 76.	European Parliament and of the Council, simplifying terms and conditions of transfers of defence-related products within the Community, OJ L 146, 10.6.2009, p. 1; Directive 2009/81/EC of the European Parliament and of the Council 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, OJ L 216, 20.8.2009, p. 76.	Council 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, OJ L 216, 20.8.2009, p. 76.	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, OJ L 216, 20.8.2009, p. 76.
12.	(3) Following an integrated approach and in order to contribute to the enhancement of the competitiveness and innovation capacity of the Union's defence industry, a European Defence Fund should be established. The Fund should aim at enhancing the competitiveness, innovation, efficiency and autonomy of the Union's defence industry thereby contributing to the Union's strategic autonomy by supporting the cross border cooperation between Member States and between enterprises, research centres, national administrations, international organisations and universities, in the research phase and in the development phase of defence products and technologies. To achieve	(3) Following an integrated approach and in order to contribute to the enhancement of the competitiveness and innovation capacity of the Union's defence industry, a European Defence Fund should be established. The Fund should aim at enhancing the competitiveness, innovation, efficiency and technological and industrial autonomy of the Union's defence industry thereby contributing to the Union's strategic autonomy by supporting the cross border cooperation between Member States and between enterprises, research centres, national administrations, international organisations and universities throughout the Union , in the research phase and in the	(3) Following an integrated approach and in order to contribute to the enhancement of the competitiveness and innovation capacity of the Union's defence industry, a European Defence Fund should be established. The Fund should aim at enhancing the competitiveness, innovation, efficiency and autonomy of the Union's defence industry thereby contributing to the Union's strategic autonomy by supporting the cross border cooperation between Member States and cooperation between enterprises, research centres, national administrations, international organisations and universities, in the research phase and in the development phase of defence products and technologies. To achieve more innovative solutions and an open internal	(3) Following an integrated approach and in order to contribute to the enhancement of the competitiveness and innovation capacity of the Union's defence industry, a European Defence Fund should be established. The Fund should aim at enhancing the competitiveness, innovation, efficiency and <i>technological</i> autonomy of the Union's defence industry thereby contributing to the Union's strategic autonomy by supporting the cross border cooperation between Member States and cooperation between enterprises, research centres, national administrations, international organisations and universities <i>throughout the Union</i> , in the research phase and in the development phase of defence products and technologies. To achieve more innovative

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	more innovative solutions and an open internal market, the Fund should support the cross-border participation of defence small and medium sized enterprises (SMEs) and middle capitalisation companies (mid-caps).	development phase of defence products and technologies. To achieve more innovative solutions and an open internal market, the Fund should support the cross-border participation of defence small and medium sized enterprises (SMEs) and middle capitalisation companies (mid-caps). <i>In order to foster an open internal market, the Fund should facilitate the widening of cross-border cooperation between legal entities, in particular the cross-border participation of SMEs and mid-caps.</i>	market, the Fund should support the cross-border participation of defence small- and medium-sized enterprises ('SMEs') and middle capitalisation companies ('mid-caps').	solutions and an open internal market, the Fund should support and facilitate the cross-border participation of defence small- and medium-sized enterprises ('SMEs') and middle capitalisation companies ('mid-caps').
13.		<i>(3a) European security is dependent on strong and robust relations with strategic partners around the world and the Programme should enhance the competitiveness of the European defence industrial market by further strengthening partnerships through R&D, thereby promoting European strategic capacity and capability.</i>		
14.	(4) The research phase is a crucial element as it conditions the capacity of the European industry and the autonomy of the European industry to develop products and the independence of Member States as defence end-users. The research phase linked to the development of defence capabilities	(4) The research phase is a crucial element as it conditions the capacity of the European industry and the autonomy of the European industry to develop products and the independence of Member States as defence end-users. The research phase linked to the development of	(4) The research and technology phase is a crucial element as it conditions the capacity of the European industry and the autonomy of the European industry to develop products and the independence of Member States as defence end-users. The research phase linked to the development of defence	(4) The research and technology phase is crucial, as it conditions the capacity and the autonomy of the European industry to develop products and the independence of Member States as defence end-users. The research phase linked to the development of defence capabilities may include significant risks,

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	may include significant risks, in particular related to the low level of maturity and the disruption of technologies. The development phase, which follows the research and technology phase, also entails significant risks and costs that hamper the further exploitation of the results of research and adversely impact the competitiveness and innovation of the Union's defence industry.	defence capabilities may include significant risks, in particular related to the low level of maturity and the disruption of technologies. The development phase, which follows the research and technology phase, also entails significant risks and costs that hamper the further exploitation of the results of research and adversely impact the competitiveness and innovation of the Union's defence industry. <i>The Fund should foster the link between the R&D phases of defence products and technologies in order to bridge the Valley of Death.</i>	capabilities may include significant risks, in particular related to the low level of maturity and the disruption of technologies. The development phase, which usually follows the research and technology phase, also entails significant risks and costs that hamper the further exploitation of the results of research and adversely impact the competitiveness and innovation of the Union's defence industry.	in particular related to the low level of maturity and the disruption of technologies. The development phase, which usually follows the research and technology phase, also entails significant risks and costs that hamper the further exploitation of the results of research and adversely impact the competitiveness and innovation of the Union's defence industry.
15.	(5) The Fund should not support pure basic research which should instead be supported through other schemes but may include defence oriented basic research likely to form the basis of the solution to recognised or expected problems or possibilities.	(5) The Fund should not support pure basic research which should instead be supported through other schemes but may include defence oriented basic research likely to form the basis of the solution to recognised or expected problems or possibilities.	(5) The Fund should not support pure basic or blue sky research, which should instead be supported through other schemes, but may include defence-oriented fundamental basic research likely to form the basis of the solution to recognised or expected problems or possibilities.	(5) The Fund should not support basic or blue sky research, which should instead be supported through other schemes, but may include defence-oriented fundamental research likely to form the basis of the solution to recognised or expected problems or possibilities.
16.	(6) The Fund could support actions pertaining to both new and the upgrade of existing products and technologies, wherever the use of pre-existing information needed to perform the action for the upgrade is not subject to restriction by non-associated third countries or non-associated third country entities. When applying for the Union funding, legal entities should be	(6) The Fund could support actions pertaining to both new and the upgrade of existing products and technologies, wherever the use of pre-existing information needed to perform the action for the upgrade is not subject to restriction by non-associated third countries or non-associated third country entities. When applying for the Union	(6) The Fund could support actions pertaining to both new and the upgrade of existing products and technologies, wherever the use of. Actions for the upgrade of existing defence products and technologies should be eligible only where pre-existing information needed to perform carry out the action for the upgrade is not subject to any restriction by non-associated third	(6) The Fund could support actions pertaining to both new and the upgrade of existing products and technologies. <u>Actions for the upgrade of existing defence products and technologies should be eligible only where</u> pre-existing information needed to <u>carry out</u> the action is not subject to <u>any</u> restriction by non-associated third countries or non-associated third country entities <u>in such a</u>

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	required to provide the relevant information to establish the absence of restrictions. In the absence of such information, the Union funding should not be possible.	funding, legal entities should be required to provide the relevant information to establish the absence of restrictions. In the absence of such information, the Union funding should not be possible.	countries or non-associated third country entities in such a way that the action cannot be carried out. When applying for the Union funding, legal entities should be required to provide the relevant information to establish the absence of restrictions. In the absence of such information, the Union funding should not be possible.	way that the action cannot be carried out. When applying for Union funding, legal entities should be required to provide the relevant information to establish the absence of restrictions. In the absence of such information, Union funding should not be possible.
17.		<i>(6a) The Fund should adequately support R&D actions in the area of disruptive technologies for defence. As disruptive technologies can be based on concepts or ideas originating from non-traditional defence R&D actors, the Fund should allow for sufficient flexibility in consulting stakeholders, as well as in funding and managing actions.</i>		<i>(6a) The Fund should support actions conducive to developing disruptive technologies for defence. As disruptive technologies can be based on concepts or ideas originating from non-traditional defence actors, the Fund should allow for sufficient flexibility regarding their implementation.</i>
18.	(7) In order to ensure that the Union's and its Member States' international obligations are respected in the implementation of this Regulation, actions relating to products or technologies the use, development or production of which are prohibited by international law should not receive funding under the Fund. In this respect, the eligibility of actions related to new defence products or technologies, such as those that are specifically designed to carry out lethal strikes without any human control over the engagement	(7) In order to ensure that the Union's and its Member States' international obligations are respected in the implementation of this Regulation, actions relating to products or technologies the use, development or production of which are prohibited by international law should not receive funding under the Fund. In this respect, the eligibility of actions related to new defence products or technologies, such as those that are specifically designed to carry out lethal strikes without any	(7) In order to ensure that the Union's and its Member States' international obligations are respected in the implementation of this Regulation, actions relating to products or technologies the use, development or production of which are prohibited by international law should not receive funding under be supported by the Fund. In this respect, the eligibility of actions related to new defence products or technologies, such as those that are specifically designed to carry out lethal strikes without any human control over	(7) In order to ensure that the Union's and its Member States' international obligations are respected in the implementation of this Regulation, actions relating to products or technologies the use, development or production of which are prohibited by international law should not be financially supported by the Fund. In this respect, the eligibility of actions related to new defence products or technologies, such as those that are specifically designed to carry out lethal strikes without any human control over

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	decisions, should also be subject to developments in international law.	human control over the engagement decisions, should also be subject to developments in international law.	the engagement decisions, should also be subject to developments in international law.	the engagement decisions, should also be subject to developments in international law.
19.		<i>(7a) Regarding exports of products which would be the result of R&D actions of the Programme, particular attention should be paid to Article 7(1) of the 2013 UN Arms Trade Treaty, which provides that even if the export is not prohibited, exporting State Parties are, in an objective and non-discriminatory manner and taking into account relevant factors, to assess the potential that the conventional arms or items: (a) would contribute to or undermine peace and security or (b) could be used to (i) commit or facilitate a serious violation of international humanitarian law, (ii) commit or facilitate a serious violation of international human rights law, (iii) commit or facilitate an act constituting an offence under international conventions or protocols relating to terrorism to which the exporting State is a Party, or (iv) commit or facilitate an act constituting an offence under international conventions or protocols relating to transnational organized crime to which the exporting State is a Party.</i>		

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20.	<p>(8) The difficulty to agree on consolidated defence capability requirements and common technical specifications or standards hampers cross-border collaboration between Member States and between legal entities based in different Member States. The absence of such requirements, specifications and standards has led to increased fragmentation of the defence sector, technical complexity, delays and inflated costs as well as decreased interoperability. The agreement on common technical specifications should be a prerequisite for actions involving a higher level of technological readiness. Activities of Member States leading to common defence capability requirements and supporting studies as well as actions aiming at supporting the creation of a common definition of technical specifications or standards should also be eligible for support by the Fund.</p>	<p>(8) The difficulty to agree on consolidated defence capability requirements and common technical specifications or standards hampers cross-border collaboration between Member States and between legal entities based in different Member States. The absence of such requirements, specifications and standards has led to increased fragmentation of the defence sector, technical complexity, delays, and inflated costs, unnecessary duplication of capabilities as well as decreased interoperability. The agreement on common technical specifications should be a prerequisite for actions involving a higher level of technological readiness. Activities of Member States fostering interoperability, leading to common defence capability requirements and supporting studies as well as actions aiming at supporting the creation of a common definition of technical specifications or standards should also be eligible for support by the Fund in order to avoid competing specifications or standards from undermining interoperability.</p>	<p>(8) The difficulty to agree on consolidated defence capability requirements and common technical specifications or standards hampers cross-border collaboration between Member States and between legal entities based in different Member States. The absence of such requirements, specifications and standards has led to increased fragmentation of the defence sector, technical complexity, delays and inflated costs as well as decreased interoperability. The agreement on common technical specifications should be a prerequisite for actions involving a higher level of technological readiness. Activities of Member States leading to common defence capability requirements and supporting studies as well as actions activities aiming at supporting the creation of a common definition of technical specifications or standards should also be eligible for support by the Fund.</p>	<p>(8) The difficulty to agree on consolidated defence capability requirements and common technical specifications or standards hampers cross-border collaboration between Member States and between legal entities based in different Member States. The absence of such requirements, specifications and standards has led to increased fragmentation of the defence sector, technical complexity, delays and inflated costs as well as decreased interoperability. The agreement on common technical specifications should be a prerequisite for actions involving a higher level of technological readiness. Activities leading to common defence capability requirements as well as activities aiming at supporting the creation of a common definition of technical specifications or standards should also be eligible for support by the Fund, in particular where they foster interoperability.</p>
21.	<p>(9) As the objective of the Fund is to support the competitiveness and innovation of the Union defence industry by leveraging and</p>	<p>(9) As the objective of the Fund is to support the competitiveness, efficiency, industrial autonomy and innovation of the Union defence</p>	<p>(9) As the objective of the Fund is to support the competitiveness and innovation of the Union defence industry by leveraging and complementing</p>	<p>(9) As the objective of the Fund is to support the competitiveness, <i>efficiency</i> and innovation of the Union defence industry by leveraging and</p>

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	<p>complementing collaborative defence research and technology activities and de-risking the development phase of cooperative projects, actions related to the research and development of a defence product or technology should be eligible to benefit from it. This will also apply to the upgrade, including the interoperability thereof, of existing defence products and technologies.</p>	<p>industry by leveraging and complementing collaborative defence research and technology activities and de-risking the development phase of cooperative projects, actions related to the research and development R&D of a defence product or technology should be eligible to benefit from it. This will also apply to the upgrade, including the interoperability thereof, of existing defence products and technologies.</p>	<p>collaborative defence research and technology activities and de-risking the development phase of cooperative projects, actions related to the research and development of a defence product or technology should be eligible to benefit from it. This will also apply to the upgrade, including the interoperability thereof, of existing defence products and technologies.</p>	<p>complementing collaborative defence research and technology activities and de-risking the development phase of cooperative projects, actions related to the research and the development of a defence product or technology should be eligible to benefit from it. This will also apply to the upgrade, including the interoperability thereof, of existing defence products and technologies.</p>
22.	<p>(10) Given that the Fund aims particularly at enhancing cooperation between legal entities and Member States across Europe, an action should be eligible for funding only if it is undertaken by a cooperation of at least three legal entities based in at least three different Member States and/or associated countries. At least three of these legal eligible entities established in at least two different Member States and/or associated countries should not be effectively controlled, directly or indirectly, by the same entity or should not control each other. In order to boost the cooperation between Member States the Fund may support joint pre-commercial procurement.</p>	<p>(10) Given that the Fund aims particularly at enhancing cooperation between legal entities and Member States across Europe, an action should be eligible for funding only if it is undertaken by a cooperation <i>within a consortium</i> of at least three legal entities based in at least three different Member States and/or associated countries. <i>Any additional legal entity participating in the consortium should be permitted to be established in an associated country. In every type of cooperation, legal entities established in Member States should be a majority within the consortium.</i> At least three of these legal eligible entities established in at least two different Member States and/or associated countries should not be effectively controlled, directly or indirectly, by the same entity or</p>	<p>(10) Given that the Fund aims particularly at enhancing cooperation between legal entities and Member States across Europe, an action should be eligible for funding only if it is undertaken by a cooperation of at least three legal entities based in at least three different Member States and/or associated countries. At least three of these legal eligible entities established in at least two different Member States and/or associated countries should not be effectively controlled, directly or indirectly, by the same entity or should not control each other. In this context, control should be understood as the ability to exercise a decisive influence on a legal entity directly or indirectly through one or more intermediate legal entities. Taking into account the specificities of disruptive technologies for defence, as well as of studies, these</p>	<p>(10) Given that the Fund aims particularly at enhancing cooperation between legal entities and Member States across Europe, an action should be eligible for funding if it is undertaken by a cooperation <i>within a consortium</i> of at least three legal entities based in at least three different Member States or associated countries. At least three of these eligible entities established in at least two different Member States or associated countries should not be controlled, directly or indirectly, by the same entity or should not control each other. <u>In this context, control should be understood as the ability to exercise a decisive influence on a legal entity directly or indirectly through one or more intermediate legal entities. Taking into account the specificities of disruptive technologies for defence, as well as of studies, these activities could</u></p>

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		should not control each other. In order to boost the cooperation between Member States the Fund may support joint pre-commercial procurement.	activities could be carried out by a single legal entity. In order to boost the cooperation between Member States, the Fund may also support joint pre-commercial procurement.	be carried out by a single legal entity. In order to boost the cooperation between Member States, the Fund may also support joint pre-commercial procurement.
23.	(11) Pursuant to [reference to be updated as appropriate according to a new decision on OCTs: Article 94 of Council Decision 2013/755/EU ²], entities established in overseas countries and Territories (OCTs) are to be eligible for funding subject to the rules and objectives of the Fund and possible arrangements applicable to the Member State to which the OCTs is linked. ----- ² 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).	(11) Pursuant to [reference to be updated as appropriate according to a new decision on OCTs: Article 94 of Council Decision 2013/755/EU ³], entities established in overseas countries and Territories (OCTs) are to be eligible for funding subject to the rules and objectives of the Fund and possible arrangements applicable to the Member State to which the OCTs is linked. ----- ³ 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).	(11) Pursuant to [reference to be updated as appropriate according to a new decision on OCTs: Article 94 of Council Decision 2013/755/EU ²], entities established in e Overseas e Countries and Territories (OCTs) are to should be eligible for funding subject to the rules and objectives of the Fund and possible arrangements applicable to the Member State to which the OCTs is linked. ----- ² 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).	(11) Pursuant to [reference to be updated as appropriate according to a new decision on OCTs: Article 94 of Council Decision 2013/755/EU ²], entities established in <u>O</u> verseas <u>C</u> ountries and Territories (OCTs) should be eligible for funding subject to the rules and objectives of the Fund and possible arrangements applicable to the Member State to which the OCTs is linked. ----- ² 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).
24.	(12) As the Fund aims at enhancing the competitiveness, efficiency and autonomy of the Union's defence industry, only entities established in the Union or associated countries and not subject to control by non-associated third countries or non-associated third country entities should in principle be eligible for support.	(12) As the Fund aims at enhancing the competitiveness, efficiency and autonomy of the Union's defence industry, only entities established in the Union or associated countries and not subject to control by non-associated third countries or non-associated third country entities should in principle be eligible for	(12) As the Fund aims at enhancing the competitiveness, and efficiency and autonomy of the Union's defence industry, only entities established in the Union or in associated countries and not subject to control by non-associated third countries or non-associated third country entities should in principle be eligible for support. In this context, control should	(12) As the Fund aims at enhancing the competitiveness and efficiency of the Union's defence industry, only entities established in the Union or in associated countries and not subject to control by non-associated third countries or non-associated third country entities should in principle be eligible for support. In this context, control should be understood

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	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 used by the recipients and their subcontractors in actions supported by the Fund should not be located on the territory of non-associated third countries.	support. 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 used by the recipients and their subcontractors in actions supported by the Fund should not be located on the territory <i>the Union or</i> of non -associated third countries.	be understood as 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 the Union and its Member States, the infrastructure, facilities, assets and resources used by the recipients and their subcontractors in actions supported by the Fund should not be located on the territory of non-associated third countries, and their executive management structures should be established in the Union or in an associated country. Accordingly, an entity which is established in a non-associated third country or an entity which is established in the Union or in an associated country but which has its executive management structures in a non-associated third country is not eligible to be a recipient or subcontractor involved in the action.	as 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 the Union and its Member States, the infrastructure, facilities, assets and resources used by the recipients and their subcontractors in actions financially supported by the Fund should not be located on the territory of non-associated third countries, and their executive management structures should be established in the Union or in an associated country. Accordingly, an entity which is established in a non-associated third country or an entity which is established in the Union or in an associated country but which has its executive management structures in a non-associated third country is not eligible to be a recipient or subcontractor involved in the action.
25.	(13) In certain circumstances, if this is necessary for achieving the objectives of the action, it should be possible to derogate from the principle that recipients and their subcontractors should not be subject to control by non-associated third countries or non-associated third country entities. In that perspective, legal entities established in the Union that are controlled by a	(13) In certain circumstances, if this is necessary for achieving the objectives of the action, it should be possible to derogate from the principle that recipients and their subcontractors should not be subject to control by non-associated third countries or non-associated third country entities. In that perspective, legal entities established in the Union	(13) In certain circumstances, if this is necessary for achieving the objectives of the action, it should be possible to derogate from the principle that recipients and their subcontractors involved in an action supported by the Fund should are not be subject to control by non-associated third countries or non-associated third country entities. In that context perspective, legal entities	(13) In certain circumstances, it should be possible to derogate from the principle that recipients and their subcontractors involved in an action financially supported by the Fund are not subject to control by non-associated third countries or non-associated third country entities. In that context, legal entities established in the Union or in an associated country that are controlled by

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	<p>non-associated third country or a non-associated third country entity can be eligible if relevant and strict conditions relating to the security and defence interests of the Union and its Member States are fulfilled. The participation of such entities should not contravene the objectives of the Fund. Applicants should provide all relevant information about the infrastructure, facilities, assets and resources to be used in the action.</p>	<p>that are controlled by a non-associated third country or a non-associated third country entity can be eligible if relevant and strict conditions relating to the security and defence interests of the Union and its Member States are fulfilled. The participation of such entities should not contravene the objectives of the Fund. Applicants should provide all relevant information about the infrastructure, facilities, assets and resources to be used in the action. <i>In any event, no derogation should be granted to applicants controlled by a non-associated third country subject to any Union restrictive measures or by a non-associated third-country entity subject to any Union restrictive measures.</i></p>	<p>established in the Union or in an associated country that are controlled by a non-associated third country or a non-associated third country entity should can be eligible as recipients or subcontractors involved in the action provided that, if relevant and strict conditions relating to the security and defence interests of the Union and its Member States, are fulfilled. The participation of such legal entities should not contravene the objectives of the Fund. Applicants should provide all relevant information about the infrastructure, facilities, assets and resources to be used in the action. Member States' concerns regarding security of supply should also be taken into account.</p>	<p>a non-associated third country or a non-associated third country entity should be eligible as recipients or subcontractors involved in the action provided that strict conditions relating to the security and defence interests of the Union and its Member States are fulfilled. The participation of such legal entities should not contravene the objectives of the Fund. Applicants should provide all relevant information about the infrastructure, facilities, assets and resources to be used in the action. Member States' concerns regarding security of supply should also be taken into account in this respect.</p> <p>(13-a) In the framework of the EU's restrictive measures, adopted on the basis of Article 215 TFEU and 29 TEU, no funds or economic resources may be made available, directly or indirectly, to or for the benefit of natural or legal persons, entities or bodies subject to such restrictive measures. Entities which are subject to such EU restrictive measures, and entities which are owned or controlled by entities which are subject to such EU restrictive measures, may therefore not be financially supported by the Fund.</p>
26.			(13a) Union funding should be granted following competitive calls for	<u>(13a) Union funding should be granted following competitive calls for</u>

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			<p>proposals issued in accordance with the Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council (the 'Financial Regulation')³. However, in certain duly justified and exceptional circumstances, Union funding may also be granted in accordance with Article 195(e) of the Financial Regulation. As the award of funding in accordance with Article 195(e) of the Financial Regulation constitutes a derogation from the general rule of following competitive calls for proposals, those exceptional circumstances should be interpreted strictly. In this context, for a grant to be awarded without a call for proposals, the degree to which the proposed action corresponds to the objectives of the Fund with respect to cross-border industrial collaboration and competition throughout the supply chain should be assessed by the Commission assisted by the committee of Member States (the 'committee').</p> <p>-----</p> <p>³ 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)</p>	<p><u>proposals issued in accordance with the Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council (the 'Financial Regulation')³. However, in certain duly justified and exceptional circumstances, Union funding may also be granted in accordance with Article 195(e) of the Financial Regulation. As the award of funding in accordance with Article 195(e) of the Financial Regulation constitutes a derogation from the general rule of following competitive calls for proposals, those exceptional circumstances should be interpreted strictly. In this context, for a grant to be awarded without a call for proposals, the degree to which the proposed action corresponds to the objectives of the Fund with respect to cross-border industrial collaboration and competition throughout the supply chain should be assessed by the Commission assisted by the committee of Member States (the 'committee').</u></p> <p>-----</p> <p><u>³ 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,</u></p>

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			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.	<u>(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.</u>
27.	(14) If a consortium wishes to participate in an eligible action and the financial assistance of the Union is to take the form of a grant, the consortium should appoint one of its members as a coordinator who will be the principal point of contact.	Commission proposal unchanged	Commission proposal unchanged	(14) If a consortium wishes to participate in an eligible action and the financial assistance of the Union is to take the form of a grant, the consortium should appoint one of its members as a coordinator who will be the principal point of contact.
28.	(15) In case a development action supported by the Fund is managed by a project manager appointed by Member States or associated countries, the Commission should inform the project manager prior to executing the payment to the recipient so that the project manager can ensure that the time-frames are respected by the recipients. Under certain circumstances, the project manager could provide the Commission with its observations on the progress of the action so that the Commission can validate whether the conditions to proceed to the payment are fulfilled.	(15) In case a development action supported by the Fund is managed by a project manager appointed by Member States or associated countries, the Commission should inform consult the project manager prior to executing the payment to the recipient so that the project manager can ensure that the time-frames are respected by the recipients. Under certain circumstances, † The project manager should could provide the Commission with its observations on the progress of the action so that the Commission can validate whether the conditions to proceed to the payment are fulfilled.	(15) In case a development an action supported by the Fund is managed by a project manager appointed by Member States or associated countries, the Commission should consult inform the project manager prior to executing the payment to the recipients, so that the project manager can ensure that the time-frames are respected by the recipients. Under certain circumstances, the project manager could provide the Commission with its observations on the progress of the action so that the Commission can validate whether the conditions to proceed to the payment are fulfilled.	(15) In case an financially supported by the Fund is managed by a project manager appointed by Member States or associated countries, the Commission should consult consult the project manager prior to executing the payment to the recipients, so that the project manager can ensure that the time-frames are respected by the recipients. The project manager could provide the Commission with observations on the progress of the action so that the Commission can validate whether the conditions to proceed to the payment are fulfilled.
29.			(15a) When a project manager has been appointed by Member States	<u>(15a) When a project manager has been appointed by Member States</u>

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			cofinancing an action, the budget implementation tasks could be entrusted for this specific project to the project manager in the case of indirect management of this specific project.	<u>cofinancing an action, the budget implementation tasks could be entrusted for this specific project to the project manager in the case of indirect management of this specific project.</u>
30.	(16) In order to ensure that the funded actions are financially viable, it is necessary that the beneficiaries demonstrate that the costs of the action not covered by the Union's funding are covered by other means of financing.	(16) In order to ensure that the funded actions are financially viable, it is necessary that the beneficiaries demonstrate that the costs of the action not covered by the Union's funding are covered by other means of financing.	(16) In order to ensure that the funded actions are financially viable, it is necessary that the beneficiaries applicants demonstrate that the costs of the action not covered by the Union's funding are covered by other means of financing.	(16) In order to ensure that the funded actions are financially viable, it is necessary that the applicants demonstrate that the costs of the action not covered by the Union's funding are covered by other means of financing.
31.	(17) Different types of financial arrangement should be at the disposal to Member States for the joint development and acquisition of defence capabilities. The Financial Toolbox developed by the Commission should provide different types of arrangements that Member States can use to address challenges for collaborative development and procurement from a financing perspective. The use of such financial arrangements could further foster the launch of collaborative defence projects and increase the efficiency of defence spending, including for projects supported under the European Defence Fund.	(17) Different types of financial arrangement should be at the disposal to Member States for the joint development and acquisition of defence capabilities. The Financial Toolbox developed by the Commission should provide different types of arrangements that Member States can use to address challenges for collaborative development and procurement from a financing perspective. The use of such financial arrangements could further foster the launch of collaborative and cross-border defence projects, contribute to avoiding duplications and increase the efficiency of defence spending, including for projects supported under the European Defence Fund.	(17) Different types of financial arrangements should be at the disposal to of Member States for the joint development and acquisition of defence capabilities. The Financial Toolbox developed by the Commission could should provide different types of arrangements that Member States can could use on a voluntary basis to address challenges for collaborative development and procurement from a financing perspective. The use of such financial arrangements could further foster the launch of collaborative defence projects and increase the efficiency of defence spending, including for projects supported under by the European Defence Fund.	(17) Different types of financial arrangements should be at the disposal of Member States for the joint development and acquisition of defence capabilities. The Commission could provide different types of arrangements that Member States could use on a voluntary basis to address challenges for collaborative development and procurement from a financing perspective. The use of such financial arrangements could further foster the launch of collaborative and cross-border defence projects and increase the efficiency of defence spending, including for projects supported by the Fund.

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32.	(18) Given the specificities of the defence industry where demand comes almost exclusively from Member States and associated countries, which also control all acquisition of defence-related products and technologies, including exports, the functioning of the defence sector is unique and does not follow the conventional rules and business models that govern more traditional markets. Industry therefore cannot undertake substantial self-funded defence Research and Development (R&D) projects and Member States and associated countries normally fully fund all R&D cost. To achieve the objectives of the Fund, notably to incentivise cooperation between companies from different Member States and associated countries, and taking into account the specifics of the defence sector, up to totality of the eligible costs should be covered for actions that take place ahead of the development of prototypes phase.	(18) Given the specificities of the defence industry where demand comes almost exclusively from Member States and associated countries, which also control all acquisition of defence-related products and technologies, including exports, the functioning of the defence sector is unique and does not follow the conventional rules and business models that govern more traditional markets. Industry therefore cannot undertake substantial self-funded defence Research and Development R&D projects and Member States and associated countries normally fully fund all R&D cost. To achieve the objectives of the Fund, notably to incentivise cooperation between companies from different Member States and associated countries, and taking into account the specifics of the defence sector, up to the totality of the eligible costs should be covered for actions that take place ahead of the development of prototypes phase.	(18) Given the specificities of the defence industry, where demand comes almost exclusively from Member States and associated countries, which also control all acquisition of defence-related products and technologies, including exports, the functioning of the defence sector is unique and does not follow the conventional rules and business models that govern more traditional markets. Industry therefore cannot undertake substantial self-funded defence Research and Development (R&D) projects and Member States and associated countries normally often fully fund all R&D costs. To achieve the objectives of the Fund, notably to incentivise cooperation between legal entities companies legal entities from different Member States and associated countries, and taking into account the specificities of the defence sector, up to the totality of the eligible costs should be covered for actions that take place ahead of the development of prototypes phase.	(18) Given the specificities of the defence industry, where demand comes almost exclusively from Member States and associated countries, which also control all acquisition of defence-related products and technologies, including exports, the functioning of the defence sector is unique and does not follow the conventional rules and business models that govern more traditional markets. Industry therefore cannot undertake substantial self-funded defence Research and Development ('R&D') projects and Member States and associated countries often fully fund all R&D costs. To achieve the objectives of the Fund, notably to incentivise cooperation between legal entities from different Member States and associated countries, and taking into account the specificities of the defence sector, up to the totality of the eligible costs should be covered for actions that take place ahead of the development of prototypes phase.
33.	(19) The prototype phase is a crucial phase where Member States or associated countries usually decide on their consolidated investment and start the acquisition process of their future defence products or technologies. This is the reason why, at this specific stage,	Commission proposal unchanged	Commission proposal unchanged	(19) The prototype phase is a crucial phase where Member States or associated countries usually decide on their consolidated investment and start the acquisition process of their future defence products or technologies. This is the reason why, at this specific stage,

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	Member States and associated countries agree on the necessary commitments including cost-sharing and ownership of the project. To ensure the credibility of their commitment, the financial assistance of the Union under the Fund should normally not exceed 20 % of the eligible costs.			Member States and associated countries agree on the necessary commitments including cost-sharing and ownership of the project. To ensure the credibility of their commitment, the financial assistance of the Union under the Fund should normally not exceed 20 % of the eligible costs.
34.	(20) For actions beyond the prototype phase, funding up to 80% should be foreseen. These actions which are closer to product and technology finalisation may still involve substantial costs.	Commission proposal unchanged	Commission proposal unchanged	(20) For actions beyond the prototype phase, funding up to 80% should be foreseen. These actions which are closer to product and technology finalisation may still involve substantial costs.
35.	(21) Stakeholders in the defence sector are facing specific indirect costs, such as costs for security. Furthermore, stakeholders are working in a specific market where they – without any demand on the buyers' side – cannot recover the research and development costs like in the civilian sector. Therefore, it is justified to allow a flat rate of 25 % as well as the possibility, on a project base, to charge indirect costs calculated in accordance with the usual accounting practices of beneficiaries if these practices are accepted by their national authorities under comparable national funding schemes, which have been communicated to the Commission. The	(21) Stakeholders in the defence sector are facing specific indirect costs, such as costs for security. Furthermore, stakeholders are working in a specific market where they – without any demand on the buyers' side – cannot recover the R&D research and development costs like in the civilian sector. Therefore, it is justified to allow a flat rate of 25 % as well as the possibility, on a project base, to charge indirect costs calculated in accordance with the usual accounting practices of beneficiaries if these practices are accepted by their national authorities under comparable national funding schemes, which have been	(21) Stakeholders in the defence sector are facing specific indirect costs, such as costs for security. Furthermore, stakeholders are working in a specific market where they – without any demand on the buyers' side – cannot recover the research and development costs like in the civilian sector. Therefore, it is justified to allow a flat rate of 25 % as well as the possibility, on a project case by case basis , to charge indirect costs calculated in accordance with the usual accounting practices of the recipients beneficiaries the recipients if these practices are accepted by their national authorities under for comparable activities in the defence domain national funding schemes , which have been	(21) Stakeholders in the defence sector are facing specific indirect costs, such as costs for security. Furthermore, stakeholders are working in a specific market where they – without any demand on the buyers' side – cannot recover the R&D costs like in the civilian sector. Therefore, it is justified to allow a flat rate of 25 % as well as the possibility, on a case by case basis , to charge indirect costs calculated in accordance with the usual accounting practices of the recipients the recipients if these practices are accepted by their national authorities for comparable activities in the defence domain , which have been communicated to the Commission. The authorising officer responsible should justify the

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	authorising officer responsible should justify its decision to accept indirect eligible costs beyond the flat rate of 25 % in the work programme or in the call for proposals.	communicated to the Commission. The authorising officer responsible should justify its decision to accept indirect eligible costs beyond the flat rate of 25 % in the work programme or in the call for proposals.	communicated to the Commission. The authorising officer responsible should justify its the decision to accept indirect eligible costs of up to 80 % of the total direct eligible costs beyond the flat rate of 25 % in the work programme or in the call for proposals.	decision to accept indirect eligible costs of up to 80 % of the total direct eligible costs in the work programme or in the call for proposals.
36.		<i>(21a) Projects with participation of cross-border SMEs and mid-caps support the opening up of the supply chains and contribute to the objectives of the Fund. Such actions should therefore be eligible for an increased funding rate benefitting all entities participating in the consortium.</i>		<i>(21a) Actions with participation of cross-border SMEs and mid-caps support the opening up of the supply chains and contribute to the objectives of the Fund. Such actions should therefore be eligible for an increased funding rate benefitting all participating entities.</i>
37.	(22) In order to ensure that the funded actions will contribute to the competitiveness and efficiency of the European defence industry, it is important that Member States already intend to jointly procure the final product or use the technology, notably through joint cross-border procurement, where Member States jointly organise their procurement procedures in particular with the use of a central purchasing body.	(22) In order to ensure that the funded actions will contribute to the competitiveness and efficiency of the European defence industry, it is important that Member States already intend to jointly procure the final product or use the technology, notably through joint cross-border procurement, where Member States jointly organise their procurement procedures in particular with the use of a central purchasing body. <i>As defence ministries of Member States are exclusive customers and defence industries are the sole providers of defence products, in order to facilitate procurement, ministries of</i>	(22) In order to ensure that the funded actions will contribute to the competitiveness and efficiency of the European defence industry, it is important that Member States already intend to jointly procure the final product or use the technology, notably through joint cross-border procurement, where Member States jointly organise their procurement procedures in particular with the use of a central purchasing body.	(22) In order to ensure that the funded actions will contribute to the competitiveness and efficiency of the European defence industry, it is important that Member States intend to jointly procure the final product or use the technology, notably through joint cross-border procurement, where Member States jointly organise their procurement procedures in particular with the use of a central purchasing body.

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		<i>defence of Member States should be involved in the project from the technical specification all the way until the project is finished.</i>		
38.		<i>(22 a) To respond to increased instability and conflicts in their neighbourhood and new security and geopolitical threats, Member States and the Union need to coordinate investment decisions, and thus require a common definition of threats, needs and priorities, including anticipated military capability needs, which could be identified via procedures such as the Capability Development Plan (CDP).</i>		
39.	(23) The promotion of innovation and technological development in the Union defence industry should take place in a manner coherent with the security and defence interests of the Union. Accordingly, the action's contribution to those interests and to the defence research and capability priorities commonly agreed by Member States should serve as an award criterion. Within the Union, common defence research and capability shortfalls are identified in the Common Security and Defence Policy (CSDP) framework notably through Overarching Strategic Research Agenda and the Capability	(23) The promotion of innovation and technological development in the Union defence industry should take place in a manner coherent with the security and defence interests of the Union. Accordingly, the action's contribution to those interests and to the defence research and capability priorities commonly agreed by Member States should serve as an award criterion. Within the Union, common defence research and capability shortfalls are identified in the Common Security and Defence Policy (CSDP) framework notably through Overarching Strategic Research Agenda and the Capability	(23) The promotion of innovation and technological development in the Union defence industry should take place in a manner coherent with the security and defence interests of the Union. Accordingly, the action's' contributions to those interests and to the defence research and capability priorities commonly agreed by Member States should serve as an award criterion. Within the Union, common defence research and capability shortfalls are identified in the Common Security and Defence Policy (CSDP) framework notably through Overarching Strategic Research Agenda and the Capability Development Plan, while the	(23) The promotion of innovation and technological development in the Union defence industry should take place in a manner coherent with the security and defence interests of the Union. Accordingly, the action's' contributions to those interests and to the defence research and capability priorities commonly agreed by Member States should serve as an award criterion. Within the Union, common defence capability shortfalls are identified in the Common Security and Defence Policy framework notably through the Capability Development Plan, while the Overarching Strategic Research Agenda also identifies common defence

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	<p>Development Plan. Other Union processes such as the Coordinated Annual Review on Defence and the Permanent Structured Cooperation will support the implementation of relevant priorities through identifying and taking forward opportunities for enhanced cooperation with a view to fulfilling the EU level of ambition on security and defence. Where appropriate, regional and international priorities, including those in the North Atlantic Treaty Organisation context, may also be taken into account if they are in line with Union priorities and do not prevent any Member State or an associated country from participating, while also taking into account that unnecessary duplication should be avoided.</p>	<p>Development Plan CDP, including the CDP Strategic Context Cases. Other Union processes such as the Coordinated Annual Review on Defence and the Permanent Structured Cooperation will support the implementation of relevant priorities through identifying and taking forward opportunities for enhanced cooperation with a view to fulfilling the EU level of ambition on security and defence. Where appropriate, regional and international priorities, including those in the North Atlantic Treaty Organisation context, may should also be taken into account if they are in line with Union priorities and do not prevent any Member State or an associated country from participating, while also taking into account that unnecessary duplication should be avoided.</p>	<p>Overarching Strategic Research Agenda also identifies common defence research objectives. Other Union processes such as the Coordinated Annual Review on Defence and the Permanent Structured Cooperation will support the implementation of relevant priorities through identifying and taking forward opportunities for enhanced cooperation with a view to fulfilling the EU level of ambition on security and defence. Where appropriate, regional and international priorities, including those in the North Atlantic Treaty Organisation context, may also be taken into account if they are in line with Union priorities and do not prevent any Member State or an associated country from participating, while also taking into account that unnecessary duplication should be avoided.</p>	<p>research objectives. Other Union processes such as the Coordinated Annual Review on Defence and Permanent Structured Cooperation will support the implementation of relevant priorities through identifying and taking forward opportunities for enhanced cooperation with a view to fulfilling the EU level of ambition on security and defence. Where appropriate, regional and international priorities, including those in the North Atlantic Treaty Organisation context, may also be taken into account if they are in line with Union priorities and do not prevent any Member State or an associated country from participating, while also taking into account that unnecessary duplication should be avoided.</p>
40.	<p>(24) Eligible actions developed in the context of Permanent Structured Cooperation (PESCO) in the institutional framework of the Union should ensure enhanced cooperation between legal entities in the different Member States on a continuous basis and thus directly contribute to the aims of the Fund. If selected, such projects should thus be eligible for an increased funding rate.</p>	<p>Commission proposal unchanged</p>	<p>Commission proposal unchanged</p>	<p>(24) Eligible actions developed in the context of Permanent Structured Cooperation in the institutional framework of the Union should ensure enhanced cooperation between legal entities in the different Member States on a continuous basis and thus directly contribute to the aims of the Fund. If selected, such projects should thus be eligible for an increased funding rate.</p>

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41.		<i>(24 a) The Fund should take into account the Action Plan on Military Mobility as part of the next Connecting Europe Facility, European Peace Facility to support, and, inter alia, Common Foreign and Security Policy CFSP/CSDP Missions and efforts to counter Hybrid Threats, that together with CDP, CARD and PESCO help to coordinate capability planning, development, procurement and operations.</i>		
42.	(25) The Commission will take into account the other activities financed under the Horizon Europe Framework programme in order to avoid unnecessary duplication and ensure the cross-fertilisation between civil and defence research.	(25) The Commission will take into account the other activities financed under the Horizon Europe Framework programme in order to avoid unnecessary duplication and ensure the cross-fertilisation and synergy between civil and defence research and ensure that Horizon Europe remains a purely civil research programme.	(25) The Commission will take into account the other activities financed under the Horizon Europe Framework programme in order to avoid unnecessary duplication and ensure the cross-fertilisation between civil and defence research.	(25) The Commission will take into account other activities financed under the Horizon Europe Framework programme in order to avoid unnecessary duplication and ensure cross-fertilisation <u>and synergies</u> between civil and defence research.
43.	(26) Cybersecurity and cyber defence are increasingly important challenges and the Commission and the High Representative recognised the need to establish synergies between cyber defence actions within the scope of the Fund and Union initiatives in the field of cybersecurity, such as those announced in the Joint Communication on cybersecurity. In particular, the	(26) Cybersecurity and cyber defence are increasingly important challenges and the Commission and the High Representative recognised the need to establish synergies between cyber defence actions within the scope of the Fund and Union initiatives in the field of cybersecurity, such as those announced in the Joint	(26) Cybersecurity and cyber defence are increasingly important challenges and the Commission and the High Representative of the Union for Foreign Affairs and Security Policy recognised the need to establish synergies between cyber defence actions within the scope of the Fund and Union initiatives in the field of cybersecurity, such as those announced in the Joint Communication	(26) Cybersecurity and cyber defence are increasingly important challenges and the Commission and the High Representative of the Union for Foreign Affairs and Security Policy recognised the need to establish synergies between cyber defence actions within the scope of the Fund and Union initiatives in the field of cybersecurity, such as those announced in the Joint Communication

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	European Cybersecurity Industrial, Technology and Research Competence Centre to be set up should seek synergies between the civilian and defence dimensions of cybersecurity. It could actively support Member States and other relevant actors by providing advice, sharing expertise and facilitating collaboration with regard to projects and actions as well as when requested by Member States acting as a project manager in relation to the European Defence Fund.	Communication on cybersecurity. In particular, the European Cybersecurity Industrial, Technology and Research Competence Centre to be set up should seek synergies between the civilian and defence dimensions of cybersecurity. It could actively support Member States and other relevant actors by providing advice, sharing expertise and facilitating collaboration with regard to projects and actions as well as when requested by Member States acting as a project manager in relation to the European Defence Fund.	on cybersecurity. [In particular, the European Cybersecurity Industrial, Technology and Research Competence Centre to be set up should seek synergies between the civilian and defence dimensions of cybersecurity. It could actively support Member States and other relevant actors by providing advice, sharing expertise and facilitating collaboration with regard to projects and actions as well as when requested by Member States acting as a project manager in relation to the European Defence Fund.]	on cybersecurity. [In particular, the European Cybersecurity Industrial, Technology and Research Competence Centre to be set up should seek synergies between the civilian and defence dimensions of cybersecurity. It could actively support Member States and other relevant actors by providing advice, sharing expertise and facilitating collaboration with regard to projects and actions as well as when requested by Member States acting as a project manager in relation to the Fund.]
44.	(27) An integrated approach should be ensured by bringing together activities covered by the Preparatory Action on Defence Research launched by the Commission within the meaning of Article [58 (2) (b)] of Regulation (EU, Euratom) 2018/... of the European Parliament and of the Council (the ‘Financial Regulation’) and the European Defence Industrial Development Programme established by Regulation (EC) No ... of the European Parliament and of the Council and to harmonise the conditions for participation, to create a more coherent set of instruments, to increase the innovative, collaborative and economic impact, while avoiding unnecessary duplication and	(27) An integrated approach should be ensured by bringing together activities covered by the Preparatory Action on Defence Research launched by the Commission within the meaning of Article [58 (2) (b)] of Regulation (EU, Euratom) 2018/... of the European Parliament and of the Council (the ‘Financial Regulation’) and the European Defence Industrial Development Programme established by Regulation (EC) No ... of the European Parliament and of the Council and to harmonise the conditions for participation, to create a more coherent set of instruments, to increase the innovative, collaborative and economic impact, while avoiding unnecessary duplication and	(27) An integrated approach should be ensured by bringing together activities covered by the Preparatory Action on Defence Research launched by the Commission within the meaning of Article [58(2)(b)] of the Financial Regulation (EU, Euratom) 2018/... of the European Parliament and of the Council (the ‘Financial Regulation’) and the European Defence Industrial Development Programme established by Regulation (EU) No ... 2018/1092 of the European Parliament and of the Council, and to harmonise the conditions for participation, to create a more coherent set of instruments, and to increase the innovative, collaborative and economic impact, while avoiding unnecessary duplication and	(27) An integrated approach should be ensured by bringing together activities covered by the Preparatory Action on Defence Research (‘PADR’) launched by the Commission within the meaning of Article 58(2)(b) of the Financial Regulation and the European Defence Industrial Development Programme (‘EDIDP’) established by Regulation (EU) 2018/1092 of the European Parliament and of the Council, and to harmonise the conditions for participation, to create a more coherent set of instruments, and to increase the innovative, collaborative and economic impact, while avoiding unnecessary duplication and fragmentation. With this integrated approach, the Fund would also contribute to a better exploitation of the

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	fragmentation. With this integrated approach, the Fund would also contribute to a better exploitation of the results of defence research, covering the gap between research and development taking into account the specificities of the defence sector, and promoting all forms of innovation, including disruptive innovation where possible failure should be accepted.	fragmentation. With this integrated approach, the Fund would also contribute to a better exploitation of the results of defence research, covering the gap between research and development R&D taking into account the specificities of the defence sector, and promoting all forms of innovation, and as positive spillover effects can be expected, where applicable, in the civil field, including disruptive innovation where possible failure should be accepted.	fragmentation. With this integrated approach, the Fund would also contribute to a better exploitation of the results of defence research, covering the gap between research and development taking into account the specificities of the defence sector, and promoting all forms of innovation, including disruptive innovation where possible failure should be accepted.	results of defence research, covering the gap between the research and the development phases taking into account the specificities of the defence sector, and promoting all forms of innovation, including disruptive innovation. <u>Positive spillover effects can also be expected, where applicable, in the civilian field.</u>
45.	(28) The policy objectives of this Fund will be also addressed through financial instruments and budgetary guarantees under the policy window(s) [...] of the InvestEU Fund.	Commission proposal unchanged	(28) Where appropriate in view of the specificities of the action, The policy objectives of this the Fund will should be also addressed through financial instruments and budgetary guarantees under the policy window(s) [...] of the InvestEU Fund.	(28) <u>Where appropriate in view of the specificities of the action,</u> the objectives of the Fund should be also addressed through financial instruments and budgetary guarantees.
46.	(29) Financial support should be used to address market failures or sub-optimal investment situations, in a proportionate manner and actions should not duplicate or crowd out private financing or distort competition in the internal market. Actions should have a clear European added value.	Commission proposal unchanged	(29) Financial support should be used to address market failures or sub-optimal investment situations in a proportionate manner and actions should not duplicate or crowd out private financing or distort competition in the internal market. Actions should have a clear European added value for the Union.	(29) Financial support should be used to address market failures or sub-optimal investment situations in a proportionate manner and actions should not duplicate or crowd out private financing or distort competition in the internal market. Actions should have a clear added value for the Union.
47.	(30) The types of financing and the methods of implementation under this Regulation should be chosen on the basis of their ability to achieve the specific objectives of the actions and to	Commission proposal unchanged	(30) The types of financing and the methods of implementation under this Regulation of the Fund should be chosen on the basis of their ability to achieve the specific objectives of the	(30) The types of financing and the methods of implementation of the Fund should be chosen on the basis of their ability to achieve the specific objectives of the actions and to deliver results,

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	deliver results, taking into account, in particular, the costs of controls, the administrative burden, and the expected risk of non-compliance. This should include consideration of the use of lump sums, flat rates and unit costs, as well as financing not linked to costs as referred to in Article [125(1)] of the Financial Regulation.		actions and to deliver results, taking into account, in particular, the costs of controls, the administrative burden, and the expected risk of non-compliance. This should include consideration of the use of lump sums, flat rates and unit costs, as well as financing not linked to costs as referred to in Article [125(1)] of the Financial Regulation.	taking into account, in particular, the costs of controls, the administrative burden, and the expected risk of non-compliance. This should include consideration of the use of lump sums, flat rates and unit costs, as well as financing not linked to costs as referred to in Article 125(1) of the Financial Regulation.
48.	(31) The Commission should establish annual or multiannual work programmes in line with the objectives of the Fund. The Commission should be assisted in the establishment of the work programme by a committee of Member States. In order to benefit from its expertise in the defence sector, the European Defence Agency will be given the status of an observer in the committee. Given the specificities of the defence area, the European External Action Service should also assist in the committee of Member States.	(31) The Commission should establish annual or multiannual work programmes in line with the objectives of the Fund. <i>The work programmes should take into account the initial lessons learned from of the European Defence Industrial Development Programme, the Pilot Project and the Preparatory Action on Defence Research.</i> The Commission should be assisted in the establishment of the work programme by a committee of Member States. In order to benefit from its expertise in the defence sector, the European Defence Agency will be given the status of an observer in the committee. Given the specificities of the defence area, the European External Action Service should also assist in the committee of Member States.	(31) The Commission should establish annual or multiannual work programmes in line with the objectives of the Fund. The Commission should be assisted in the establishment of the work programme by a the committee of Member States. The Commission should endeavour to find solutions which command the widest possible support within the committee. In that context, the committee may meet in the configuration of national defence and security experts to provide specific assistance to the Commission, including to provide advice with regard to the protection of classified information in the framework of the actions. It is for the Member States to designate their respective representatives on that committee. Committee members should be given early and effective opportunities to examine the draft implementing acts and express their views.	(31) The Commission should establish annual or multiannual work programmes in line with the objectives of the Fund, and taking <i>into account the initial lessons learned from the EDIDP and the PADR.</i> The Commission should be assisted in the establishment of the work programme by the committee. <u>The Commission should endeavour to find solutions which command the widest possible support within the committee. In that context, the committee may meet in the configuration of national defence and security experts to provide specific assistance to the Commission, including to provide advice with regard to the protection of classified information in the framework of the actions. It is for the Member States to designate their respective representatives on that committee. Committee members should be given early and effective opportunities to examine the draft implementing acts and express their views.</u>

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49.			(31a) The categories of the work programmes should contain functional requirements in order to clarify for industry what functionalities and tasks have to be carried out by the capabilities which will be developed. Such requirements should give a clear indication of the expected performances but should not be directed to specific solutions or specific entities and should not prevent competition at the level of the calls for proposals.	<u>(31a) The categories of the work programmes should contain functional requirements in order to clarify for industry what functionalities and tasks have to be carried out by the capabilities which will be developed. Such requirements should give a clear indication of the expected performances but should not be directed to specific solutions or specific entities and should not prevent competition at the level of the calls for proposals.</u>
50.			(31b) During the elaboration of the work programmes, the Commission should also ensure, through appropriate consultations with the committee, that the proposed research or development actions avoid unnecessary duplication.	<u>(31b) During the elaboration of the work programmes, the Commission should also ensure, through appropriate consultations with the committee, that the proposed research or development actions avoid unnecessary duplication.</u> In this context, the Commission may carry out an upfront assessment of possible duplication cases with existing capabilities or already funded research or development projects within the Union. (31bb) The Commission should ensure the coherence of the work programmes throughout the industrial cycle of defence products and technologies.
51.			(31c) In order to benefit from its expertise in the defence sector, the	<u>(31c) In order to benefit from its expertise in the defence sector, the</u>

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			European Defence Agency will be given the status of an observer in the committee. Given the specificities of the defence area, the European External Action Service should also assist in the committee of Member States.	European Defence Agency will be given the status of an observer in the committee. Given the specificities of the defence area, the European External Action Service should also assist in the committee.
52.	<p>(32) In order to ensure uniform conditions for the implementation of this Regulation implementing powers should be conferred on the Commission as regards the adoption of the work programme and for awarding the funding to selected development actions. In particular, while implementing development actions, the specificities of the defence sector, notably the responsibility of Member States and/or associated countries for the planning and acquisition process, should be taken into account. These implementing powers should be exercised in accordance with Regulation (EU) [No 182/2011 of the European Parliament and of the Council]³.</p> <p>-----</p> <p>³ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ</p>	Commission proposal unchanged	Commission proposal unchanged	<p>(32) In order to ensure uniform conditions for the implementation of this Regulation implementing powers should be conferred on the Commission as regards the adoption of the work programme and for awarding the funding to selected development actions. In particular, while implementing development actions, the specificities of the defence sector, notably the responsibility of Member States and/or associated countries for the planning and acquisition process, should be taken into account. These implementing powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁴.</p> <p>-----</p> <p>⁴ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).</p>

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	L 55, 28.2.2011, p. 13).			
53.			<p>(32a) After evaluation of the proposals with the help of independent experts, whose security credentials should be validated by the relevant Member States, the Commission should select the actions to be supported by the Fund. The Commission should establish a database of independent experts. The database should not be made public. The independent experts should be appointed on the basis of their skills, experience and knowledge, taking account of the tasks to be assigned to them. As far as possible, when appointing the independent experts, the Commission should take appropriate measures to seek a balanced composition within the expert groups and evaluation panels in terms of variety of skills, experience, knowledge, geographical diversity and gender, taking into account the situation in the field of the action. An appropriate rotation of experts and appropriate private-public sector balance should also be sought. Member States should be informed of the evaluation results with the ranking list of selected actions and of the progress of the funded actions. In order to ensure uniform conditions for the implementation of this Regulation,</p>	<p><u>(32a) After evaluation of the proposals with the help of independent experts, whose security credentials should be validated by the relevant Member States, the Commission should select the actions to be financially supported by the Fund. The Commission should establish a database of independent experts. The database should not be made public. The independent experts should be appointed on the basis of their skills, experience and knowledge, taking account of the tasks to be assigned to them. As far as possible, when appointing the independent experts, the Commission should take appropriate measures to seek a balanced composition within the expert groups and evaluation panels in terms of variety of skills, experience, knowledge, geographical diversity and gender, taking into account the situation in the field of the action. An appropriate rotation of experts and appropriate private-public sector balance should also be sought. Member States should be informed of the evaluation results with the ranking list of selected actions and of the progress of the funded actions. In order to ensure uniform conditions for the implementation of this Regulation,</u></p>

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			implementing powers should be conferred on the Commission as regards the adoption and the implementation of the work programme, as well as for the adoption of the award decisions. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.	<u>implementing powers should be conferred on the Commission as regards the adoption and the implementation of the work programme, as well as for the adoption of the award decisions. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.</u>
54.			(32b) Independent experts should not evaluate, advise or assist on matters with regard to which they have a conflict of interests, in particular as regards their current position. In particular, they should not be in a position where they could use the information received to the detriment of the consortium they evaluate.	<u>(32b) Independent experts should not evaluate, advise or assist on matters with regard to which they have a conflict of interests, in particular as regards their current position. In particular, they should not be in a position where they could use the information received to the detriment of the consortium they evaluate.</u>
55.	(33) In order to support an open internal market, participation of cross-border SMEs and mid-caps, either as members of consortia or as subcontractors, should be encouraged.	(33) In order to support an open internal market, participation of cross-border SMEs and mid-caps, either as members of consortia or as subcontractors, should be encouraged. <i>The work programme should ensure that a credible proportion of the overall budget benefits actions enabling the cross-border participation of SMEs and mid-caps.</i>	(33) In order to support an open internal market, the participation of cross-border SMEs and mid-caps, either as members of consortia or as subcontractors, should be encouraged.	(33) In order to support an open internal market, the participation of cross-border SMEs and mid-caps, either as members of consortia or as subcontractors, should be encouraged.
56.	(34) The Commission should endeavour to maintain dialogue with Member States and industry to ensure	(34) The Commission should endeavour to maintain dialogue with the European Parliament , Member States and industry to ensure the	(34) The Commission should endeavour to maintain a dialogue with Member States and industry to ensure the	(34) The Commission should endeavour to maintain a dialogue with Member States and industry to ensure the success of the Fund. As a co-legislator

Row no	COMMISSION PROPOSAL 2018/0254 (COD) doc. 10084/18 + ADD 1 + ADD 2	EP amendments	Council partial General Approach doc. 14094/1/18 REV 1	Provisional compromise proposals and comments
	the success of the Fund.	success of the Fund <i>through the impact it brings to the defence industry.</i>	success of the Fund.	and key stakeholder, the European Parliament should also be engaged in this regard.
57.	<p>(35) This Regulation lays down a financial envelope for the European Defence Fund which is to constitute the prime reference amount, within the meaning of [the new inter-institutional agreement] between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management⁴, for the European Parliament and the Council during the annual budgetary procedure.</p> <p>-----</p> <p>⁴ Reference to be updated: OJ C 373, 20.12.2013, p. 1. The agreement is available at: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2013.373.01.0001.01.ENG&toc=OJ:C:2013:373:TOC</p>	<p>(35) This Regulation lays down a financial envelope for the European Defence Fund which is to constitute the prime reference amount, within the meaning of [the new inter-institutional agreement] between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management⁵, for the European Parliament and the Council during the annual budgetary procedure. <i>The Commission should ensure that administrative procedures are kept as simple as possible and incur a minimum amount of additional expenses.</i></p> <p>-----</p> <p>⁵ Reference to be updated: OJ C 373, 20.12.2013, p. 1. The agreement is available at: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2013.373.01.0001.01.ENG&toc=OJ:C:2013:373:TOC</p>	<p>(35) This Regulation lays down a financial envelope for the European Defence Fund which is to constitute the prime reference amount, within the meaning of [the new inter-institutional agreement] between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management⁵, for the European Parliament and the Council during the annual budgetary procedure.</p> <p>-----</p> <p>⁵ Reference to be updated: OJ C 373, 20.12.2013, p. 1. The agreement is available at: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2013.373.01.0001.01.ENG&toc=OJ:C:2013:373:TOC</p>	<p>(35) This Regulation lays down a financial envelope for the European Defence Fund which is to constitute the prime reference amount, within the meaning of [the new inter-institutional agreement] between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management⁵, for the European Parliament and the Council during the annual budgetary procedure. <i>The Commission should ensure that administrative procedures are kept as simple as possible and incur a minimum amount of additional expenses.</i></p> <p>-----</p> <p>⁵ Reference to be updated: OJ C 373, 20.12.2013, p. 1. The agreement is available at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013Q1220(01)&from=EN</p> <p>(35a) In the Inter-Institutional Agreement of [reference to be updated], the European Parliament, Council and Commission have undertaken not to depart, within the</p>

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				annual budgetary procedure, by more than [X%] from the amount set in this Regulation as its budget for duration of the Fund. In order to respond to unforeseen situations or new developments and needs, the Commission may, therefore, propose to deviate from the indicative amounts set out in this Regulation by up to [X%].
58.	(36) The Financial Regulation applies to the Fund, unless otherwise specified. It lays down rules on the implementation of the Union budget, including the rules on grants, prizes, procurement, financial assistance, financial instruments and budgetary guarantees.	Commission proposal unchanged	Commission proposal unchanged	(36) The Financial Regulation applies to the Fund, unless otherwise specified. It lays down rules on the implementation of the Union budget, including the rules on grants, prizes, procurement, financial assistance, financial instruments and budgetary guarantees.
59.	(37) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 of the Treaty on the Functioning of the European Union apply to this Regulation. These rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes, indirect implementation, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also concern the protection of the Union's budget in case of	Commission proposal unchanged	(37) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 of the Treaty on the Functioning of the European Union (TFEU) apply to this Regulation. These rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes, indirect implementation, and provide for checks on the responsibility of financial actors. [Rules adopted on the basis of Article 322 TFEU also concern the protection of the Union's budget in case of generalised deficiencies as	(37) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 of the Treaty on the Functioning of the European Union (TFEU) apply to this Regulation. These rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes, indirect implementation, and provide for checks on the responsibility of financial actors. [Rules adopted on the basis of Article 322 TFEU also concern the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in

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	generalised deficiencies as regards the rule of law in the Member States, as the respect for the rule of law is an essential precondition for sound financial management and effective EU funding.		regards the rule of law in the Member States, as the respect for the rule of law is an essential precondition for sound financial management and effective EU funding.]	the Member States, as the respect for the rule of law is an essential precondition for sound financial management and effective EU funding.]
60.	(38) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council ⁵ , Council Regulation (Euratom, EC) No 2988/95 ⁶ , Council Regulation (Euratom, EC) No 2185/96 ⁷ and Council Regulation (EU) 2017/1939 ⁸ , 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 administrative 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	Commission proposal unchanged	(38) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council ⁶ , Council Regulation (Euratom, EC) No 2988/95 ⁷ Council Regulation (Euratom, EC) No 2185/96 ⁸ and Council Regulation (EU) 2017/1939 ⁹ , 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 administrative 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 Office	(38) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council ⁶ , Council Regulation (Euratom, EC) No 2988/95 ⁷ , Council Regulation (Euratom, EC) No 2185/96 ⁸ and Council Regulation (EU) 2017/1939 ⁹ , the financial interests of the Union are to be protected through proportionate measures, including the prevention, detection, correction and investigation of irregularities, including 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 administrative 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 Office (the 'EPPO') may

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	<p>of the Union. In accordance with Regulation (EU) 2017/1939, the European Public Prosecutor's Office (EPPO) may investigate and prosecute fraud and other criminal offences affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council⁹. 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>-----</p> <p>⁵ 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>⁶ Council Regulation (EC, Euratom)</p>		<p>(EPPO) may investigate and prosecute fraud and other criminal offences affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council¹⁰. 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 in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939 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>-----</p> <p>⁶ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).</p> <p>⁷ Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the</p>	<p>investigate and prosecute offences against the Union's financial interests, as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council¹⁰. 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 <u>in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939</u>, 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>-----</p> <p>⁶ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).</p> <p>⁷ Council Regulation (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>

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	<p>No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.95, p.1)</p> <p>⁷ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L292,15.11.96 , p.2)</p> <p>⁸ 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 L 283, 31.10.2017, p. 1).</p> <p>⁹ 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 L198, 28.7.2017, p.29).</p>		<p>protection of the European Communities financial interests (OJ L 312, 23.12.95, p. 1).</p> <p>⁸ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.96, p. 2).</p> <p>⁹ 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 L 283, 31.10.2017, p. 1).</p> <p>¹⁰ 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>1).</p> <p>⁸ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.96, p. 2).</p> <p>⁹ 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 L 283, 31.10.2017, p. 1).</p> <p>¹⁰ 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>
61.	(39) Third countries which are members of the European Economic Area (EEA) may participate in Union programmes in the framework of the cooperation established under the EEA agreement, which provides for the implementation of the programmes by	Commission proposal unchanged	(39) [Third countries which are members of the European Economic Area (EEA) may participate in Union programmes in the framework of the cooperation established under the EEA agreement, which provides for the implementation of the programmes by a	(39) [Third countries which are members of the European Economic Area (EEA) may participate in Union programmes in the framework of the cooperation established under the EEA agreement, which provides for the implementation of the programmes by a

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	a decision under that agreement. A specific provision should be introduced in this Regulation to grant the necessary rights for and access to the authorising officer responsible, the European Anti-Fraud Office (OLAF) as well as the European Court of Auditors to comprehensively exert their respective competences.		decision under that agreement.] A specific provision should be introduced in this Regulation to grant the necessary rights for and access to the authorising officer responsible, the European Anti-Fraud Office (OLAF) as well as the European Court of Auditors to comprehensively exert their respective competences.	decision under that agreement.] A specific provision should be introduced in this Regulation to grant the necessary rights for and access to the authorising officer responsible, the European Anti-Fraud Office (OLAF) as well as the European Court of Auditors to comprehensively exert their respective competences.
62.	(40) Pursuant to paragraph 22 and 23 of the Inter-institutional agreement for Better Law-Making of 13 April 2016, there is a need to evaluate this regulation on the basis of information collected through specific monitoring requirements, while avoiding overregulation and administrative burdens, in particular on Member States. These requirements, where appropriate, can include measurable indicators, as a basis for evaluating the effects of the regulation on the ground. The Commission should carry out an interim evaluation no later than four years after the start of the Fund implementation and a final evaluation at the end of the implementation period of the Fund, examining the financial activities in terms of financial implementation results and to the extent possible at that point in time, results and impact. This report should also analyse the cross-border participation of SMEs and mid-caps in	(40) Pursuant to paragraph 22 and 23 of the Inter-institutional agreement for Better Law-Making of 13 April 2016, there is a need to evaluate this regulation on the basis of information collected through specific monitoring requirements, while avoiding overregulation and administrative burdens, in particular on Member States. These requirements, where appropriate, can include measurable indicators, as a basis for evaluating the effects of the regulation on the ground. The Commission should carry out an interim evaluation no later than four years after the start of the Fund implementation and a final evaluation at the end of the implementation period of the Fund, examining the financial activities in terms of financial implementation results and to the extent possible at that point in time, results and impact. This <i>Those</i> reports should also analyse the cross-border participation	(40) Pursuant to paragraph 22 and 23 of the Inter-institutional agreement for Better Law-Making of 13 April 2016, there is a need to evaluate this regulation on the basis of information collected through specific monitoring requirements, while avoiding overregulation and administrative burdens, in particular on Member States. These requirements, where appropriate, can include measurable indicators, as a basis for evaluating the effects of the regulation on the ground. The Commission should carry out an interim evaluation no later than four years after the start of the Fund implementation, including with a view to submitting proposals for any appropriate amendments to the present Regulation , and a final evaluation at the end of the implementation period of the Fund, examining the financial activities in terms of financial implementation results and to the extent possible at that point in time, results and impact. In this	(40) Pursuant to paragraph 22 and 23 of the Inter-institutional agreement for Better Law-Making of 13 April 2016, there is a need to evaluate this regulation on the basis of information collected through specific monitoring requirements, while avoiding overregulation and administrative burdens, in particular on Member States. These requirements, where appropriate, can include measurable indicators, as a basis for evaluating the effects of the regulation on the ground. The Commission should carry out an interim evaluation no later than four years after the start of the Fund implementation, including with a view to submitting proposals for any appropriate amendments to the present Regulation , and a final evaluation at the end of the implementation period of the Fund, examining the financial activities in terms of financial implementation results and to the extent possible at that point in time, results and impact. <u>In this context, the</u>

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	<p>projects supported by the Fund as well as the participation of SMEs and mid-caps to the global value chain. The Commission may also propose amendments to this Regulation to react on possible developments during the implementation of the Fund.</p>	<p>of SMEs and mid-caps in projects supported by the Fund as well as the participation of SMEs and mid-caps to the global value chain <i>and should also contain information on the countries of origin of the recipients, the number of countries involved in individual projects and, where possible, the distribution of the generated intellectual property rights.</i> The Commission may also propose amendments to this Regulation to react on possible developments during the implementation of the Fund.</p>	<p>context, the final evaluation report should also help identify where the Union is dependent on third countries for the development of defence products and technologies. This final report should also analyse the cross-border participation of SMEs and mid-caps in projects supported by the Fund as well as the participation of SMEs and mid-caps to the global value chain, and the contribution of the Fund to addressing the shortfalls identified in the Capability Development Plan, and should include information on the origin of the recipients and the distribution of the generated intellectual property rights. The Commission may also propose amendments to this Regulation to react on possible developments during the implementation of the Fund.</p>	<p><u>final evaluation report should also help identify where the Union is dependent on third countries for the development of defence products and technologies.</u> This final report should also analyse the cross-border participation of SMEs and mid-caps in projects financially supported by the Fund as well as the participation of SMEs and mid-caps to the global value chain, and the contribution of the Fund to addressing the shortfalls identified in the Capability Development Plan, and should include information on the origin of the recipients, the number of Member States and associated countries involved in individual actions and the distribution of the generated intellectual property rights. The Commission may also propose amendments to this Regulation to react on possible developments during the implementation of the Fund.</p>
63.			<p>(40a) The Commission should regularly monitor the implementation of the Fund and annually report on the progress made, including the implementation of lessons identified and lessons learned from the European Defence Industrial Development Programme ('EDIDP') and the Preparatory Action on Defence Research ('PADR'). To this end, the Commission should put in</p>	<p><u>(40a) The Commission should regularly monitor the implementation of the Fund and annually report on the progress made, including the implementation of lessons identified and lessons learned from the EDIDP and the PADR. To this end, the Commission should put in place necessary monitoring arrangements.</u> This report should be presented to the European Parliament and to the</p>

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			place necessary monitoring arrangements.	Council, and should not contain sensitive information.
64.	(41) Reflecting the importance of tackling climate change in line with the Union's commitments to implement the Paris Agreement and the United Nations Sustainable Development Goals, this Fund will contribute to mainstream climate action in the Union's policies and to the achievement of an overall target of 25 % of the EU budget expenditures supporting climate objectives. Relevant actions will be identified during the Fund's preparation and implementation, and reassessed in the context of its mid-term evaluation.	Commission proposal unchanged	(41) Reflecting the importance of tackling climate change in line with the Union's commitments to implement the Paris Agreement and the United Nations Sustainable Development Goals, this Fund will contribute to mainstream climate action in the Union's policies and to the achievement of an overall target of [25 %] of the EU budget expenditures supporting climate objectives. Relevant actions will be identified during the Fund's preparation and implementation, and reassessed in the context of its mid-term evaluation.	(41) Reflecting the importance of tackling climate change in line with the Union's commitments to implement the Paris Agreement and the United Nations Sustainable Development Goals, this Fund will contribute to mainstream climate action in the Union's policies and to the achievement of an overall target of [25 %] of the EU budget expenditures supporting climate objectives. Relevant actions will be identified during the Fund's preparation and implementation, and reassessed in the context of its mid-term evaluation.
65.	(42) As the Fund supports only the research and development phases of defence products and technologies, in principle the Union should not have ownership or intellectual property rights (IPRs) over the products or technologies resulting from the funded actions unless the Union assistance is provided through procurement. However, for research actions, interested Member States and associated countries should have the possibility to use the results of funded actions and participate in follow-up cooperative development and therefore derogations to that principle should be	(42) As the Fund supports only the R&D research and development phases of defence products and technologies, in principle the Union should not have ownership or intellectual property rights (IPRs) over the products or technologies resulting from the funded actions unless the Union assistance is provided through procurement. However, for research actions, interested Member States and associated countries should have the possibility to use the results of funded actions and participate in follow-up cooperative development and	(42) As the Fund supports only the research and development phases of defence products and technologies, in principle the Union should not have ownership or intellectual property rights (IPRs) over the products or technologies resulting from the funded actions unless the Union assistance is provided through public procurement. However, for research actions, interested Member States and associated countries should have the possibility to use the results of funded actions and participate in follow-up cooperative development and therefore derogations to that principle should be allowed.	(42) As the Fund supports only the research and the development phases of defence products and technologies, in principle the Union should not have ownership or intellectual property rights (IPRs) over the products or technologies resulting from the funded actions unless the Union assistance is provided through public procurement.

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	allowed.	therefore derogations to that principle should be allowed.		
66.	<p>(43) The Union financial support should not affect the transfer of defence-related products within the Union in accordance with Directive 2009/43/CE of the European Parliament and the Council¹⁰, nor the export of products, equipment or technologies.</p> <p>-----</p> <p>¹⁰ Directive 2009/43/EC of the European Parliament and the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community (OJ L 146, 10.6.2009, p. 1).</p>	<p>(43) The Union financial support should not affect the transfer of defence-related products within the Union in accordance with be accompanied by the full and proper implementation of Directive 2009/43/EC of the European Parliament and of the Council¹¹ on the transfer of defence-related products within the Union, and should not affect nor the export of products, equipment or technologies.</p> <p>-----</p> <p>¹¹ Directive 2009/43/EC of the European Parliament and the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community (OJ L 146, 10.6.2009, p. 1).</p>	<p>(43) The Union financial support should not affect the transfer of defence-related products within the Union in accordance with Directive 2009/43/EC of the European Parliament and the Council¹¹, nor the export of products, equipment or technologies.</p> <p>-----</p> <p>¹¹ Directive 2009/43/EC of the European Parliament and the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community (OJ L 146, 10.6.2009, p. 1).</p>	<p>(43) The Union financial support should not affect the transfer of defence-related products within the Union in accordance with Directive 2009/43/EC of the European Parliament and the Council¹¹, nor the export of products, equipment or technologies.</p> <p>-----</p> <p>¹¹ Directive 2009/43/EC of the European Parliament and the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community (OJ L 146, 10.6.2009, p. 1).</p>
67.		<p><i>(43 a) Entities which have been found guilty in a court of law of a criminal offence such as, but not limited to, bribing an official or breaching EU restrictive measures, should not be eligible for funding. The Commission may decide that any such entity, or an entity where senior executives have been found guilty, shall be barred from applying</i></p>		

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		<i>for funding for a period of no less than 36 months following conviction. The Commission shall maintain a publicly accessible database of all barred undertakings. Where an entity is under a credible and relevant investigation for a criminal offence, the Commission should reserve the right to await the outcome of the investigation before awarding funding.</i>		
68.		<i>(43 b) The Fund should support industry best practice in corporate governance and procurement practices. This should include the possibility for anonymous and confidential whistleblowing, through hotlines operated by third parties and with procedures in place to prevent retaliation. The award procedure should reflect those corporate governance standards with the goal of raising corporate accountability standards in the European defence sector.</i>		
69.	(44) Use of sensitive background information or access by unauthorised individuals to sensitive results generated by research projects may have an adverse impact on the interests of the Union or of one or more of the Member States. Thus handling of confidential data and classified	Commission proposal unchanged	(44) The use of sensitive background information, including data, know how or information, generated before or outside the performance of the Fund, or access by unauthorised individuals to sensitive results generated by research projects in connection to actions supported by the Fund may	(44) <u>The use of sensitive background information, including data, know how or information, generated before or outside the performance of the Fund,</u> or access by unauthorised individuals to results generated <u>in connection to actions financially supported by the Fund</u> may have an adverse impact on the

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	<p>information should be governed by all relevant Union law, including the Institutions' internal rules, such as Commission Decision (EU, Euratom) 2015/444¹¹.</p> <p>-----</p> <p>¹¹ 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)</p>		<p>have an adverse impact on the interests of the Union or of one or more of the Member States. Thus handling of confidential data sensitive and classified information should be governed by all relevant Union and national law, including the Institutions' internal rules, such as Commission Decision (EU, Euratom) 2015/444¹¹.</p> <p>-----</p> <p>¹¹ 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)</p>	<p>interests of the Union or of one or more of the Member States. Thus handling of sensitive and classified information should be governed by relevant Union and national law.</p>
70.			(44a) The minimum standards on industrial security should be complied with when signing classified funding and financing agreements. For that purpose, the Commission should communicate the Programme Security Instructions including the Security Classification Guide for advice to the experts designated by Member States.	<u>(44a) The minimum standards on industrial security should be complied with when signing classified funding and financing agreements. For that purpose, the Commission should communicate the Programme Security Instructions including the Security Classification Guide for advice to the experts designated by Member States.</u>
71.	(45) In order to be able to supplement or amend the impact pathway indicators, where considered necessary, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission. It is of particular	(45) In order to be able to supplement or amend the impact pathway indicators, where considered necessary this Regulation , the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the	Commission proposal unchanged	(45) In order to be able to supplement or amend the impact pathway indicators, where considered necessary, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission. It is of particular importance that the Commission carry

Row no	COMMISSION PROPOSAL 2018/0254 (COD) doc. 10084/18 + ADD 1 + ADD 2	EP amendments	Council partial General Approach doc. 14094/1/18 REV 1	Provisional compromise proposals and comments
	importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.	Commission <i>in respect of the award of funding for development actions, the adoption of the work programmes and the impact pathway indicators</i> . It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.		out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
72.	(46) The Commission should manage the Fund having due regard to the requirements of confidentiality and security, in particular classified information and sensitive information.	(46) The Commission should manage the Fund having due regard to the requirements of confidentiality and security, in particular classified information and sensitive information.	(46) The Commission should manage the Fund having due regard to the requirements of confidentiality and security, in particular classified information and sensitive information.	
73.		<i>(46 a) Undertakings, when proposing new defence products or technologies or proposing to re-purpose existing ones, are bound by</i>		

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		<p><i>the applicable legislation. Where no readily applicable legislation exists, they should commit themselves to respecting a body of universal ethical principles relating to the fundamental rights and the welfare of human beings, the protection of the human genome, the treatment of animals, the preservation of the natural environment, the protection of the cultural heritage, and the equitable access to global commons, including space and the cyberspace. The Commission should ensure that proposals are systematically screened to identify those actions raising serious ethics issues and submit them to an ethics assessment. Actions which are not ethically acceptable should not receive Union funding.</i></p>		
74.		<p><i>(46 b) The Council should endeavour to establish a decision on the use of armed unmanned aerial vehicles before [31 December 2020]. No funding should be made available for developing armed unmanned aerial vehicles before that decision has entered into force.</i></p>		
75.	HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION:
76.	TITLE I COMMON PROVISIONS	TITLE I COMMON PROVISIONS	TITLE I COMMON PROVISIONS	TITLE I COMMON PROVISIONS

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	APPLICABLE FOR RESEARCH AND DEVELOPMENT	APPLICABLE FOR RESEARCH AND DEVELOPMENT	APPLICABLE FOR RESEARCH AND DEVELOPMENT	APPLICABLE FOR RESEARCH AND DEVELOPMENT
77.	CHAPTER I GENERAL PROVISIONS	CHAPTER I GENERAL PROVISIONS	CHAPTER I GENERAL PROVISIONS	<i>Chapters deleted</i>
78.	<i>Article 1 Subject matter</i>	<i>Article 1 Subject matter</i>	<i>Article 1 Subject matter</i>	<i>Article 1 Subject matter</i>
79.	This Regulation establishes the European Defence Fund ('the Fund').	Commission proposal unchanged	This Regulation establishes the European Defence Fund ('the Fund'), [as set out in Article 1(3)(b) of Regulation .../.../EU] .	This Regulation establishes the European Defence Fund ('the Fund'), [as set out in Article 1(3)(b) of Regulation .../.../EU] .
80.	It lays down the objectives of the Fund, the budget for the period 2021-2027, the forms of Union funding and the rules for providing such funding.	Commission proposal unchanged	Commission proposal unchanged	It lays down the objectives of the Fund, the budget for the period 2021-2027, the forms of Union funding and the rules for providing such funding.
81.	<i>Article 2 Definitions</i>	<i>Article 2 Definitions</i>	<i>Article 2 Definitions</i>	<i>Article 2 Definitions</i>
82.	For the purposes of this Regulation, the following definitions apply:	Commission proposal unchanged	Commission proposal unchanged	For the purposes of this Regulation, the following definitions apply:
83.			(0) 'applicant' means a legal entity submitting an application for support by the Fund after a call for proposals or in accordance with Article 195(e) of the Financial Regulation;	<u>(0) 'applicant' means a legal entity submitting an application for support by the Fund after a call for proposals or in accordance with Article 195(e) of the Financial Regulation;</u>
84.	(1) 'blending operations' means actions supported by the EU budget, including within blending facilities pursuant to Article [2(6)] of the Financial Regulation, combining non-repayable forms of support and/or financial instruments from the EU	(1) 'blending operations' means actions supported by the EU budget, including within blending facilities pursuant to Article [2(6)] of the Financial Regulation, combining non-repayable forms of support and/or financial instruments from the	(1) 'blending operations' means actions supported by the EU budget, including within blending facilities pursuant to Article [2(6)] of the Financial Regulation, combining non-repayable forms of support and/or financial instruments from the EU budget with	(1) 'blending operations' means actions supported by the EU budget, including within blending facilities pursuant to Article 2(6) of the Financial Regulation, combining non-repayable forms of support or financial instruments from the EU budget with repayable forms

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	budget with repayable forms of support from development or other public finance institutions, as well as from commercial finance institutions and investors;	EU budget with repayable forms of support from development or other public finance institutions, as well as from commercial finance institutions and investors;	repayable forms of support from development or other public finance institutions, as well as from commercial finance institutions and investors;	of support from development or other public finance institutions, as well as from commercial finance institutions and investors;
85.			(1a) 'certification' means the process by which a national authority certifies that the defence product, tangible or intangible component or technology complies with the applicable regulations;	<u>(1a) 'certification' means the process by which a national authority certifies that the defence product, tangible or intangible component or technology complies with the applicable regulations;</u>
86.			(1b) 'classified information' means any information or material, in any form, the unauthorised disclosure of which could cause varying degrees of prejudice to the interests of the European Union, or of one or more of the Member States, and which bears an EU classification marking or a corresponding classification marking, in line with 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 (2011/C 202/05);	<u>(1b) 'classified information' means any information or material, in any form, the unauthorised disclosure of which could cause varying degrees of prejudice to the interests of the European Union, or of one or more of the Member States, and which bears an EU classification marking or a corresponding classification marking, in line with 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 (2011/C 202/05);</u>
87.			(1c) 'consortium' means a collaborative grouping of applicants or recipients bound by a consortium agreement and constituted to carry out an action under the Fund;	<u>(1c) 'consortium' means a collaborative grouping of applicants or recipients bound by a consortium agreement and constituted to carry out an action under the Fund;</u>

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88.			(1d) 'coordinator' means a legal entity which is a member of a consortium and has been appointed by all the members of the consortium to be the principal point of contact in relations with the Commission;	<u>(1d) 'coordinator' means a legal entity which is a member of a consortium and has been appointed by all the members of the consortium to be the principal point of contact in relations with the Commission;</u>
89.	(2) 'control' means the ability to exercise a decisive influence on an legal entity directly or indirectly through one or more intermediate legal entities;	Commission proposal unchanged	Commission proposal unchanged	(2) 'control' means the ability to exercise a decisive influence on an legal entity directly or indirectly through one or more intermediate legal entities;
90.	(3) 'development action' means any action consisting primarily of defence-oriented activities in the development phase, covering new products or technologies or the upgrading of existing ones, excluding the production or use of weapons;	Commission proposal unchanged	(3) 'development action' means any action consisting primarily of defence-oriented activities primarily in the development phase, covering new products or technologies or the upgrading of existing ones, excluding the production or use of weapons;	(3) 'development action' means any action consisting of defence-oriented activities primarily in the development phase, covering new products or technologies or the upgrading of existing ones, excluding the production or use of weapons;
91.	(4) 'disruptive technology for defence' means a technology the application of which can radically change the concepts and conduct of defence affairs;	Commission proposal unchanged	(4) 'disruptive technology for defence' means a technology inducing radical change, including an enhanced or completely new technology, inducing the application of which can radically a paradigm shift change in the concepts and conduct of defence affairs including by replacing existing defence technologies or rendering them obsolete;	(4) 'disruptive technology for defence' means a technology inducing radical change, notably completely new technologies but also including enhanced ones, inducing a paradigm shift in the concepts and conduct of defence affairs including by replacing existing defence technologies or rendering them obsolete;
92.	(5) 'executive management structures' means any body or bodies, appointed in accordance with national law, which are empowered to set the	Commission proposal unchanged	(5) 'executive management structures' means any body or bodies of a legal entity, appointed in accordance with national law, and, where	(5) 'executive management structures' means body of a legal entity appointed in accordance with national law, and, where applicable, reporting

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	legal entity's strategy, objectives and overall direction, and which oversee and monitor management decision-making;		applicable, reporting to the chief executive officer, which are is empowered to set-establish the legal entity's strategy, objectives and overall direction, and which oversees and monitors management decision-making;	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;
93.			(5a) 'foreground information' means data, know-how or information generated in the performance of the Fund, whatever its form or nature;	(5a) 'foreground information' means data, know-how or information generated in the performance of the Fund, whatever its form or nature;
94.	(6) 'legal entity' means any natural or legal person created and recognised as such under national law, Union law or international law, which has legal personality and which may, acting in its own name, exercise rights and be subject to obligations, or an entity without a legal personality in accordance with Article [197(2)(c)] of the Financial Regulation;	Commission proposal unchanged	(6) 'legal entity' means any natural or legal person created and recognised as such under national law, Union law or international law, which has legal personality and which may, acting in its own name, exercise rights and be subject to obligations, or an entity without a legal personality in accordance with Article [197(2)(c)] of the Financial Regulation;	(6) 'legal entity' means any legal person created and recognised as such under national law, Union law or international law, which has legal personality and which may, acting in its own name, exercise rights and be subject to obligations, or an entity without a legal personality in accordance with Article 197(2)(c) of the Financial Regulation;
95.	(7) 'mid-cap' means an enterprise that is not a micro-, small - and medium size enterprises ('SME'), as defined in Commission recommendation 2003/361/EC ¹² and that has a number of employees of up to 3 000 employees, where the staff headcount is calculated in accordance with Articles 3, 4, 5 and 6 of Title I of the Annex to that Recommendation; ----- ¹² Commission Recommendation	Commission proposal unchanged	(7) 'middle capitalisation company' or 'mid-cap' means an enterprise that is not a micro-, small - and medium size enterprises ('SME'), as defined in Commission recommendation 2003/361/EC¹² and that has a number of employees of up to 3 000 employees, where the staff headcount is calculated in accordance with Articles 3, 4, 5 and to 6 of Title I of the Annex to that Commission Recommendation 2003/361/EC¹² ;	(7) 'middle capitalisation company' or 'mid-cap' means an enterprise that is not a SME and that has up to 3 000 employees, where the staff headcount is calculated in accordance with Articles 3 to 6 of the Annex to <u>Commission Recommendation 2003/361/EC¹²</u> ; ----- ¹² Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124,

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	2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).		----- ¹² Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).	20.5.2003, p. 36).
96.	(8) 'pre-commercial procurement' means the procurement of research and development services involving risk-benefit sharing under market conditions, competitive development in phases, where there is a clear separation of the research and development services procured from the deployment of commercial volumes of end-products;	Commission proposal unchanged	Commission proposal unchanged	(8) 'pre-commercial procurement' means the procurement of research and development services involving risk-benefit sharing under market conditions, competitive development in phases, where there is a clear separation of the research and development services procured from the deployment of commercial volumes of end-products;
97.	(9) 'project manager' means any contracting authority established in a Member State or an associated country, set up by a Member State or an associated country or a group of Member States and/or associated countries to manage multinational armament projects permanently or on an ad-hoc basis;	Commission proposal unchanged	(9) 'project manager' means any contracting authority established in a Member State or an associated country, set up tasked by a Member State or an associated country or a group of Member States and/or associated countries to manage multinational armament projects permanently or on an ad-hoc basis;	(9) 'project manager' means any contracting authority established in a Member State or an associated country, tasked by a Member State or an associated country or a group of Member States or associated countries to manage multinational armament projects permanently or on an ad-hoc basis;
98.			(9a) 'qualification' means the entire process of demonstrating that the design of a defence product, tangible or intangible component or technology meets the specified requirements, providing objective evidence by which particular requirements of a design	(9a) 'qualification' means the entire <u>process of demonstrating that the design of a defence product, tangible or intangible component or technology meets the specified requirements, providing objective evidence by which particular requirements of a design are</u>

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			are demonstrated to have been met;	<u>demonstrated to have been met;</u>
99.	(10) 'recipient' means any legal entity receiving funding under this Fund;	Commission proposal unchanged	(10) 'recipient' means any legal entity receiving funding under this Fund with which a funding or financing agreement has been signed or to which a funding or financing decision has been notified;	(10) 'recipient' means any legal entity <u>with which a funding or financing agreement has been signed or to which a funding or financing decision has been notified;</u>
100.	(11) 'research action' means any action consisting of research activities with an exclusive focus on defence applications;	Commission proposal unchanged	(11) 'research action' means any action consisting primarily of research activities, notably applied research and where necessary fundamental research, with the aim of acquiring new knowledge and with an exclusive focus on defence applications;	(11) 'research action' means any action consisting primarily of research activities, <u>notably applied research and where necessary fundamental research, with the aim of acquiring new knowledge and</u> with an exclusive focus on defence applications;
101.	(12) 'results' means any tangible or intangible effect of the action, such as data, know-how or information, whatever its form or nature, whether or not it can be protected, as well as any rights attached to it, including intellectual property rights;	Commission proposal unchanged	Commission proposal unchanged	(12) 'results' means any tangible or intangible effect of the action, such as data, know-how or information, whatever its form or nature, whether or not it can be protected, as well as any rights attached to it, including intellectual property rights;
102.			(12a) 'sensitive information' means information and data, including classified information, that must be protected from unauthorised access or disclosure because of obligations laid down in national or Union law or in order to safeguard the privacy or security of an individual or organisation;	(12a) ' <u>sensitive information' means information and data, including classified information, that must be protected from unauthorised access or disclosure because of obligations laid down in national or Union law or in order to safeguard the privacy or security of an individual or organisation;</u>
103.			(12b) 'small and medium-sized enterprises' or 'SMEs' means small	<u>(12b) 'small and medium-sized enterprises' or 'SMEs' means small</u>

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			and medium-sized enterprises as defined in Commission Recommendation 2003/361/EC;	<u>and medium-sized enterprises as defined in Commission Recommendation 2003/361/EC;</u>
104.	(13) 'special report' means a specific deliverable of a research action summarising its results, providing extensive information on the basic principles, the aims, the actual outcomes, the basic properties, the performed tests, the potential benefits, the potential defence applications and the expected exploitation path of the research;	Commission proposal unchanged	(13) 'special report' means a specific deliverable of a research action summarising its results, providing extensive information on the basic principles, the aims, the actual outcomes, the basic properties, the performed tests, the potential benefits, the potential defence applications and the expected exploitation path of the research towards development, including information on the ownership of IPRs but not requiring the inclusion of IPR information;	(13) 'special report' means a specific deliverable of a research action summarising its results, providing extensive information on the basic principles, the aims, the actual outcomes, the basic properties, the performed tests, the potential benefits, the potential defence applications and the expected exploitation path of the research <u>towards development, including information on the ownership of IPRs but not requiring the inclusion of IPR information;</u>
105.	(14) 'system prototype' means a model of a product or technology that can demonstrate performance in an operational environment;	Commission proposal unchanged	Commission proposal unchanged	(14) 'system prototype' means a model of a product or technology that can demonstrate performance in an operational environment;
106.	(15) 'third country' means a country that is not a member of the Union;	Commission proposal unchanged	Commission proposal unchanged	(15) 'third country' means a country that is not a member of the Union;
107.	(16) 'non-associated third country' means a third country that is not an associated country in accordance with Article 5;	Commission proposal unchanged	Commission proposal unchanged	(16) 'non-associated third country' means a third country that is not an associated country in accordance with Article 5;
108.	(17) 'non-associated third country entity' means a legal entity established in a non-associated third country or having its executive management structures in a non-	Commission proposal unchanged	(17) 'non-associated third country entity' means a legal entity established in a non-associated third country or, where it is established in the Union or in an associated country, having its executive	(17) 'non-associated third country entity' means a legal entity established in a non-associated third country or, <u>where it is established in the Union or in an associated country,</u> having its executive

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	associated third country.		management structures in a non-associated third country.	management structures in a non-associated third country.
109.		<i>(17a) 'qualification' means the entire process of demonstrating that the design of a defence product, tangible or intangible component or technology meets the specified requirements. That process provides objective evidence by which particular requirements of a design are demonstrated to have been achieved;</i>		<i>Covered under 9a Council</i>
110.		<i>(17 b) 'consortium' means a collaborative grouping of legal entities constituted to undertake an action under the Fund;</i>		<i>Covered under 1c Council</i>
111.		<i>(17 c) 'certification' means the process according to which a national authority certifies that the defence product, tangible or intangible component or technology complies with the applicable regulations;</i>		<i>Covered under 1a Council</i>
112.		<i>(17 d) 'coordinator' means a legal entity belonging to a consortium and appointed by all consortium members to be the principal point of contact with the Commission for the grant agreement.</i>		<i>Covered under 1d Council</i>
113.	<i>Article 3 Objectives of the Fund</i>	<i>Article 3 Objectives of the Fund</i>	<i>Article 3 Objectives of the Fund</i>	<i>Article 3 Objectives of the Fund</i>

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114.	1. The general objective of the Fund is to foster the competitiveness, efficiency and innovation capacity of the European defence industry, by supporting collaborative actions and cross-border cooperation between legal entities throughout the Union, including SMEs and mid-caps as well as fostering the better exploitation of the industrial potential of innovation, research and technological development, at each stage of the industrial life cycle, thus contributing to the Union strategic autonomy. The Fund should also contribute to the freedom of action of the Union and its autonomy, in particular in technological and industrial terms.	1. The general objective of the Fund is to foster the competitiveness, efficiency and innovation capacity of the European defence industry, by supporting collaborative actions and cross-border cooperation between legal entities throughout the Union, including SMEs and mid-caps as well as <i>strengthening and improving the agility of both defence supply and value chains, widening cross-border cooperation between legal entities</i> and fostering the better exploitation of the industrial potential of innovation, research and technological development, at each stage of the industrial life cycle <i>of defence products and technologies</i> , thus contributing to the Union strategic autonomy. The Fund <i>shall</i> should also contribute to the freedom of action of the Union and its <i>strategic</i> autonomy, in particular in technological and industrial terms.	1. The general objective of the Fund is to foster the global competitiveness, efficiency and innovation capacity of the European defence technological and industrial base throughout the Union , by supporting collaborative actions and cross-border cooperation between legal entities throughout the Union, including in particular SMEs and mid-caps, as well as fostering the better exploitation of the industrial potential of innovation, research and technological development, at each stage of the industrial life cycle of defence products and technologies , thus contributing to the Union strategic autonomy and its The Fund should also contribute to the freedom of action of the Union and its autonomy, in particular in technological and industrial terms.	1. The general objective of the Fund is to foster the global competitiveness, efficiency and innovation capacity of the European defence technological and industrial base throughout the Union , by supporting collaborative actions and cross-border cooperation between legal entities throughout the Union, in particular SMEs and mid-caps, as well as <i>strengthening and improving the agility of both defence supply and value chains, widening cross-border cooperation between legal entities and</i> fostering the better exploitation of the industrial potential of innovation, research and technological development, at each stage of the industrial life cycle <i>of defence products and technologies</i> , thus contributing to the Union strategic autonomy and its freedom of action.
115.	2. The Fund shall have the following specific objectives:	Commission proposal unchanged	Commission proposal unchanged	2. The Fund shall have the following specific objectives:
116.	(a) support collaborative research projects that could significantly boost the performance of future capabilities, aiming at maximising innovation and introducing new defence products and technologies, including disruptive	(a) support <i>highly efficient</i> collaborative research projects that could significantly boost the performance of <i>European</i> future capabilities, aiming at maximising innovation and introducing new defence products and technologies,	(a) support collaborative research projects that could significantly boost the performance of future capabilities throughout the Union , aiming at maximising innovation and introducing new defence products and technologies, including disruptive ones;	(a) support collaborative research that could significantly boost the performance of future capabilities throughout the Union , aiming at maximising innovation and introducing new defence products and technologies, including disruptive ones;

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	ones;	including disruptive ones;		
117.	(b) support collaborative development projects of defence products and technologies consistent with defence capability priorities commonly agreed by Member States within the framework of the Common Foreign and Security Policy, thus contributing to greater efficiency of defence spending within the Union, achieving greater economies of scale, reducing the risk of unnecessary duplication and as such reducing the fragmentation of defence products and technologies throughout the Union. Ultimately, the Fund will lead to greater interoperability between Member States' capabilities.	(b) support collaborative European development projects of defence products and technologies consistent with defence capability priorities commonly agreed by Member States within the framework of the Common Foreign and Security Policy, particularly in the context of the Capability Development Plan of the Common Security and Defence Policy , thus contributing to greater efficiency of defence spending within the Union, achieving greater economies of scale, reducing the risk of unnecessary duplication, reducing the over-dependence on imports from third countries thus increasing the acquisition of European equipment by Member States , and as such reducing the fragmentation of the market in defence products and technologies throughout the Union, as well as seeking to increase the standardisation of defence systems and the Ultimately, the Fund will lead to greater interoperability between Member States' capabilities.	(b) support collaborative development projects of defence products and technologies consistent with defence capability and technology priorities commonly agreed by Member States within the framework of the Common Foreign and Security Policy and particularly in the context of the Capability Development Plan , thus contributing to greater efficiency of defence spending within the Union, achieving greater economies of scale, reducing the risk of unnecessary duplication and as such reducing the fragmentation of defence products and technologies throughout the Union. Ultimately, the Fund will lead to greater interoperability between Member States' capabilities.	(b) support collaborative development of defence products and technologies, thus contributing to greater efficiency of defence spending within the Union, achieving greater economies of scale, reducing the risk of unnecessary duplication and as such incentivising the market uptake of European products and technologies and reducing the fragmentation of defence products and technologies throughout the Union. Ultimately, the Fund will lead to an increase in the standardisation of defence systems and greater interoperability between Member States' capabilities.
118.			3. Regional and international priorities, when they serve the Union's security and defence interests as determined under the Common Foreign and Security Policy, and	Such cooperation shall be consistent with defence capability priorities commonly agreed by Member States within the framework of the Common Foreign and Security Policy and

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			taking into account the need to avoid unnecessary duplication, may also be taken into account, where appropriate, wherever they do not exclude the possibility of participation of any Member State or associated country.	<u>particularly in the context of the Capability Development Plan.</u> <u>In this regard, regional and international priorities, when they serve the Union's security and defence interests as determined under the Common Foreign and Security Policy, and taking into account the need to avoid unnecessary duplication, may also be taken into account, where appropriate, wherever they do not exclude the possibility of participation of any Member State or associated country.</u>
119.	<i>Article 4 Budget</i>	<i>Article 4 Budget</i>	<i>Article 4 Budget</i>	<i>Article 4 Budget</i>
120.	1. The financial envelope for the implementation of the European Defence Fund for the period 2021 – 2027 shall be EUR 13 000 000 000 in current prices.	1. The financial envelope for the implementation of the European Defence Fund for the period 2021 – 2027 shall be EUR 11 453 260 000 in 2018 prices (EUR 13 000 000 000 in current prices).	1. [In accordance with Article 9(1) of Regulation .../.../EU] , the financial envelope for the implementation of the European Defence Fund for the period 2021 – 2027 shall be [EUR 13 000 000 000] in current prices.	1. [In accordance with Article 9(1) of Regulation .../.../EU] , the financial envelope for the implementation of the European Defence Fund for the period 2021 – 2027 shall be [EUR 13 000 000 000] in current prices.
121.	2. The indicative distribution of the amount referred to in paragraph 1 shall be:	2. The indicative distribution of the amount referred to in paragraph 1 shall be:	Commission proposal unchanged	2. The indicative distribution of the amount referred to in paragraph 1 shall be:
122.	(a) up to EUR 4 100 000 000 for research actions;	(a) up to EUR 3 612 182 000 in 2018 prices (EUR 4 100 000 000 for research actions in current prices);	(a) up to [EUR 4 100 000 000] for research actions;	(a) [EUR 4 100 000 000] for research actions;
123.	(b) up to EUR 8 900 000 000 for development actions.	(b) up to EUR 7 841 078 000 in 2018 prices (EUR 8 900 000 000 in current prices) for development	(b) up to [EUR 8 900 000 000] for development actions.	(b) [EUR 8 900 000 000] for development actions.

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		actions.		
124.		<i>2a. In order to respond to unforeseen situations or to new developments and needs, the Commission may, within the annual budgetary procedure, deviate from the amounts referred to in paragraph 2 by a maximum of 10 %.</i>		
125.	3. The amount referred to in paragraph 1 may be used for technical and administrative assistance for the implementation of the Fund, such as preparatory, monitoring, control, audit and evaluation activities including corporate information technology systems.	3. The amount referred to in paragraph 1 may be used for technical and administrative assistance for the implementation of the Fund, such as preparatory, monitoring, control, audit and evaluation activities including corporate information technology systems. <i>That amount shall not exceed 5 % of the value of the financial envelope referred to in paragraph 1.</i>	Commission proposal unchanged	3. The amount referred to in paragraph 1 may be used for technical and administrative assistance for the implementation of the Fund, such as preparatory, monitoring, control, audit and evaluation activities including corporate information technology systems.
126.	4. Up to 5 % of the financial envelope referred to in paragraph 1 shall be devoted to support disruptive technologies for defence.	4. <i>At least 5 % and up to 10 %</i> of the financial envelope referred to in paragraph 1 shall be devoted to support disruptive technologies for defence.	4. Up to 5 % of the financial envelope referred to in paragraph 1 shall be devoted to supporting disruptive technologies for defence.	4. <i>At least 2 % and up to 8 %</i> of the financial envelope referred to in paragraph 1 shall be allocated to calls for proposals or awards of funding supporting disruptive technologies for defence.
127.	5. Resources allocated to Member States under shared management may, at their request, be transferred to the Fund. The Commission shall implement those resources directly in accordance with Article [62(1)(a)] of the Financial Regulation. Where	5. Resources allocated to Member States under shared management may, at their request, be transferred to the Fund. The Commission shall implement those resources directly in accordance with Article [62(1)(a)] of the Financial	5. [Resources allocated to Member States under shared management may, at their request, be transferred to the Fund. The Commission shall implement those resources directly in accordance with Article {62(1)(a)} of the Financial Regulation. Where possible those	5. [Resources allocated to Member States under shared management may, at their request, be transferred to the Fund. The Commission shall implement those resources directly in accordance with Article 62(1)(a) of the Financial Regulation. Where possible those

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	possible those resources shall be used for the benefit of the Member State concerned.	Regulation. Where possible these resources shall be used for the benefit of the Member State concerned.	resources shall be used for the benefit of the Member State concerned.]	resources shall be used for the benefit of the Member State concerned.]
128.	<i>Article 5 Associated countries</i>	<i>Article 5 Associated countries</i>	<i>[Article 5 Associated countries</i>	<i>[Article 5 Associated countries</i>
129.	The Fund shall be open to the European Free Trade Association (EFTA) members which are members of the European Economic Area (EEA), in accordance with the conditions laid down in the EEA agreement.	The Fund shall be open to the European Free Trade Association (EFTA) members which are members of the European Economic Area (EEA), in accordance with the conditions laid down in the EEA agreement. <i>Any financial contribution to the Fund pursuant to this Article shall constitute assigned revenue in accordance with Article [21(5)] of the Financial Regulation.</i>	The Fund shall be open to the European Free Trade Association (EFTA) members which are members of the European Economic Area (EEA), in accordance with the conditions laid down in the EEA agreement.]	The Fund shall be open to the European Free Trade Association (EFTA) members which are members of the European Economic Area (EEA), in accordance with the conditions laid down in the EEA agreement.]
130.	<i>Article 6 Support to disruptive technologies for defence</i>	<i>Article 6 Support to disruptive technologies for defence</i>	<i>Article 6 Support to disruptive technologies for defence</i>	<i>Article 6 Support to disruptive technologies for defence</i>
131.	1. The Commission shall award funding through open and public consultations on the areas of intervention defined in the work programmes.	1. The Commission shall award funding through open and public consultations on <i>disruptive technologies with an exclusive focus on defence applications</i> on the areas of intervention defined in the work programmes <i>in accordance with the procedure provided for in Article 27.</i>	1. The Commission shall award funding through following open and public consultations on technologies with potential to disrupt defence affairs in the areas of intervention defined in the work programmes.	1. The Commission shall award funding following open and public consultations on technologies with a focus on defence applications having the potential to disrupt defence affairs in the areas of intervention defined in the work programmes.
132.	2. The Commission may, on a case by case basis, find the most appropriate form of funding to finance innovative solutions.	2. The Commission may shall , on a case by case basis, find the most appropriate form of funding to finance innovative solutions	2. The Commission may work programmes shall lay down , on a case by case basis, find the most appropriate forms of funding to finance these innovative disruptive technological	2. The work programmes shall lay down the most appropriate forms of funding to finance these disruptive technological solutions.

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		<i>disruptive technologies.</i>	solutions.	
133.	<i>Article 7 Ethics</i>	<i>Article 7 Ethics</i>	<i>Article 7 Ethics</i>	<i>Article 7 Ethics</i>
134.	1. Actions carried out under the Fund shall comply with ethical principles and relevant national, Union and international legislation.	1. Actions carried out under the Fund shall comply with: - ethical principles and relevant national, Union and international legislation including the Charter of Fundamental Rights of the European Union and the European Convention on Human Rights and its Supplementary Protocols and international humanitarian law; - anti-corruption and anti-money laundering rules and initiatives.	1. The implementation of actions carried out under the Fund shall comply with ethical principles and in relevant national, Union and international legislation law.	1. The implementation of actions carried out under the Fund shall comply with ethical principles in relevant national, Union and international law.
135.	2. Proposals shall be systematically screened to identify those actions raising complex or serious ethics issues and submit them to an ethics assessment. Ethics screenings and assessments shall be carried out by the Commission with the support of experts on defence ethics. The Commission shall ensure the transparency of the ethics procedures as much as possible.	2. Proposals shall be systematically, on an ex-ante basis, screened by the Commission to identify those actions raising complex or serious ethics issues and, where appropriate, submit them to an ethics assessment. Ethics screenings and assessments shall be carried out by the Commission with the support of independent experts on defence ethics with various backgrounds. The Commission shall ensure the transparency of the ethics procedures as much as possible and report on this in the framework of its reporting and evaluation obligations under Articles 31 and 32. All experts shall	2. Proposals shall be systematically screened to identify those actions raising complex or serious ethical issues with regard to their implementation and submit them to an ethics assessment. Ethics screenings and assessments shall be carried out by the Commission with the support of independent experts on defence ethics. The Commission shall ensure the transparency of the ethics procedures as much as possible.	2. Proposals shall be systematically screened, on an ex-ante basis, by the Commission to identify those raising serious ethical issues with regard to their implementation and, where appropriate, shall be submitted to an ethics assessment. Ethics screenings and assessments shall be carried out by the Commission with the support of independent experts on defence ethics. The Commission shall ensure the transparency of the ethics procedures as much as possible and shall report on this in the framework of its obligations under Article 32. Experts shall be nationals of as broad a range of

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		<i>be citizens of the Union and shall be nationals of as broad a range of Member States as possible.</i>		<i>Member States as possible.</i>
136.	3. Entities participating in the action shall obtain all approvals or other mandatory documents from the relevant national, local ethics committees or other bodies such as data protection authorities before the start of the relevant activities. Those documents shall be kept on file and provided to the Commission.	Commission proposal unchanged	3. Entities participating in the action shall obtain all relevant approvals or other mandatory documents required by from the relevant national or ; local ethics committees or other bodies such as data protection authorities before the start of the relevant activities. Those documents shall be kept on file and provided to the Commission.	3. Entities participating in the action shall obtain all relevant approvals or other mandatory documents required by national or local ethics committees or other bodies such as data protection authorities before the start of the relevant activities. Those documents shall be kept on file and provided to the Commission.
137.	4. If appropriate, ethics checks shall be carried out by the Commission during the implementation of the action. For serious or complex ethics issues, the checks shall be carried out by the Commission with the support of experts on defence ethics.	4. If appropriate, ethics checks shall be carried out by the Commission during the implementation of the action. For serious or complex ethics issues, the checks shall be carried out by the Commission with the support of experts on defence ethics.	4. If appropriate, ethics checks shall be carried out by the Commission during the implementation of the action. For serious or complex ethics issues, the checks shall be carried out by the Commission with the support of experts on defence ethics.	<i>Deleted</i>
138.	5. Actions which are not ethically acceptable may be rejected or terminated at any time.	5. Actions which are not ethically acceptable shall may be rejected or terminated at any time.	5. Actions which are not ethically acceptable may be rejected or terminated at any time.	5. Proposals which are not ethically acceptable <u>shall</u> be rejected.
139.	CHAPTER II FINANCIAL PROVISIONS	CHAPTER II FINANCIAL PROVISIONS	CHAPTER II FINANCIAL PROVISIONS	<i>Chapters deleted</i>
140.	<i>Article 8 Implementation and forms of EU funding</i>	<i>Article 8 Implementation and forms of EU funding</i>	<i>Article 8 Implementation and forms of EU funding</i>	<i>Article 8 Implementation and forms of EU funding</i>
141.	1. The Fund shall be implemented in direct management in accordance with the Financial Regulation.	1. The Fund shall be implemented by the Commission in direct management in accordance	1. The Fund shall be implemented in direct management in accordance with directly or indirectly by entrusting	1. The Fund shall be implemented directly or indirectly by entrusting budget implementation tasks to the

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		with the Financial Regulation.	budget implementation tasks to the entities listed in point (c) of Article 62(1) of the Financial Regulation.	<u>entities listed in point (c) of Article 62(1) of the Financial Regulation.</u>
142.	2. The Fund may provide funding in any of the forms laid down in the Financial Regulation, in particular grants, prizes and procurement. It may also provide financing in the form of financial instruments within blending operations.	2. The Fund may provide funding in any of the forms laid down in the Financial Regulation, in particular grants, prizes and procurement. It may also provide financing in the form of financial instruments within blending operations.	2. The Fund may provide funding in accordance with any of the forms laid down in the Financial Regulation, in particular through grants, prizes and procurement, and where appropriate in view of the specificities of the action, It may also provide financing in the form of financial instruments within blending operations.	2. The Fund may provide funding in accordance with the Financial Regulation, through grants, prizes and procurement, and where appropriate in view of the specificities of the action, financial instruments within blending operations.
143.			2a. Blending operations shall be implemented in accordance with Title X of the Financial Regulation [and the InvestEU Regulation].	<u>2a. Blending operations shall be implemented in accordance with Title X of the Financial Regulation [and the InvestEU Regulation].</u>
144.			2b. Financial instruments shall be strictly directed to the recipients only.	<u>2b. Financial instruments shall be strictly directed to the recipients only.</u>
145.	<i>Article 9 Cumulative, complementary and combined funding</i>	<i>Article 9 Cumulative, complementary and combined funding</i>	<i>Article 9 Cumulative, complementary and combined funding</i>	<i>Article 9 Cumulative, complementary and combined funding</i>
146.	1. An action that has received a contribution from another Union programme may also receive a contribution under the Fund, provided that the contributions do not cover the same costs. The rules of each contributing Union programme/Fund shall apply to its respective contribution to the action. The cumulative funding shall not exceed the total eligible costs of the action and	Commission proposal unchanged	Commission proposal unchanged	1. An action that has received a contribution from another Union programme may also receive a contribution under the Fund, provided that the contributions do not cover the same costs. The rules of each contributing Union programme/Fund shall apply to its respective contribution to the action. The cumulative funding shall not exceed the total eligible costs of the action and the support from the

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	the support from the different Union programmes may be calculated on a pro-rata basis in accordance with the documents setting out the conditions for support.			different Union programmes may be calculated on a pro-rata basis in accordance with the documents setting out the conditions for support.
147.	2. Actions awarded a Seal of Excellence certification, or which comply with the following cumulative, comparative, conditions:	2. — Actions awarded a Seal of Excellence certification, or which comply with the following cumulative, comparative, conditions:	Commission proposal unchanged	2. Actions awarded a Seal of Excellence certification, or which comply with the following cumulative, comparative, conditions:
148.	(a) they have been assessed in a call for proposals under the Fund;	(a) — they have been assessed in a call for proposals under the Fund;	Commission proposal unchanged	(a) they have been assessed in a call for proposals under the Fund;
149.	(b) they comply with the minimum quality requirements of that call for proposals;	(b) — they comply with the minimum quality requirements of that call for proposals;	Commission proposal unchanged	(b) they comply with the minimum quality requirements of that call for proposals;
150.	(c) they may not be financed under that call for proposals due to budgetary constraints,	(c) — they may not be financed under that call for proposals due to budgetary constraints,	Commission proposal unchanged	(c) they may not be financed under that call for proposals due to budgetary constraints,
151.	may receive support from the European Regional Development Fund, the Cohesion Fund, the European Social Fund or the European Agricultural Fund for Rural Development, in accordance with paragraph 5 of Article [65] of Regulation (EU) XX [Common Provisions Regulation] and Article [8] of Regulation (EU) XX [Financing, management and monitoring of the Common Agricultural Policy], provided that such actions are consistent with the objectives of the	may receive support from the European Regional Development Fund, the Cohesion Fund, the European Social Fund or the European Agricultural Fund for Rural Development, in accordance with paragraph 5 of Article [65] of Regulation (EU) XX [Common Provisions Regulation] and Article [8] of Regulation (EU) XX [Financing, management and monitoring of the Common Agricultural Policy], provided that such actions are consistent with the objectives of the	may receive support from the [Space Programme] , the European Regional Development Fund, the Cohesion Fund, the European Social Fund, or the European Agricultural Fund for Rural Development, in accordance with paragraph 5 of Article [65] of Regulation (EU) XX [Common Provisions Regulation] and Article [8] of Regulation (EU) XX [Financing, management and monitoring of the Common Agricultural Policy], provided that such actions are consistent with the objectives of the programme concerned. The rules of the	may receive support from the European Regional Development Fund, the Cohesion Fund, the European Social Fund, or the European Agricultural Fund for Rural Development, in accordance with paragraph 5 of Article [65] of Regulation (EU) XX [Common Provisions Regulation] and Article [8] of Regulation (EU) XX [Financing, management and monitoring of the Common Agricultural Policy], provided that such actions are consistent with the objectives of the programme concerned. The rules of the Fund providing support

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	programme concerned. The rules of the Fund providing support shall apply.	programme concerned. The rules of the Fund providing support shall apply.	Fund providing support shall apply.	shall apply.
152.	CHAPTER III GRANTS	CHAPTER III GRANTS ELIGIBILITY CONDITIONS, AWARD CRITERIA AND FINANCING	CHAPTER III GRANTS	<i>Chapters deleted</i>
153.	<i>Article 10 Eligible entities</i>	<i>Article 10 Eligible entities</i>	<i>Article 10 Eligible entities</i>	<i>Article 10 Eligible entities</i>
154.	1. Applicants and their subcontractors shall be eligible for funding provided that they are established in the Union or in an associated country, have their executive management structures in the Union or in an associated country and are not controlled by a non-associated third country or by a non-associated third country entity.	1. Applicants and their subcontractors <i>involved in the action</i> shall be eligible for funding provided that they are established in the Union or in an associated country <i>as referred to in Article 5</i> , have their executive management structures in the Union or in an associated country and are not controlled by a non-associated third country or by a non-associated third country entity.	1. Applicants Recipients and their subcontractors involved in an action supported by the Fund shall be eligible for funding provided that they are established in the Union or in an associated country, have their executive management structures in the Union or in an associated country and are not controlled by a non-associated third country or by a non-associated third country entity.	1. Recipients and subcontractors <i>involved in an action financially supported by the Fund</i> shall be established in the Union or in an associated country.
155.			1a. The infrastructure, facilities, assets and resources of the recipients and subcontractors involved in an action which are used for the purposes of the actions supported by the Fund shall be located on the territory of a Member State or of an associated country for the entire duration of an action, and their executive management structures shall be established in the Union or in an associated country.	1a. <u>The infrastructure, facilities, assets and resources of the recipients and subcontractors involved in an action which are used for the purposes of the actions financially supported by the Fund shall be located on the territory of a Member State or of an associated country for the entire duration of an action, and their executive management structures shall be established in the Union or in an associated country.</u>

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156.			<p>1b. For the purpose of an action supported by the Fund, the recipients and subcontractors involved in an action shall not be subject to control by a non-associated third country or by a non-associated third country entity.</p>	<p>1b. <u>For the purpose of an action financially supported by the Fund, the recipients and subcontractors involved in an action shall not be subject to control by a non-associated third country or by a non-associated third country entity.</u></p>
157.	<p>2. By derogation from paragraph 1, an applicant established in the Union or in an associated country and controlled by a non-associated third country or a non-associated third country entity may be eligible for funding if this is necessary for achieving the objectives of the action and provided that its participation will not put at risk the security interests of the Union and its Member States. In order to ensure protection of the security interests of the Union and its Member States, the call for proposals shall require the applicant to provide information demonstrating notably that:</p>	<p>2. By derogation from paragraph 1, an applicant <i>or a subcontractor involved in the action</i> established in the Union or in an associated country and controlled by a non-associated third country or a non-associated third country entity may <i>shall be capable of constituting an eligible entity</i> for funding if this is necessary for achieving the objectives of the action and provided that its participation will <i>does</i> not put at risk the security <i>and defence</i> interests of the Union and its Member States <i>or the objectives set out in Article 3</i>. In order to ensure protection of the security interests of the Union and its Member States, the call for proposals shall require the applicant to provide information demonstrating notably <i>commit to implement appropriate measures before the beginning of the action, ensuring</i> that:</p>	<p>2. By derogation from paragraph 1b of this Article, an applicant a legal entity established in the Union or in an associated country and controlled by a non-associated third country or a non-associated third country entity may shall be eligible as a recipient or subcontractor involved in an action only if guarantees approved by the Member State or the associated country in which it is established, in accordance with its national procedures, are made available to the Commission. Those guarantees may refer to the legal entity's executive management structure established in the Union or in an associated country. If deemed to be appropriate by the Member State or associated country in which the legal entity is established, those guarantees may also refer to specific governmental rights in the control over the legal entity.</p> <p>The guarantees shall provide assurances that the involvement in an action of such a legal entity would not</p>	<p>2. By derogation from paragraph 1b of this Article, a legal entity established in the Union or in an associated country and controlled by a non-associated third country or a non-associated third country entity shall be eligible as a recipient or subcontractor involved in an action only if guarantees approved by the Member State or the associated country in which it is established, in accordance with its national procedures, are made available to the Commission. Those guarantees may refer to the legal entity's executive management structure established in the Union or in an associated country. If deemed to be appropriate by the Member State or associated country in which the legal entity is established, those guarantees may also refer to specific governmental rights in the control over the legal entity.</p> <p><u>The guarantees shall provide assurances that the involvement in an action of such a legal entity would not contravene the security and defence</u></p>

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			<p>contravene the security and defence interests of the Union and its Member States as established in the framework of the Common Foreign and Security Policy pursuant to Title V of the TEU, or the objectives set out in Article 3. The guarantees shall also comply with the provisions of Articles 22 and 25. The guarantees shall in particular substantiate that, for the purpose of the action, measures are in place to ensure that: for funding if this is necessary for achieving the objectives of the action and provided that its participation will not put at risk the security interests of the Union and its Member States. In order to ensure protection of the security interests of the Union and its Member States, the call for proposals shall require the applicant to provide information demonstrating notably that:</p>	<p>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 TEU, or the objectives set out in Article 3. The guarantees shall also comply with the provisions of Articles 22 and 25. The guarantees shall in particular substantiate that, for the purpose of the action, measures are in place to ensure that:</p>
158.	(a) the control over the applicant will not be exercised in a manner that restricts in any way its ability to perform and complete the action;	(a) the control over the applicant will is not be exercised in a manner that limits restricts in any way its ability to perform and complete carry out the action and to deliver results, that imposes restrictions concerning its infrastructure, facilities, assets, resources, intellectual property or know-how needed for the purpose of the action, or that undermines its capabilities and standards necessary for the execution of the action;	(a) the control over the legal entity is applicant will not be exercised in a manner that restrains or restricts in any way its ability to carry out perform and complete the action and to deliver results, that imposes restrictions concerning its infrastructure, facilities, assets, resources, intellectual property or know-how needed for the purpose of the action, or that undermines its capabilities and standards necessary to carry out the action;	(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 know-how needed for the purpose of the action, or that undermines its capabilities and standards necessary to carry out the action;

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159.	(b) the access by non-associated third countries or by non-associated third country entities to classified and non-classified sensitive information relating to the action will be prevented; and the persons involved in the action will have national security clearance issued by a Member State or associated country;	(b) the access by non-associated third countries or by non-associated third country entities to classified and non-classified sensitive information relating to the action will be <i>is</i> prevented; and the <i>employees or other</i> persons involved in the action will have <i>a</i> national security clearance issued by a Member State or associated country;	(b) the access by a non-associated third countries or by a non-associated third country entities to classified and non-classified sensitive information relating to the action is will be prevented; and the employees or other persons involved in the action will have a national security clearance issued by a Member State or an associated country, where appropriate ;	(b) access by a non-associated third country or by a non-associated third country entity to sensitive information relating to the action is prevented and the employees or other persons involved in the action have a national security clearance issued by a Member State or an associated country, where appropriate ;
160.	(c) the results of the action shall remain within the beneficiary and shall not be subject to control or restrictions by non-associated third countries or other non-associated third country entities during the action and for a specified period after its completion;	(c) <i>ownership of the intellectual property arising from, and</i> the results of the action shall remain within the beneficiary and shall are not be subject to control or restrictions by non-associated third countries or other non-associated third country entities <i>and are not exported to or given access to from a third country or a third-country entity without the approval of the Member States in which the beneficiary is established, and consistent with the objectives set out in Article 3, during the action and for a specified period after its completion, such a period being stipulated in the grant agreement.</i> <i>An applicant or a subcontractor involved in the action that has its executive management structure in the Union or in an associated country and that is controlled by a non-associated third country subject</i>	(c) ownership of the intellectual property arising from, and the results of, the action shall remain within the recipient beneficiary during and after completion of the action, and shall are not be subject to control or restrictions by a non-associated third countries or other by a non-associated third country entities, and are not exported outside the Union or outside associated countries, nor is access to them from outside the Union or outside associated countries granted 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 during the action and for a specified period after its completion; If deemed to be appropriate by the Member State or the associated country in which the legal entity is established, additional guarantees may	(c) <i>ownership of the intellectual property arising from, and</i> the results of, the action remain within the recipient <i>during and after completion of the action, are</i> not subject to control or restrictions by a non-associated third country or by a non-associated third country <i>entity, and are not exported outside the Union or outside associated countries, nor is access to them from outside the Union or outside associated countries granted, 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.</i> <i>If deemed to be appropriate by the Member State or the associated country in which the legal entity is established, additional guarantees may be provided.</i> <i>The Commission shall inform the</i>

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		<i>to any Union restrictive measures or by a non-associated third-country entity subject to any Union restrictive measures shall not be granted a derogation under this paragraph.</i>	be provided. The Commission shall inform the committee referred to in Article 28 of any legal entity deemed to be eligible in accordance with this paragraph.	<u>committee referred to in Article 28 of any legal entity deemed to be eligible in accordance with this paragraph.</u>
161.	3. All infrastructure, facilities, assets and resources used in actions financed under the Fund shall be located on the territory of the Union or associated countries. Furthermore, when performing an eligible action, beneficiaries and their subcontractors shall cooperate only with legal entities established in the Union or in an associated country and not controlled by non-associated third countries or non-associated third country entities.	3. All infrastructure, facilities, assets and resources used in actions financed under the Fund shall be located on the territory of the Union or associated countries and shall not be subject to any control or restriction by a non-associated third country or by a non-associated third-country entity. Furthermore, when performing an eligible action, beneficiaries and their subcontractors involved in the action shall cooperate only with legal entities established in the Union or in an associated country and not controlled by non-associated third countries or non-associated third country entities.	3. — All infrastructure, facilities, assets and resources used in actions financed under the Fund shall be located on the territory of the Union or associated countries. Furthermore, when performing an eligible action, beneficiaries and their subcontractors shall cooperate only with legal entities established in the Union or in an associated country and not controlled by non-associated third countries or non-associated third country entities.	<i>Deleted, covered under 1a and 4 Council.</i>
162.	4. By derogation from the paragraph 3 beneficiaries and subcontractors involved in the action may use their assets, infrastructure, facilities and resources located or held on the territory of a non-associated third country if this is necessary for achieving the objectives of an action and provided that this will not put at risk the security of the Union and its	4. By derogation from the paragraph 3, if there are no competitive substitutes readily available in the Union , beneficiaries and subcontractors involved in the action may use their assets, infrastructure, facilities and resources located or held on the territory of a non-associated third country if this is necessary for achieving the objectives	4. By derogation from the paragraph 3 beneficiaries and subcontractors involved in the action may use their assets, infrastructure, facilities and resources located or held on the territory of a non-associated third country if this is necessary for achieving the objectives of an action and provided that this will not put at risk Where no competitive substitutes are readily available in the	4. <u>Where no competitive substitutes are readily available in the Union or in an associated country, recipients</u> and subcontractors involved in an action may use their assets, infrastructure, facilities and resources located or held <u>outside the territory of the Union's Member States or associated countries provided that that usage does not contravene</u> the security <u>and defence interests</u> of the

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	<p>Member States. Under the same conditions, when performing an eligible action, beneficiaries and their subcontractors may cooperate with an entity established in a non-associated third country. The costs related to the use of such infrastructure, facilities, assets or resources and to such cooperation shall not be eligible under the Fund.</p>	<p>of an action and provided that this will not put at risk the security <i>and defence interests</i> of the Union and its Member States <i>or the objectives set out in Article 3</i>. Under the same conditions, when performing an eligible action, beneficiaries and their subcontractors <i>involved in the action</i> may cooperate with an entity established in a non-associated third country. The costs related to the use of such infrastructure, facilities, assets or resources and to such cooperation shall not be eligible <i>for funding</i> under the Fund. <i>In any event, such derogation shall not be granted if those assets, infrastructure, facilities and resources are located or held on the territory of a non-associated third country subject to any Union restrictive measures.</i></p>	<p>Union or in an associated country, recipients and subcontractors involved in the action may use their assets, infrastructure, facilities and resources located or held outside the territory of the Union's Member States or associated countries provided that that usage does not contravene the security and defence interests of the Union and its Member States, is consistent with the objectives set out in Article 3 and is fully in line with Articles 22 and 25.</p> <p>Under the same conditions, when performing an eligible action, beneficiaries and their subcontractors may cooperate with an entity established in a non-associated third country.</p> <p>The costs related to the use of such infrastructure, facilities, assets or resources and to such cooperation those activities shall not be eligible for support by under the Fund.</p>	<p>Union and its Member States, <u>is consistent with the objectives set out in Article 3 and is fully in line with Articles 22 and 25</u>. The costs related to <u>those activities</u> shall not be eligible <u>for financial support by</u> the Fund.</p>
163.			<p>4a. When carrying out an eligible action, recipients and subcontractors involved in the action may also cooperate with legal entities established outside the territory of the Member States or of associated countries, or controlled by a non-associated third country or by a non-associated third country entity, including by using the assets, infrastructure, facilities and resources</p>	<p><u>4a. When carrying out an eligible action, recipients and subcontractors involved in the action may also cooperate with legal entities established outside the territory of the Member States or of associated countries, or controlled by a non-associated third country or by a non-associated third country entity, including by using the assets, infrastructure, facilities and resources</u></p>

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			<p>of such legal entities, provided that this does not contravene the security and defence interests of the Union and its Member States. Such cooperation shall be consistent with the objectives set out in Article 3 and shall be fully in line with Articles 22 and 25.</p> <p>There shall be no unauthorised access by a non-associated third country or other non-associated third country entity to classified information relating to the carrying out of the action and potential negative effects over security of supply of inputs critical to the action shall be avoided.</p> <p>The costs related to those activities shall not be eligible for support by the Fund.</p>	<p><u>of such legal entities, provided that this does not contravene the security and defence interests of the Union and its Member States. Such cooperation shall be consistent with the objectives set out in Article 3 and shall be fully in line with Articles 22 and 25.</u></p> <p><u>There shall be no unauthorised access by a non-associated third country or other non-associated third country entity to classified information relating to the carrying out of the action and potential negative effects over security of supply of inputs critical to the action shall be avoided.</u></p> <p><u>The costs related to those activities shall not be eligible for support by the Fund.</u></p>
164.	5. In order to ensure protection of the security interests of the Union and its Member States, the call for proposals or grant agreement shall specify further conditions. These conditions shall relate, in particular to the provisions on ownership of results of the action and access to classified and non-classified sensitive information and to guarantees on security of supply.	5. In order to ensure protection of the security interests of the Union and its Member States, the call for proposals or grant agreement shall specify further all conditions, including those referred to in point 2 of this Article . These conditions shall relate, in particular to the provisions on ownership of results of the action and access to classified and non-classified sensitive information and to guarantees on security of supply.	5. In order to ensure protection of the security interests of the Union and its Member States, the call for proposals or grant agreement shall specify further conditions. These conditions shall relate, in particular to the provisions on ownership of results of the action and access to classified and non-classified sensitive information and to guarantees on security of supply.	<i>Deleted</i>
165.	6. Applicants shall provide all relevant information necessary for the	6. Applicants shall provide all relevant information necessary for the	6. Applicants shall provide all relevant information necessary for the	6. Applicants shall provide all relevant information necessary for the

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	assessment of the eligibility criteria and the conditions referred to in paragraphs 1 to 4.	assessment of the eligibility criteria and the conditions referred to in paragraphs 1 to 4.	assessment of the eligibility criteria and the conditions referred to in paragraphs 1 to 4. In the event of a change during the carrying out of an action which might put into question the fulfilment of the eligibility criteria, the relevant legal entity shall inform the Commission, which shall assess whether these eligibility criteria and conditions continue to be met and shall address the potential impact on the funding of the action.	assessment of the eligibility criteria. <u>In the event of a change during the carrying out of an action which might put into question the fulfilment of the eligibility criteria, the relevant legal entity shall inform the Commission, which shall assess whether these eligibility criteria and conditions continue to be met and shall address the potential impact on the funding of the action.</u>
166.	7. Applications which require the verifications under paragraph 2 or paragraph 4 may only be submitted with the agreement of the Member State or associated country in which the applicant is established.	Commission proposal unchanged	7. Applications which require the verifications under paragraph 2 or paragraph 4 may only be submitted with the agreement of the Member State or associated country in which the applicant is established.	<i>Deleted, covered under 10(2) Council</i>
167.	8. In the event of a change during the implementation of an action which might question the fulfilment of those criteria and conditions, the beneficiary shall inform the Commission, which shall assess whether those criteria and conditions are still met and address the potential impact on the funding of the action.	8. In the event of a change during the implementation of an action which might question the fulfilment of those criteria and conditions, the beneficiary shall inform the Commission, which shall assess whether those criteria and conditions are still met and address the potential impact (<i>suspension, cancellation</i>) on the funding of the action.	8. In the event of a change during the implementation of an action which might question the fulfilment of those criteria and conditions, the beneficiary shall inform the Commission, which shall assess whether those criteria and conditions are still met and address the potential impact on the funding of the action.	<i>Deleted, covered under 10(6) Council</i>
168.	9. For the purpose of this Article, subcontractors means subcontractors with a direct contractual relationship to a beneficiary, other subcontractors to which at least 10% of the total eligible	Commission proposal unchanged	9. For the purpose of this Article, subcontractors involved in an action supported by the Fund refers to means subcontractors with a direct contractual relationship to a recipient beneficiary ,	9. For the purpose of this Article, subcontractors <u>involved in an action financially supported by the Fund</u> refers to subcontractors with a direct contractual relationship to a <u>recipient</u> ,

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	costs of the action is allocated, and subcontractors which may require access to classified information according to Commission Decision (EU, Euratom) 2015/444 in order to carry out the action.		other subcontractors to which at least 10 % of the total eligible costs of the action is allocated, and subcontractors which may require access to EU classified information according to Commission Decision (EU, Euratom) 2015/444 in order to carry out the action, and which are not members of the consortium.	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, <u>and which are not members of the consortium.</u>
169.	<i>Article 11 Eligible actions</i>	<i>Article 11 Eligible actions</i>	<i>Article 11 Eligible actions</i>	<i>Article 11 Eligible actions</i>
170.	1. Only actions implementing the objectives referred to in Article 3 shall be eligible for funding.	Commission proposal unchanged	Commission proposal unchanged	1. Only actions implementing the objectives referred to in Article 3 shall be eligible for funding.
171.	2. The Fund shall provide support for actions covering both new and upgrade of existing products and technologies where the use of pre-existing information needed to perform the upgrade is not subject, directly or indirectly to a restriction by non-associated third countries or non-associated third country entities.	Commission proposal unchanged	2. The Fund shall provide support for actions covering both defence products and technologies and the upgrade of existing products and technologies where provided that the use of pre-existing information needed to perform carry out the action for the upgrade is not subject, directly or indirectly to a restriction by a non-associated third countries ies , directly, or indirectly through one or more intermediary legal entities, in such a way that the action cannot be carried out.	2. The Fund shall provide support for actions covering new <u>defence products and technologies</u> and the <u>upgrade of existing products and technologies provided that</u> the use of pre-existing information needed to <u>carry out the action for</u> the upgrade is not subject to a restriction by <u>a</u> non-associated third country entity , <u>directly, or indirectly through one or more intermediary legal entities, in such a way that the action cannot be carried out.</u>
172.	3. An eligible action shall relate to one or more of the following items:	Commission proposal unchanged	3. An eligible action shall relate to one or more of the following activities items :	3. An eligible action shall relate to one or more of the following activities :

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173.	(a) activities aiming to create, underpin and improve new knowledge and defence technology which can achieve significant effects in the area of defence;	(a) activities aiming to create, underpin and improve new knowledge and defence technology products or technologies, including disruptive defence technologies, which can achieve significant effects in the area of defence;	(a) activities aiming to create, underpin and improve new knowledge and defence technologies which can achieve significant effects in the area of defence;	(a) activities aiming to create, underpin and improve knowledge, <u>products</u> and <u>technologies, including disruptive technologies,</u> which can achieve significant effects in the area of defence;
174.	(b) activities aiming to increase interoperability and resilience, including secured production and exchange of data, master critical defence technologies, strengthen the security of supply or enable effectively exploitation of results for defence products and technologies;	Commission proposal unchanged	(b) activities aiming to increase interoperability and resilience, including secured production and exchange of data, to master critical defence technologies, to strengthen the security of supply or to enable the effectively exploitation of results for defence products and technologies;	(b) activities aiming to increase interoperability and resilience, including secured production and exchange of data, to master critical defence technologies, to strengthen the security of supply or to enable the effective exploitation of results for defence products and technologies;
175.	(c) studies, such as feasibility studies to explore the feasibility of a new or improved technology, product, process, service, solution or statistics on the defence industry and projects to pilot the collection of data;	(c) studies, such as feasibility studies to explore the feasibility of a new or improved technology, product, process, service, solution or statistics on the defence industry and projects to pilot the collection of data;	(c) studies, such as feasibility studies to explore the feasibility of new or improved technologies, products, processes, services; and solutions or statistics on the defence industry and projects to pilot the collection of data;	(c) studies, such as feasibility studies to explore the feasibility of new or improved <u>technologies, products, processes, services; and solutions;</u>
176.	(d) the design of a defence product, tangible or intangible component or technology as well as the definition of the technical specifications on which such design has been developed which may include partial tests for risk reduction in an industrial or representative environment;	Commission proposal unchanged	Commission proposal unchanged	(d) the design of a defence product, tangible or intangible component or technology as well as the definition of the technical specifications on which such design has been developed which may include partial tests for risk reduction in an industrial or representative environment;
177.	(e) the development of a	Commission proposal unchanged	Commission proposal unchanged	(e) the development of a model of a

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	model of a defence product, tangible or intangible component or technology, which can demonstrate the element's performance in an operational environment (system prototype);			defence product, tangible or intangible component or technology, which can demonstrate the element's performance in an operational environment (system prototype);
178.	(f) the testing of a defence product, tangible or intangible component or technology;	Commission proposal unchanged	Commission proposal unchanged	(f) the testing of a defence product, tangible or intangible component or technology;
179.	(g) the qualification of a defence product, tangible or intangible component or technology. Qualification is the entire process of demonstrating that the design of a defence product, tangible or intangible component or technology meets the specified requirements. This process provides objective evidence by which particular requirements of a design are demonstrated to have been achieved;	(g) the qualification of a defence product, tangible or intangible component or technology. Qualification is the entire process of demonstrating that the design of a defence product, tangible or intangible component or technology meets the specified requirements. This process provides objective evidence by which particular requirements of a design are demonstrated to have been achieved;	(g) the qualification of a defence product, tangible or intangible component or technology. Qualification is the entire process of demonstrating that the design of a defence product, tangible or intangible component or technology meets the specified requirements. This process provides objective evidence by which particular requirements of a design are demonstrated to have been achieved;	(g) the qualification of a defence product, tangible or intangible component or technology;
180.	(h) the certification of a defence product, tangible or intangible component or technology. Certification is the process according to which a national authority certifies that the defence product, tangible or intangible component or technology complies with the applicable regulations;	(h) the certification of a defence product, tangible or intangible component or technology. Certification is the process according to which a national authority certifies that the defence product, tangible or intangible component or technology complies with the applicable regulations;	(h) the certification of a defence product, tangible or intangible component or technology. Certification is the process according to which a national authority certifies that the defence product, tangible or intangible component or technology complies with the applicable regulations;	(h) the certification of a defence product, tangible or intangible component or technology;
181.	(i) the development of technologies or assets increasing efficiency across the life cycle of	Commission proposal unchanged	Commission proposal unchanged	(i) the development of technologies or assets increasing efficiency across the life cycle of defence products and

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	defence products and technologies;			technologies;
182.	(j) dissemination activities, networking events and awareness-raising activities.	(j) dissemination activities, networking events and awareness-raising activities.	Commission proposal unchanged	(j) dissemination activities, match-making events and awareness-raising activities.
183.	4. Unless otherwise provided for in the work programme referred to in Article 27, the action shall be undertaken in a cooperation of at least three legal entities which are established in at least three different Member States and/or associated countries. At least three of these eligible entities established in at least two Member States and/or associated countries shall not, during the whole implementation of the action, be effectively controlled, directly or indirectly, by the same entity, and shall not control each other.	4. Unless otherwise provided for in the work programme referred to in Article 27, The action shall be undertaken in a cooperation within a consortium of at least three legal entities which are established in at least three different Member States and/or associated countries. Any additional legal entity participating in an associated country as referred to in Article 5. At least three of these eligible entities established in at least two Member States and/or associated countries shall not, during the whole implementation of the action, be effectively controlled, directly or indirectly, by the same entity, and shall not control each other.	4. Unless otherwise provided for in the work programme referred to in Article 27, The action shall be undertaken in a cooperation of at least three legal eligible entities which are established in at least three different Member States and/or associated countries. At least three of these eligible entities established in at least two Member States and/or associated countries shall not, during the whole implementation of the action, be effectively controlled, directly or indirectly, by the same entity, and shall not control each other.	4. The action shall be undertaken in a cooperation <i>within a consortium</i> of at least three eligible entities which are established in at least three different Member States or associated countries. At least three of these eligible entities established in at least two Member States or associated countries shall not, during the whole implementation of the action, be controlled, directly or indirectly, by the same entity, and shall not control each other.
184.	5. Paragraph 4 shall not apply to for actions referred to in points c) and j) of paragraph 3 and to actions referred to in Article 6.	5. Paragraph 4 shall not apply to for actions referred to in points c) and j) of paragraph 3 and to actions referred to in Article 6.	5. Paragraph 4 shall not apply to for actions relating to disruptive technologies for defence or to actions referred to in point (c) and (j) of paragraph 3 and to actions referred to in Article 6.	5. Paragraph 4 shall not apply to actions relating to disruptive technologies for defence or to actions referred to in point (c) of paragraph 3.
185.	6. Actions for the development of products and technologies the use, development or production of which is	6. Actions for the development of products and technologies the use, development or production of which	6. Actions for the development of products and technologies the use, development or production of which is	6. Actions for the development of products and technologies the use, development or production of which is

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	prohibited by applicable international law shall not be eligible.	is prohibited by applicable international law shall not be eligible for funding. In particular, the Programme shall not fund incendiary weapons including white phosphorus, depleted uranium ammunitions, lethal autonomous weapons, including unmanned aerial vehicles, without meaningful human control over the critical functions of selecting and attacking individual targets, small arms and light weapons mainly developed for export purposes, i.e. where no Member State has expressed a requirement for the action to be carried out.	prohibited by applicable international law shall not be eligible.	prohibited by applicable international law shall not be eligible.
186.		<p>6a. Actions for the development of products and technologies which are capable of committing or facilitating the following shall not be eligible for funding under the Programme:</p> <p>(i) a serious violation of international humanitarian law;</p> <p>(ii) a serious violation of international human rights law;</p> <p>(iii) an act constituting an</p>		

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		<p><i>offence under international conventions or protocols relating to terrorism;</i></p> <p><i>(iv) an act constituting an offence under international conventions or protocols relating to transnational organized crime.</i></p>		
187.		<p><i>6 b. Actions which contribute in parts or entirely, directly or indirectly to the development of weapons of mass destruction and related warhead and missile technology shall not be eligible.</i></p>		
188.	<p><i>Article 12 Selection and award procedure</i></p>	<p><i>Article 12 Selection and award procedure</i></p>	<p><i>Article 12 Selection and award procedure</i></p>	<p><i>Article 12 Selection and award procedure</i></p>
189.	<p>1. Grants may be awarded without a call for proposals to legal entities identified in the work programme in accordance with Article [195(e)] of the Financial Regulation.</p>	<p>1. Grants may be awarded without a call for proposals to legal entities identified in the work programme in accordance with Article [195(e)] of the Financial Regulation.</p>	<p>1. Grants may be awarded without a call for proposals to legal entities identified in the work programme Union funding shall be granted following competitive calls for proposals issued in accordance with the Financial Regulation. In certain duly justified and exceptional circumstances, Union funding may also be granted in accordance with Article [195(e)] of the Financial Regulation.</p>	<p>1. <u>Union funding shall be granted following competitive calls for proposals issued in accordance with the Financial Regulation. In certain duly justified and exceptional circumstances, Union funding may also be granted</u> in accordance with Article 195(e) of the Financial Regulation.</p>
190.	<p>2. The Commission shall award</p>	<p>Commission proposal unchanged</p>	<p>2. The Commission shall award the</p>	<p><i>Deleted, encompassed in 12(1) Council</i></p>

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	the funding for selected actions after each call or after application of Article [195(e)] of the Financial Regulation.		funding for selected actions after each call or after application of Article [195(e)] of the Financial Regulation.	
191.	3. For the award of funding for development actions, the Commission shall act by means of implementing acts adopted in accordance with the procedure referred to in Article 28 paragraph 2.	3. For the award of funding for development actions, the Commission shall act by means of implementing delegated acts adopted in accordance with the procedure referred to in Article 28a paragraph 2.	2a. For the award of funding for development actions , the Commission shall act by means of implementing acts adopted in accordance with the procedure referred to in Article 28 paragraph 2.	2a. For the award of funding, the Commission shall act by means of implementing acts adopted in accordance with the procedure referred to in Article 28 paragraph 2.
192.	<i>Article 13 Award criteria</i>	<i>Article 13 Award criteria</i>	<i>Article 13 Award criteria</i>	<i>Article 13 Award criteria</i>
193.	1. Each proposal shall be assessed on the basis of the following criteria:	Commission proposal unchanged	1- Each proposal shall be assessed on the basis of the following criteria:	Each proposal shall be assessed on the basis of the following criteria:
194.	(a) contribution to excellence or potential of disruption in the defence domain in particular by showing that the expected results of the proposed action present significant advantages over existing products or technologies;	Commission proposal unchanged	(a) contribution to excellence or potential of disruption in the defence domain in particular by showing that the expected results of the proposed action present significant advantages over existing defence products or technologies;	(a) contribution to excellence or potential of disruption in the defence domain in particular by showing that the expected results of the proposed action present significant advantages over existing defence products or technologies;
195.	(b) contribution to the innovation and technological development of the European defence industry, in particular by showing that the proposed action includes ground-breaking or novel concepts and approaches, new promising future technological improvements or the application of technologies or concepts previously not applied in defence sector;	Commission proposal unchanged	(b) contribution to the innovation and technological development of the European defence industry, in particular by showing that the proposed action includes ground-breaking or novel concepts and approaches, new promising future technological improvements or the application of technologies or concepts previously not applied in defence sector, while avoiding unnecessary duplication ;	(b) contribution to the innovation and technological development of the European defence industry, in particular by showing that the proposed action includes ground-breaking or novel concepts and approaches, new promising future technological improvements or the application of technologies or concepts previously not applied in defence sector, while avoiding unnecessary duplication ;

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196.	(c) contribution to the competitiveness of the European defence industry, in particular by creating new market opportunities and accelerating the growth of companies throughout the Union;	Commission proposal unchanged	(c) contribution to the competitiveness of the European defence industry by showing that the proposed action is a demonstrably positive balance of cost efficiency and effectiveness, in particular by thus creating new market opportunities across the Union and globally and accelerating the growth of companies throughout the Union;	(c) contribution to the competitiveness of the European defence industry by showing that the proposed action is a demonstrably positive balance of cost efficiency and effectiveness, thus creating new market opportunities across the Union and globally and accelerating the growth of companies throughout the Union;
197.		<i>(ca) contribution to the industrial and technological autonomy of the Union by enhancing defence technologies or products in line with defence capability priorities agreed by Member States within the framework of the CFSP and in particular in the context of the CDP of the CSDP;</i>		
198.	(d) contribution to the security and defence interests of the Union in line with the priorities referred to in Article 3 paragraph 2 and, where appropriate, regional and international cooperative agreements;	Commission proposal unchanged	(d) contribution to the autonomy of the European defence technological and industrial base, including by increasing the non-dependency on non-EU sources and strengthening security of supply, and to the security and defence interests of the Union in line with the priorities referred to in Article 3 paragraph 2 and, where appropriate, regional and international cooperative agreements;	(d) contribution to the autonomy of the European defence technological and industrial base, including by increasing the non-dependency on non-EU sources and strengthening security of supply, and to the security and defence interests of the Union in line with the priorities referred to in Article 3;
199.	(e) contribution to the creation of new cross-border	(e) contribution to the creation of new cross-border cooperation	(e) contribution to the creation of new cross-border cooperation between	(e) contribution to the creation of new cross-border cooperation between legal

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	cooperation between legal entities, in particular for SMEs which are established in Member States and/or associated countries other than those where the entities in the consortium which are not SMEs are established;	between legal entities, in particular for SMEs <i>and mid-caps</i> which are established in Member States and/or associated countries other than those where the entities in the consortium which are not SMEs <i>and mid-caps</i> are established;	legal entities established in Member States or associated countries , in particular for SMEs with a substantial participation in the action, as recipients, subcontractors or as other entities in the supply chain , and which are established in Member States and/or associated countries other than those where the entities in the consortium which are not SMEs are established;	entities <u>established in Member States or associated countries</u> , in particular for SMEs <u>with a substantial participation in the action, as recipients, subcontractors or as other entities in the supply chain</u> , and which are established in Member States or associated countries other than those where the entities in the consortium which are not SMEs or <i>mid-caps</i> are established;
200.	(f) quality and efficiency of the implementation of the action.	Commission proposal unchanged	Commission proposal unchanged	(f) quality and efficiency of the implementation of the action.
201.	2. Under points (d) of paragraph 1, regional and international priorities may be taken into account, in particular to avoid unnecessary duplication, provided they serve the Union's security and defence interests and do not exclude the participation of any Member State.	Commission proposal unchanged	2. Under points (d) of paragraph 1, regional and international priorities may be taken into account, in particular to avoid unnecessary duplication, provided they serve the Union's security and defence interests and do not exclude the participation of any Member State.	<i>Deleted</i>
202.	<i>Article 14 Co-financing rate</i>	<i>Article 14 Co-financing rate</i>	<i>Article 14 Co-financing rate</i>	<i>Article 14 Co-financing rate</i>
203.	1. The Fund may finance up to 100% of the eligible costs of an action without prejudice to the co-financing principle.	1. The Fund may shall finance up to 100% of the eligible costs of an action without prejudice to the co-financing principle.	1. The Fund may finance up to 100% of the eligible costs of an action activity, listed in Article 11(3) , without prejudice to Article 190 of the Financial Regulation the co-financing principle.	1. The Fund may finance up to 100% of the eligible costs of an activity, listed in Article 11(3) , without prejudice to Article 190 of the Financial Regulation .
204.	2. By derogation from paragraph 1:	Commission proposal unchanged	Commission proposal unchanged	2. By derogation from paragraph 1:
205.	(a) for actions defined in	Commission proposal unchanged	(a) for actions activities defined in	(a) for activities defined in Article

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	Article 11(3)(e) the financial assistance of the Fund shall not exceed 20% of the eligible costs of the action,		Article 11(3) (e) the financial assistance of the Fund shall not exceed 20 % of the eligible costs of the action thereof ;	11(3) (e) the financial assistance of the Fund shall not exceed 20 % of the eligible costs thereof ;
206.	(b) for actions defined in Article 11(3) f) to h) the financial assistance of the Fund shall not exceed 80% of the eligible costs of the action.	Commission proposal unchanged	(b) for actions activities defined in Article 11(3) (f) to (h) the financial assistance of the Fund shall not exceed 80 % of the eligible costs of the action thereof .	(b) for activities defined in Article 11(3) (f) to (h) the financial assistance of the Fund shall not exceed 80 % of the eligible costs thereof .
207.	3. For development actions the funding rate shall be increased in the following cases:	3. For development actions the funding rate shall be increased, without being allowed to exceed the total eligible cost , in the following cases:	3. For development actions The funding rates shall be increased in the following cases:	3. For development actions, the funding rates shall be increased in the following cases:
208.	(a) an action developed in the context of the Permanent Structured Cooperation as established by Council Decision (CFSP) 2017/2315 of 11 December 2017, it may benefit from a funding rate increased by an additional 10 percentage points;	(a) an action developed in the context of the Permanent Structured Cooperation as established by Council Decision (CFSP) 2017/2315 of 11 December 2017, it shall may benefit from a funding rate increased by an additional 10 percentage points;	(a) an action activity developed in the context of the Permanent Structured Cooperation as established by Council Decision (CFSP) 2017/2315 of 11 December 2017, it may benefit from a funding rate increased by an additional 10 percentage points;	(a) an activity developed in the context of Permanent Structured Cooperation as established by Council Decision (CFSP) 2017/2315 of 11 December 2017 may benefit from a funding rate increased by an additional 10 percentage points;
209.	(b) a consortium shall benefit from a funding rate increased by the percentage points equivalent to the percentage of the total eligible costs allocated to SMEs established in a Member State or an associated country other than those in which the consortium members that are not SMEs are established in;	(b) an action a consortium shall benefit from a funding rate increased by the percentage points equivalent to the percentage of the total eligible costs allocated to SMEs established in a Member State or an associated country other than those in which the consortium members that are not SMEs or mid-caps are established in;	(b) a consortium shall benefit from a funding rate increased by the percentage points equivalent to the percentage of the total eligible costs allocated to SMEs established in a Member State or an associated country other than those in which the consortium members that are not SMEs are established in an activity may benefit from an increased funding rate, as referred to in the second and third subparagraphs of this	(b) an activity may benefit from an increased funding rate, as referred to in the second and third subparagraphs of this paragraph, where at least 10 % of the total eligible costs of the activity are allocated to SMEs established in a Member State or in an associated country and which participate in the activity as recipients or as entities in the supply chain. The funding rate may be increased by

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		An activity may benefit from a funding rate	<p>paragraph, where at least 10 % of the total eligible costs of the activity are allocated to SMEs established in a Member State or in an associated country and which participate in the activity as recipients or as entities in the supply chain.</p> <p>The funding rate may be increased by percentage points equivalent to the percentage of the total eligible costs of the activity allocated to SMEs established in Member States or in associated countries in which recipients that are not SMEs are established and which participate in the activity as recipients or as entities in the supply chain, up to an additional 5 percentage points.</p> <p>The funding rate may be increased by percentage points equivalent to twice the percentage of the total eligible costs of the activity allocated to SMEs established in Member States or in associated countries other than those in which recipients that are not SMEs are established and which participate in the activity as recipients or as entities in the supply chain;</p>	<p><u>percentage points equivalent to the percentage of the total eligible costs of the activity allocated to SMEs established in Member States or in associated countries in which recipients that are not SMEs are established and which participate in the activity as recipients or as entities in the supply chain, up to an additional 5 percentage points.</u></p> <p><u>The funding rate may be increased by percentage points equivalent to twice the percentage of the total eligible costs of the activity allocated to SMEs established in Member States or in associated countries other than those in which recipients that are not SMEs are established and which participate in the activity as recipients or as entities in the supply chain;</u></p>
210.	(c) a consortium shall benefit from a funding rate increased by the percentage points equivalent to the quarter of the percentage of the total eligible costs allocated to mid-	(c) an action a consortium shall benefit from a funding rate increased by the percentage points equivalent to the quarter of the percentage of the total eligible costs allocated to mid-	(c) a consortium shall benefit from a funding rate increased by the percentage points equivalent to the quarter of the percentage of the total eligible costs allocated to mid-caps established in a	(c) <u>an activity may benefit from a funding rate increased by an additional 10 percentage points where at least 15 % of the total eligible costs of the activity are allocated to mid-caps</u>

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	caps established in a Member State or an associated country other than those in which the other consortium members that are not SMEs or mid-caps are established in;	caps established in a Member State or an associated country other than those in which the other consortium members that are not SMEs or mid-caps are established in;	Member State or an associated country other than those in which the other consortium members that are not SMEs or mid-caps are established in an activity may benefit from a funding rate increased by an additional 10 percentage points where at least 15 % of the total eligible costs of the activity are allocated to mid-caps established in the Union or in an associated country;	<u>established in the Union or in an associated country.</u>
211.	(d) the overall increase in the funding rate of an action shall not exceed 30 percentage points.	Commission proposal unchanged	(d) the overall increase in the funding rate of an action activity shall not exceed 30 35 percentage points.	(d) the overall increase in the funding rate of an activity shall not exceed 35 percentage points.
212.	<i>Article 15 Financial capacity</i>	<i>Article 15 Financial capacity</i>	<i>Article 15 Financial capacity</i>	<i>Article 15 Financial capacity</i>
213.	By derogation from Article [198] of the Financial Regulation:	Commission proposal unchanged	Commission proposal unchanged	By derogation from Article 198 of the Financial Regulation:
214.	(a) the financial capacity shall be verified only for the coordinator and only if the requested funding from the Union is equal to or greater than EUR 500 000. However, if there are grounds to doubt the financial capacity, the Commission shall verify also the financial capacity of other applicants or of coordinators below the threshold referred to in the first sentence;	Commission proposal unchanged	Commission proposal unchanged	(a) the financial capacity shall be verified only for the coordinator and only if the requested funding from the Union is equal to or greater than EUR 500 000. However, if there are grounds to doubt the financial capacity, the Commission shall verify also the financial capacity of other applicants or of coordinators below the threshold referred to in the first sentence;
215.	(b) the financial capacity shall not be verified in respect of legal entities whose viability is guaranteed by a Member State and in respect of	(b) the financial capacity shall not be verified in respect of legal entities whose viability is guaranteed by a Member State and in respect of	(b) the financial capacity shall not be verified in respect of legal entities whose viability is guaranteed by a Member	(b) the financial capacity shall not be verified in respect of legal entities whose viability is guaranteed by Member States'

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	universities;	universities <i>and public research centres</i> ;	State and in respect of universities;	relevant authorities;
216.	(c) if the financial capacity is structurally guaranteed by another legal entity, the financial capacity of the latter shall be verified.	Commission proposal unchanged	Commission proposal unchanged	(c) if the financial capacity is structurally guaranteed by another legal entity, the financial capacity of the latter shall be verified.
217.	<i>Article 16 Indirect costs</i>	<i>Article 16 Indirect costs</i>	<i>Article 16 Indirect costs</i>	<i>Article 16 Indirect costs</i>
218.	1. Indirect eligible costs shall be determined by applying a flat rate of 25 % of the total direct eligible costs, excluding direct eligible costs for subcontracting, financial support to third parties and any unit costs or lump sums which include indirect costs.	Commission proposal unchanged	1. By derogation from Article 181(6) of the Financial Regulation , indirect eligible costs shall be determined by applying a flat rate of 25 % of the total direct eligible costs, excluding direct eligible costs for of subcontracting, and financial support to third parties and any unit costs or lump sums which include indirect costs.	1. <u>By derogation from Article 181(6) of the Financial Regulation</u> , indirect eligible costs shall be determined by applying a flat rate of 25 % of the total direct eligible costs, excluding direct eligible costs of subcontracting and financial support to third parties and any unit costs or lump sums which include indirect costs.
219.	2. Where appropriate, indirect eligible costs beyond the flat rate of 25 % may be determined in accordance with the beneficiary's usual cost accounting practices on the basis of actual indirect costs provided that these cost accounting practices are accepted by national authorities under comparable funding schemes in accordance with Article [185] of the Financial Regulation and communicated to the Commission.	2. <i>As an alternative</i> Where appropriate , indirect eligible costs beyond the flat rate of 25 % may be determined in accordance with the beneficiary's usual cost accounting practices on the basis of actual indirect costs provided that these cost accounting practices are accepted by national authorities under comparable funding schemes in accordance with Article [185] of the Financial Regulation and communicated to the Commission.	2. Where appropriate As an alternative , indirect eligible costs of up to 80 % of the total direct eligible costs beyond the flat rate of 25 % may be determined in accordance with the beneficiary's recipient's usual cost accounting practices on the basis of actual indirect costs provided that these cost accounting practices are accepted by national authorities under for comparable funding schemes activities in the defence domain , in accordance with Article [185] of the Financial Regulation, and communicated to the Commission.	2. <i>As an alternative</i> , indirect eligible costs <u>of up to 80% of the total direct eligible costs</u> may be determined in accordance with the recipient's usual cost accounting practices on the basis of actual indirect costs provided that these cost accounting practices are accepted by national authorities for comparable <u>activities in the defence domain</u> , in accordance with Article 185 of the Financial Regulation, and communicated to the Commission.

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220.	<i>Article 17</i> <i>Use of single lump sum or contribution not linked to costs</i>	<i>Article 17</i> <i>Use of single lump sum or contribution not linked to costs</i>	<i>Article 17</i> <i>Use of single lump sum or contribution not linked to costs</i>	<i>Article 17</i> <i>Use of single lump sum or contribution not linked to costs</i>
221.	1. For grants awarded to actions referred to Article 11(3)(e) and other actions where Member States and/or associated countries finance the major part of the budget, the Commission may use:	1. For grants awarded to actions referred to Article 11(3)(e) and other actions where Member States and/or associated countries finance more than 50 % the major part of the budget, the Commission may use:	1. For grants awarded to actions referred to Article 11(3)(e) and other actions where Member States and/or associated countries finance the major part of the budget, Where the Union grant co-finances less than 50 % of the total costs of the action, the Commission may use:	1. <u>Where the Union grant co-finances less than 50 % of the total costs of the action,</u> the Commission may use:
222.	(a) a contribution not linked to costs referred to in Article [180(3)] of the Financial Regulation and based on the achievement of results measured by reference to previous set milestones or through performance indicators; or	Commission proposal unchanged	(a) a contribution not linked to costs referred to in Article [180(3)] of the Financial Regulation and based on the achievement of results measured by reference to previous set milestones or through performance indicators; or	(a) a contribution not linked to costs referred to in Article 180(3) of the Financial Regulation and based on the achievement of results measured by reference to previous set milestones or through performance indicators; or
223.	(b) a single lump sum referred to in Article [182] of the Financial Regulation and based on the provisional budget of the action already endorsed by the national authorities of the co-financing Member States and associated countries.	Commission proposal unchanged	(b) a single lump sum referred to in Article [182] of the Financial Regulation and based on the provisional budget of the action already endorsed by the national authorities of the co-financing Member States and associated countries.	(b) a single lump sum referred to in Article 182 of the Financial Regulation and based on the provisional budget of the action already endorsed by the national authorities of the co-financing Member States and associated countries.
224.	2. Indirect costs shall be included in the lump sum.	Commission proposal unchanged	Commission proposal unchanged	2. Indirect costs shall be included in the lump sum.
225.	<i>Article 18</i> <i>Pre-commercial procurement</i>	<i>Article 18</i> <i>Pre-commercial procurement</i>	<i>Article 18</i> <i>Pre-commercial procurement</i>	<i>Article 18</i> <i>Pre-commercial procurement</i>
226.	1. The Union may support pre-commercial procurement through	1. The Union may support pre-commercial procurement through	1. The Union may support pre-commercial procurement through	1. The Union may support pre-commercial procurement through

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	<p>awarding a grant to contracting authorities or contracting entities as defined in Directives 2014/24/EU¹³, 2014/25/EU¹⁴ and 2009/81/EC¹⁵ of the European Parliament and of the Council, which are jointly procuring research and development of defence services or coordinating their procurement procedures.</p> <p>-----</p> <p>¹³ 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, 28.03.2014, p. 65).</p> <p>¹⁴ 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, 28.03.2014, p. 243).</p> <p>¹⁵ 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</p>	<p>awarding a grant to contracting authorities or contracting entities as defined in Directives 2014/24/EU¹⁴, 2014/25/EU¹⁵ and 2009/81/EC¹⁶ of the European Parliament and of the Council, which are jointly procuring defence research and development of defence services or coordinating their procurement procedures.</p> <p>-----</p> <p>¹⁴ 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, 28.03.2014, p. 65).</p> <p>¹⁵ 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, 28.03.2014, p. 243).</p> <p>¹⁶ 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,</p>	<p>awarding a grant to contracting authorities or contracting entities as defined in Directives 2014/24/EU¹³, 2014/25/EU¹⁴ and 2009/81/EC¹⁵ of the European Parliament and of the Council, which are jointly procuring defence research and development of defence services or coordinating their procurement procedures.</p> <p>-----</p> <p>¹³ 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, 28.03.2014, p. 65).</p> <p>¹⁴ 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, 28.03.2014, p. 243).</p> <p>¹⁵ 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, 20.08.2009, p.76).</p>	<p>awarding a grant to contracting authorities or contracting entities as defined in Directives 2014/24/EU¹³, 2014/25/EU¹⁴ and 2009/81/EC¹⁵ of the European Parliament and of the Council, which are jointly procuring defence research and development services or coordinating their procurement procedures.</p> <p>-----</p> <p>¹³ 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, 28.03.2014, p. 65).</p> <p>¹⁴ 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, 28.03.2014, p. 243).</p> <p>¹⁵ 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, 20.08.2009, p.76).</p>

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	amending Directives 2004/17/EC and 2004/18/EC (OJ L 216, 20.08.2009, p.76).	and amending Directives 2004/17/EC and 2004/18/EC (OJ L 216, 20.08.2009, p.76).		1a. Specific provisions regarding ownership, access rights and licensing of research actions shall be laid down in the grant agreements and contracts regarding pre-commercial procurement to ensure maximum uptake of the results and to avoid any unfair advantage. The contracting authorities shall enjoy at least royalty-free access rights to the results for their own use and the right to grant, or require the recipients to grant, non-exclusive licences to third parties to exploit the results under fair and reasonable conditions without any right to sub-license. All Member States and associated countries shall, where applicable , have royalty-free access to the special report. If a contractor fails to commercially exploit the results within a given period after the pre-commercial procurement as identified in the contract, it shall transfer any ownership of the results to the contracting authorities.
227.	2. The procurement procedures:	Commission proposal unchanged	Commission proposal unchanged	2. The procurement procedures:
228.	(a) shall be in line with the provisions of this Regulation;	Commission proposal unchanged	Commission proposal unchanged	(a) shall be in line with the provisions of this Regulation;
229.	(b) may authorise the award of multiple contracts within the same procedure (multiple sourcing);	Commission proposal unchanged	Commission proposal unchanged	(b) may authorise the award of multiple contracts within the same procedure (multiple sourcing);
230.	(c) shall provide for the	Commission proposal unchanged	(c) shall provide for the award of the	(c) shall provide for the award of the

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	award of the contracts to the tender(s) offering best value for money.		contracts to the tender(s) offering best value for money while ensuring absence of conflict of interest.	contracts to the tender(s) offering best value for money <u>while ensuring absence of conflict of interest.</u>
231.	<i>Article 19 Guarantee Fund</i>	<i>Article 19 Guarantee Fund</i>	<i>Article 19 Guarantee Fund</i>	<i>Article 19 Guarantee Fund</i>
232.	Contributions to a mutual insurance mechanism may cover the risk associated with the recovery of funds due by recipients and shall be considered a sufficient guarantee under the Financial Regulation. The provisions laid down in [Article X of] Regulation XXX [successor of the Regulation on the Guarantee Fund] shall apply.	Commission proposal unchanged	Contributions to a mutual insurance mechanism may cover the risk associated with the recovery of funds due by recipients and shall be considered a sufficient guarantee under the Financial Regulation. The provisions laid down in [Article X of] Regulation XXX [(successor of the Regulation on the Guarantee Fund)] shall apply.	Contributions to a mutual insurance mechanism may cover the risk associated with the recovery of funds due by recipients and shall be considered a sufficient guarantee under the Financial Regulation. The provisions laid down in [Article X of Regulation XXX (successor of the Regulation on the Guarantee Fund)] shall apply.
233.	CHAPTER IV OTHER FORMS OF UNION FUNDING	CHAPTER IV OTHER FORMS OF UNION FUNDING	CHAPTER IV OTHER FORMS OF UNION FUNDING	<i>Chapters deleted</i>
234.	<i>Article 20 Eligibility conditions for procurement and prizes</i>	<i>Article 20 Eligibility conditions for procurement and prizes</i>	<i>Article 20 Eligibility conditions for procurement and prizes</i>	<i>Deleted</i>
235.	Where necessary for the protection of the essential security interest of the Union and its Member States, the Commission shall set the requisite eligibility conditions applicable to the procurement or prizes financed by the Fund. Particular regard shall be had, for that purpose, to the need for recipients to be established in the Union or in associated countries, to commit to carry out any relevant	Where necessary for the protection of the essential security interest of the Union and its Member States, the Commission shall set the requisite eligibility conditions applicable to the procurement or prizes financed by the Fund. Particular regard shall be had, for that purpose, to the need for recipients to be established in the Union or in associated countries, to commit to carry out any relevant	Where necessary for the protection of the essential security interest of the Union and its Member States, the Commission shall set the requisite eligibility conditions applicable to the procurement or prizes financed by the Fund. Particular regard shall be had, for that purpose, to the need for recipients to be established in the Union or in associated countries, to commit to carry out any relevant activities inside the Union and not to be	<i>Deleted</i>

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	activities inside the Union and not to be effectively controlled by non-associated third countries or non-associated third country' entities. Those conditions shall be included in the documents relating to the procurement or prize, as applicable, and shall apply to the full life cycle of the resulting contract.	activities inside the Union and not to be effectively controlled by non-associated third countries or non-associated third country' entities. Those conditions shall be included in the documents relating to the procurement or prize, as applicable, and shall apply to the full life cycle of the resulting contract.	effectively controlled by non-associated third countries or non-associated third country' entities. Those conditions shall be included in the documents relating to the procurement or prize, as applicable, and shall apply to the full life cycle of the resulting contract.	
236.	<i>Article 21</i> <i>Blending operations</i>	<i>Article 21</i> <i>Blending operations Access to financial instruments</i>	<i>Article 21</i> <i>Blending operations</i>	<i>Deleted and moved to Article 8</i>
237.	Blending operations decided under this Fund shall be implemented in accordance with the [InvestEU regulation] and Title X of the Financial Regulation.	Blending operations decided under this Fund Beneficiaries of the Fund shall be implemented eligible to access the dedicated financial products deployed under InvestEU in accordance with the [InvestEU regulation] Title X of the Financial Regulation.	Blending operations decided under this Fund shall be implemented in accordance with the [InvestEU regulation] and Title X of the Financial Regulation.	<i>Deleted and moved to Article 8</i>
238.	TITLE II SPECIFIC PROVISIONS APPLICABLE FOR RESEARCH	TITLE II SPECIFIC PROVISIONS APPLICABLE FOR RESEARCH	TITLE II SPECIFIC PROVISIONS APPLICABLE FOR RESEARCH ACTIONS	TITLE II SPECIFIC PROVISIONS APPLICABLE FOR RESEARCH <u>ACTIONS</u>
239.	<i>Article 22</i> <i>Ownership of results</i>	<i>Article 22</i> <i>Ownership of results</i>	<i>Article 22</i> <i>Ownership of results of research actions</i>	<i>Article 22</i> <i>Ownership of results <u>of research actions</u></i>
240.	1. The results of the actions shall be owned by the beneficiaries generating them. Where legal entities jointly generate results, and where their respective contribution cannot be ascertained, or where it is not possible	1. The results of the actions shall be owned by the beneficiaries generating them. Where legal entities jointly generate results, and where their respective contribution cannot be ascertained, or where it is not	1. The results of the research actions supported by the Fund shall be owned by the beneficiaries recipients generating them. Where legal entities jointly generate results, and where their respective contribution cannot be	1. The results of research actions financially supported by the Fund shall be owned by the recipients generating them. Where legal entities jointly generate results, and where their respective contribution cannot be

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	to separate such joint results, the legal entities shall have joint ownership of the results.	possible to separate such joint results, the legal entities shall have joint ownership of the results. <i>The joint owners shall conclude an agreement regarding the allocation and terms of exercise of that joint ownership in accordance with their obligations under the grant agreement.</i>	ascertained, or where it is not possible to separate such joint results, the legal entities shall have joint ownership of the results.	ascertained, or where it is not possible to separate such joint results, the legal entities shall have joint ownership of the results. <i>The joint owners shall conclude an agreement regarding the allocation and terms of exercise of that joint ownership in accordance with their obligations under the grant agreement.</i>
241.	2. If Union assistance is provided in the form of public procurement, results shall be owned by the Union. Member States and associated countries shall enjoy access rights to the results, free of charge, upon their explicit request.	2. If Union assistance is provided in the form of public procurement, results shall be owned by the Union. Member States and associated countries shall enjoy access rights to the results, free of charge, upon their explicit <i>written</i> request.	2. By derogation from paragraph 1, if Union assistance support is provided in the form of public procurement, results of research actions supported by the Fund shall be owned by the Union. Member States and associated countries shall enjoy access rights to the results, free of charge, upon their explicit <i>written</i> request.	2. By derogation from paragraph 1, if Union support is provided in the form of public procurement, results of research actions financially supported by the Fund shall be owned by the Union. Member States and associated countries shall enjoy access rights to the results, free of charge, upon their <i>written</i> request.
242.	3. If justified the grant agreement may require that the results of actions receiving support from the Fund shall not be subject to any control or restriction, directly or indirectly through one or more intermediate legal entities, including in terms of technology transfer by a non-associated third country or by a non-associated third country entity.	3. If justified the grant agreement may require that The results of actions receiving support from the Fund shall not be subject to any control or restriction, directly or indirectly through one or more intermediate legal entities, including in terms of technology transfer by a non-associated third country or by a non-associated third country entity.	3. If justified the grant agreement may require that The results of research actions supported by receiving support from the Fund shall not be subject to any control or restriction, directly or indirectly through one or more intermediate legal entities, including in terms of technology transfer 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.	3. <u>The results of research financially supported by the Fund 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.</u>
243.	4. The grant agreement shall, if justified, lay down the right of the Commission to be notified of and	Commission proposal unchanged	4. The grant agreement shall, if justified, lay down the right of the Commission to be notified of and object	4. The grant agreement shall, if justified, lay down the right of the Commission to be notified of and object

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	object to the transfer of ownership to results or to the granting of a license regarding results to a non-associated third country or a non-associated third country entity. Such transfers shall not contravene the defence and security interests of the Union and its Member States or the objectives of this Regulation as set out in Article 3.		to the transfer of ownership to regarding results or to the granting of a license of research actions supported by the Fund to a non-associated third country or a non-associated third country entity. Such transfers of ownership shall not contravene the defence and security and defence interests of the Union and its Member States or the objectives of this Regulation as set out in Article 3.	to the transfer of ownership regarding results of research actions financially supported by the Fund to a non-associated third country or a non-associated third country entity. Such transfer of ownership shall not contravene the security and defence interests of the Union and its Member States or the objectives set out in Article 3.
244.	5. The national authorities of Member States and associated countries shall enjoy access rights to the special report of a project that has received Union funding. Such access rights shall be granted on a royalty-free basis and transferred by the Commission to the Member States and associated countries after ensuring that appropriate confidentiality obligations are in place.	5. The national authorities of Member States and associated countries shall enjoy access rights to the special report of a project an action that has received Union funding. Such access rights shall be granted on a royalty-free basis and transferred by the Commission to the Member States and associated countries after ensuring that appropriate confidentiality obligations are in place. <i>In any event, participants shall not be required to provide any data or information that are part of intellectual property in the special report.</i>	Commission proposal unchanged	5. The national authorities of Member States and associated countries shall enjoy access rights to the special report of a research action that has received Union funding. Such access rights shall be granted on a royalty-free basis and transferred by the Commission to the Member States and associated countries after ensuring that appropriate confidentiality obligations are in place.
245.	6. 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	Commission proposal unchanged	6. 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	6. 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

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	programmes. Such usage shall include, but not be limited to, the study, evaluation, assessment, research, design, development, manufacture, improvement, modification, maintenance, repair, refurbishment, and product acceptance and certification, operation, training, disposal and other design services and product deployment, as well as the assessment and drafting of technical requirements for procurement.		usage shall include, but not be limited to, the study, evaluation, assessment, research, design, development, manufacture, improvement, modification, maintenance, repair, refurbishment, and product acceptance and certification, operation, training, and disposal and other design services and product deployment, as well as the assessment and drafting of technical requirements for procurement.	usage shall include, but not be limited to, the study, evaluation, assessment, research, design, and product acceptance and certification, operation, training and disposal, as well as the assessment and drafting of technical requirements for procurement.
246.	7. The beneficiaries shall grant access rights to their results on a royalty-free basis to the Union institutions, bodies or agencies, for duly justified purpose of developing, implementing and monitoring Union policies or programmes. Such access rights shall be limited to non-commercial and non-competitive use.	Commission proposal unchanged	7. The beneficiaries recipients shall grant access rights to their results of research activities supported by the Fund on a royalty-free basis to the Union institutions, bodies or agencies, for the duly justified purpose of developing, implementing and monitoring existing Union policies or programmes in the fields of its competence . Such access rights shall be limited to non-commercial and non-competitive use.	7. The recipients shall grant access rights to their results of research activities financially supported by the Fund on a royalty-free basis to the Union institutions, bodies or agencies, for the duly justified purpose of developing, implementing and monitoring existing Union policies or programmes in the fields of its competence . Such access rights shall be limited to non-commercial and non-competitive use.
247.			8a. The provisions laid down in this Regulation shall not affect the export of products, equipment or technologies integrating results of research activities supported by the Fund, and shall not affect the discretion of Member States as regards policy on the export of defence-related products.	8a. The provisions laid down in this Regulation shall not affect the export of products, equipment or technologies integrating results of research activities financially supported by the Fund, and shall not affect the discretion of Member States as regards policy on the export of defence-related products.

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248.		<p><i>8a. Any three or more Member States or associated countries that, multilaterally or within the frame of a Union organisation, jointly have concluded one or several contracts with one or more participants to further develop together results obtained within the frame of a specific action that has received funding under a grant agreement for a research action on defence, shall enjoy access rights to the results of the action that are owned by such participant and are necessary for the execution of the contract. Such access rights shall be granted on a royalty-free basis and under specific conditions aimed at ensuring that those rights are used only for the purpose of the contract and that appropriate confidentiality obligations are in place.</i></p>	<p>8b. Any two or more Member States or associated countries that, multilaterally or within the framework of the Union, have jointly concluded one or several contracts with one or more recipients to further develop together results of research activities supported by the Fund, shall enjoy access rights to those results 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 aimed at ensuring that those rights will be used only for the purpose of the contract or contracts and that appropriate confidentiality obligations will be in place.</p>	<p><u>8b. Any two or more Member States or associated countries that, multilaterally or within the framework of the Union, have jointly concluded one or several contracts with one or more recipients to further develop together results of research activities supported by the Fund, shall enjoy access rights to those results owned by such recipients and that 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 aimed at ensuring that those rights will be used only for the purpose of the contract or contracts and that appropriate confidentiality obligations will be in place.</u></p>
249.	<p>8. Specific provisions regarding ownership, access rights and licensing shall be laid down in the grant agreements and contracts regarding pre-commercial procurement to ensure maximum uptake of the results and to avoid any unfair advantage. The contracting authorities shall enjoy at least royalty-free access rights to the results for their own use and the right to grant, or require the recipients to grant, non-exclusive licences to third</p>	<p>8. Specific provisions regarding ownership, access rights and licensing shall be laid down in the grant agreements and contracts regarding pre-commercial procurement to ensure maximum uptake of the results and to avoid any unfair advantage. The contracting authorities shall enjoy at least royalty free access rights to the results for their own use and the right to grant, or require the recipients to grant, non exclusive</p>	<p>8. — Specific provisions regarding ownership, access rights and licensing shall be laid down in the grant agreements and contracts regarding pre-commercial procurement to ensure maximum uptake of the results and to avoid any unfair advantage. The contracting authorities shall enjoy at least royalty free access rights to the results for their own use and the right to grant, or require the recipients to grant, non-exclusive licences to third parties to</p>	<p>Moved to Article 18(1a)</p>

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	parties to exploit the results under fair and reasonable conditions without any right to sub-license. All Member States and associated countries shall have royalty-free access to the special report. If a contractor fails to commercially exploit the results within a given period after the pre-commercial procurement as identified in the contract, it shall transfer any ownership of the results to the contracting authorities.	licences to third parties to exploit the results under fair and reasonable conditions without any right to sub-license. All Member States and associated countries shall have royalty-free access to the special report. If a contractor fails to commercially exploit the results within a given period after the pre-commercial procurement as identified in the contract, it shall, <i>where possible</i> , transfer any ownership of the results to the contracting authorities.	exploit the results under fair and reasonable conditions without any right to sub-license. All Member States and associated countries shall have royalty-free access to the special report. If a contractor fails to commercially exploit the results within a given period after the pre-commercial procurement as identified in the contract, it shall transfer any ownership of the results to the contracting authorities.	
250.	TITLE III SPECIFIC PROVISIONS APPLICABLE FOR DEVELOPMENT	TITLE III SPECIFIC PROVISIONS APPLICABLE FOR DEVELOPMENT	TITLE III SPECIFIC PROVISIONS APPLICABLE FOR DEVELOPMENT ACTIONS	TITLE III SPECIFIC PROVISIONS APPLICABLE FOR DEVELOPMENT ACTIONS
251.	<i>Article 23 Additional eligibility criteria</i>	<i>Article 23 Additional eligibility criteria</i>	<i>Article 23 Additional eligibility criteria</i>	<i>Article 23 Additional eligibility criteria</i>
252.	1. Where applicable, the consortium shall demonstrate that the remaining costs of an eligible action which are not covered by the Union support will be covered by other means of financing such as Member States' and/or associated countries' contributions or co-financing from legal entities.	Commission proposal unchanged	1. Where applicable, The consortium shall demonstrate that the remaining costs of an eligible action activity which that are not covered by the Union support will be covered by other means of financing such as by Member States' and/or associated countries' contributions or co-financing from legal entities.	1. The consortium shall demonstrate that the costs of an activity that are not covered by Union support will be covered by other means of financing such as by Member States' or associated countries' contributions or co-financing from legal entities.
253.	2. When it relates to actions referred to in point d) of Article 11 paragraph 3, the action shall be based	Commission proposal unchanged	2. When it relates to actions Activities as referred to in point (d) of Article 11 paragraph 3, the action shall	2. Activities as referred to in point (d) of Article 11 paragraph 3 shall be based on harmonised capability

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	on harmonised capability requirements jointly agreed by the relevant Member States and/or associated countries.		be based on harmonised capability requirements jointly agreed by the relevant at least two Member States and/or associated countries.	requirements jointly agreed by at least two Member States or associated countries.
254.	3. For actions referred to in points e) to h) of Article 11 paragraph 3, the consortium shall demonstrate by means of documents issued by national authorities that:	Commission proposal unchanged	3. For With regard to actions activities referred to in points (e) to (h) of Article 11 paragraph 3, the consortium shall demonstrate by means of documents issued by national authorities that:	3. With regard to activities referred to in points (e) to (h) of Article 11 paragraph 3, the consortium shall demonstrate by means of documents issued by national authorities that:
255.	(a) at least two Member States and/or associated countries intend to procure the final product or use the technology in a coordinated way, including joint procurement;	(a) at least two Member States and/or at least one Member State with associated countries intend provide guarantees to procure the final product or use the technology in a coordinated way, including . This may include joint procurement;	(a) at least two Member States and/or associated countries intend to procure the final product or use the technology in a coordinated way, including through joint procurement where applicable ;	(a) at least two Member States or associated countries intend to procure the final product or use the technology in a coordinated way, including through joint procurement where applicable ;
256.	(b) the action is based on common technical specifications jointly agreed by the Member States and/or associated countries which co-finance the action.	Commission proposal unchanged	(b) the action activity is based on common technical specifications jointly agreed by the Member States and/or associated countries which that are to co-finance the action or that intend to jointly procure the final product or to jointly use the technology .	(b) the activity is based on common technical specifications jointly agreed by the Member States or associated countries that are to co-finance the action or that intend to jointly procure the final product or to jointly use the technology .
257.	<i>Article 24 Additional award criteria</i>	<i>Article 24 Additional award criteria</i>	<i>Article 24 Additional award criteria</i>	<i>Article 24 Additional award criteria</i>
258.	In addition to the award criteria referred to in Article 13, the work programme may also take into consideration:	Commission proposal unchanged	In addition to the award criteria referred to in Article 13, the work programme may shall also take into consideration:	In addition to the award criteria referred to in Article 13, the work programme shall also take into consideration:
259.	(a) the contribution to	Commission proposal unchanged	Commission proposal unchanged	(a) the contribution to increasing

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	increasing efficiency across the life cycle of defence products and technologies, including cost-effectiveness and the potential for synergies in the procurement and maintenance process and disposal processes;			efficiency across the life cycle of defence products and technologies, including cost-effectiveness and the potential for synergies in the procurement and maintenance process and disposal processes;
260.	(b) the level of cooperation between Members States in the eligible action.	(b) the level of cooperation between Members States <i>involved</i> in the eligible action.	(b) the contribution to the further integration of the European defence industry through the demonstration by the recipients that Member States have committed to jointly use, own or maintain the final product or technology in a coordinated way. (b) the level of cooperation between Members States in the eligible action.	<u>(b) the contribution to the further integration of the European defence industry throughout the Union through the demonstration by the recipients that Member States have committed to jointly use, own or maintain the final product or technology in a coordinated way.</u>
261.		<i>(b a) the intended procurement volume and the expected effect on Member States' defence capabilities and expenditure, and the European Strategic Autonomy.</i>		
262.	<i>Article 25 Ownership of results</i>	<i>Article 25 Ownership of results</i>	<i>Article 25 Ownership of results of development actions</i>	<i>Article 25 Ownership of results of development actions</i>
263.	1. The Union shall not own the products or technologies resulting from development actions, nor shall it have any intellectual property rights regarding the results of the actions.	Commission proposal unchanged	1. The Union shall not own the products or technologies resulting from development actions supported by the Fund , nor shall it have any intellectual property rights regarding the results of the those actions.	1. The Union shall not own the products or technologies resulting from development actions financially supported by the Fund , nor shall it have any intellectual property rights regarding the results of those actions.

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264.		<i>1a. The results of the actions shall be owned by the beneficiaries which have generated them. Where legal entities jointly generate results, and where their respective contribution cannot be ascertained, or where it is not possible to separate such joint results, the legal entities shall have joint ownership of the results. The joint owners shall conclude an agreement regarding the allocation and terms of exercise of that joint ownership in accordance with their obligations under the grant agreement.</i>		
265.	2. The results of actions receiving support from the Fund shall not be subject to any control or restriction by non-associated third countries or by non-associated third country entities, directly or indirectly through one or more intermediate legal entities, including in terms of technology transfer.	Commission proposal unchanged	2. The results of actions receiving support from supported by the Fund shall not be subject to any control or restriction by non-associated third country entities, directly, or indirectly through one or more intermediate legal entities, including in terms of technology transfer.	2. The results of actions financially supported by the Fund shall not be subject to any control or restriction by non-associated third countries or by non-associated third country entities, directly, or indirectly through one or more intermediate legal entities, including in terms of technology transfer.
266.			2a. This Regulation shall not affect the discretion of Member States as regards policy on the export of defence-related products.	2a. This Regulation shall not affect the discretion of Member States as regards policy on the export of defence-related products.
267.	3. With regard to results generated by recipients, the Commission shall be notified of any transfer of ownership or grant of a licence to non-associated	3. With regard to results generated by recipients <i>under this Regulation, and without prejudice to paragraph 2 of this Article</i> , the	3. With regard to results generated by recipients through actions supported by the Fund and without prejudice to paragraph 2a of this	3. With regard to results generated by recipients through actions financially supported by the Fund and without prejudice to paragraph 2a of

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	third countries. Such transfer of ownership or granting of a licence shall not contravene the defence and security interests of the Union and its Member States or the objectives this Regulation as set out in Article 3, otherwise it will necessitate reimbursement of the funding provided under the Fund.	Commission shall be notified <i>ex ante</i> , at least six weeks before , of any transfer of ownership or grant of a licence to non-associated third countries or to non-associated third country entities . If such transfer of ownership or granting of a licence shall not contravenes the defence and security interests of the Union and its Member States or the objectives of this Regulation as set out in Article 3, otherwise it will necessitate reimbursement of the funding provided under the Fund shall be reimbursed .	Article , the Commission shall be notified of any transfer of ownership or grant of a licence to a non-associated third country or to a non-associated third country entity . If such transfer of ownership or granting of a licence shall not contravenes the defence and security and defence interests of the Union and its Member States or the objectives this Regulation as set out in Article 3, otherwise it will necessitate reimbursement of the funding provided under the Fund shall be reimbursed .	this Article , the Commission shall be notified <i>ex ante</i> of any transfer of ownership to a non-associated third country or to a non-associated third country entity . If such transfer of ownership contravenes the security and defence interests of the Union and its Member States or the objectives set out in Article 3, the funding provided under the Fund shall be reimbursed .
268.	4. By derogation from paragraph 1, where the Union assistance is provided in the form of public procurement, the Union shall own the results and Member States and/or associated countries shall have the right, free of charge, to a non-exclusive licence for the use of the results upon their written request.	Commission proposal unchanged	4. By derogation from paragraph 1, If Union assistance is provided in the form of public procurement of a study , the Union shall own the results and Member States and/or associated countries shall have the right, free of charge, to a non-exclusive licence for the use of the results study upon their written request.	4. If Union assistance is provided in the form of public procurement of a study , Member States or associated countries shall have the right, free of charge, to a non-exclusive licence for the use thereof upon their written request.
269.	<i>Article 26</i> <i>Information of the project manager</i>	<i>Article 26</i> <i>Information of the project manager</i>	<i>Article 26</i> <i>Information of the project manager</i>	<i>Deleted and moved to 28(a) Council</i>
270.	In case a project manager is appointed by Member States and associated countries, the Commission shall execute the payment to the recipients after informing the project manager.	In case a project manager is appointed by Member States and associated countries, the Commission shall execute the payment to the recipients after informing consult the project manager on progress made with regard to the action prior to	In case a project manager is appointed by Member States and associated countries, the Commission shall execute the payment to the recipients after informing the project manager.	<i>Deleted and moved to 28(a) Council</i>

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		<i>executing the payment to the beneficiary of the eligible action.</i>		
271.	TITLE IV GOVERNANCE, MONITORING, EVALUATION AND CONTROL	TITLE IV GOVERNANCE, MONITORING, EVALUATION AND CONTROL	TITLE IV GOVERNANCE, MONITORING, EVALUATION AND CONTROL	TITLE IV GOVERNANCE, MONITORING, EVALUATION AND CONTROL
272.	<i>Article 27 Work programmes</i>	<i>Article 27 Work programmes</i>	<i>Article 27 Work programmes</i>	<i>Article 27 Work programmes</i>
273.	1. The Fund shall be implemented by annual or multi annual work programmes established in accordance with Article [110] of the Financial Regulation. Work programmes shall set out, where applicable, the overall amount reserved for blending operations.	1. The Fund shall be implemented by annual or multi annual work programmes established in accordance with Article [110] of the Financial Regulation. Work programmes shall set out, where applicable, the overall amount reserved for blending operations.	1. The Fund shall be implemented by annual or multi annual work programmes established in accordance with Article [110] of the Financial Regulation. Work programmes shall set out, where applicable, the overall amount reserved for blending operations. Work programmes shall set out the overall budget benefiting the cross-border participation of SMEs.	1. The Fund shall be implemented by annual or multi annual work programmes established in accordance with Article 110 of the Financial Regulation. Work programmes shall set out, where applicable, the overall amount reserved for blending operations. <u>Work programmes shall set out the overall budget benefiting the cross-border participation of SMEs.</u>
274.		<i>1a. The work programmes may, in particular, take into account the strategies developed in the Overarching Strategic Research Agenda (OSRA) and in the CDP Strategic Context Cases (SCCs).</i>		
275.		<i>1b. The Commission shall ensure the coherence of the work programmes throughout the life-cycle management of defence products and technologies.</i>		
276.	2. The Commission shall adopt the work programmes by means of implementing acts in accordance with	2. The Commission shall adopt the work programmes by means of implementing delegated acts in	Commission proposal unchanged	2. The Commission shall adopt the work programmes by means of implementing acts in accordance with the

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	the procedure referred to in Article 28 paragraph 2.	accordance with the procedure referred to in Article 28a paragraph 2.		procedure referred to in Article 28 paragraph 2.
277.		2a. <i>The work programmes shall set out in detail the categories of projects to be funded under the Fund. Those work programmes shall be in line with the objectives set out in Article 3.</i>		<i>Covered under Article 2(3) Council</i>
278.		2b. <i>Based on the work programmes' elaboration process, the Commission shall carry out an upfront assessment of possible duplication cases with existing capabilities or already funded research or development projects within the Union.</i>		
279.			<p>3. The work programmes shall set out in detail the categories of actions to be supported by the Fund. Those categories shall be in line with the defence priorities referred to in Article 3.</p> <p>The work programmes shall contain, where appropriate, functional specifications and specify the form of EU funding in accordance with Article 8, while not preventing competition at the level of calls for proposals.</p> <p>The transition of results of research actions demonstrating added value already supported by the Fund into the development phase may also be</p>	<p>3. <u>The work programmes shall set out in detail the research topics and the categories of actions to be financially supported by the Fund. Those categories shall be in line with the defence priorities referred to in Article 3.</u></p> <p><u>The work programmes shall contain, where appropriate, functional requirements and specify the form of EU funding in accordance with Article 8, while not preventing competition at the level of calls for proposals.</u></p> <p><u>The transition of results of research actions demonstrating added value already financially supported by the</u></p>

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			taken into consideration in the work programmes.	<u>Fund into the development phase may also be taken into consideration in the work programmes.</u>
280.	<i>Article 28 Committee</i>	<i>Article 28 Committee</i>	<i>Article 28 Committee</i>	<i>Article 28 Committee</i>
281.	1. The Commission shall be assisted by a committee within the meaning of Regulation (EU) No 182/2011. The European Defence Agency shall be invited as an observer to provide its views and expertise. The European External Action Service shall also be invited to assist.	1. The Commission shall be assisted by a committee within the meaning of Regulation (EU) No 182/2011. The European Defence Agency shall be invited as an observer to provide its views and expertise. The European External Action Service shall also be invited to assist.	1. The Commission shall be assisted by a committee within the meaning of Regulation (EU) No 182/2011. The European Defence Agency shall be invited as an observer to provide its views and expertise. The European External Action Service shall also be invited to assist. The committee shall also meet in special configurations, including in order to discuss defence and security aspects, relating to actions under the Fund.	1. The Commission shall be assisted by a committee within the meaning of Regulation (EU) No 182/2011. The European Defence Agency shall be invited as an observer to provide its views and expertise. The European External Action Service shall also be invited to assist. <u>The committee shall also meet in special configurations, including in order to discuss defence and security aspects, relating to actions under the Fund.</u>
282.	2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.	2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.	2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third sub-paragraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.	2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. <u>Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third sub-paragraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.</u>
283.		<i>Article 28a Exercise of Delegation</i>		
284.		1. <i>The power to adopt delegated</i>		

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		<i>acts is conferred on the Commission subject to the conditions laid down in this Article.</i>		
285.		<i>2. The power to adopt delegated acts referred to in Article 27 shall be conferred on the Commission for a period of seven years from [date of entry into force].</i>		
286.		<i>3. The delegation of power referred to in Article 27 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.</i>		
287.		<i>4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making¹⁷.</i> ----- <i>¹⁷OJ L 123, 12.5.2016, p. 1.</i>		
288.			<i>Article 28a</i>	<i>Article 28a</i>

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			<i>Consultation of the project manager</i>	<i>Consultation of the project manager</i>
289.			In case a project manager is appointed by a Member State or associated country, the Commission shall consult the project manager before the payment is executed.	<u>In case a project manager is appointed by a Member State or an associated country, the Commission shall consult the project manager on progress made with regard to the action before the payment is executed.</u>
290.	<i>Article 29 Independent experts</i>	<i>Article 29 Independent experts</i>	Article 29 Independent experts	Article 29 Independent experts
291.	1. The Commission shall appoint independent experts to assist in the evaluation of proposals pursuant to Article [237] of the Financial Regulation. It may also appoint independent experts to advise on or assist with the monitoring of the implementation of actions carried out.	1. The Commission shall appoint independent experts to assist in the evaluation of proposals pursuant to Article [237] of the Financial Regulation. It may also appoint independent experts to advise on or assist with the monitoring of the implementation of actions carried out.	1. The Commission shall appoint independent experts to assist in the ethics scrutiny of Article 7 and in the evaluation of proposals pursuant to Article [237] of the Financial Regulation. It may also appoint independent experts to advise on or assist with the monitoring of the implementation of actions carried out.	1. The Commission shall appoint independent experts to assist in the ethics scrutiny of Article 7 and in the evaluation of proposals pursuant to Article 237 of the Financial Regulation.
292.	2. Independent experts shall be Union's citizens identified and selected on the basis of calls for expressions of interest addressed to relevant organisations such as Ministries of Defence and subordinated agencies, research institutes, universities, business associations or enterprises of the defence sector with a view to establishing a list of experts. By derogation from Article [237] of the Financial Regulation, this list shall not be made public.	2. Independent experts shall be Union's citizens of the Union from as broad a range of Member States as possible identified and selected on the basis of calls for expressions of interest addressed to relevant organisations such as Ministries of Defence and subordinated agencies, research institutes, universities, business associations or enterprises of the defence sector with a view to establishing a list of experts. By derogation from Article [237] of the Financial Regulation, this list shall	2. Independent experts shall be Union's citizens identified and from as broad a range of Member States as possible and be selected on the basis of calls for expressions of interest addressed to relevant organisations such as Ministries of Defence and subordinated agencies, other relevant governmental bodies , research institutes, universities, business associations or enterprises of the defence sector with a view to establishing a list of experts. By derogation from Article [237] of the Financial Regulation, this list shall not be	2. Independent experts shall be Union's citizens from as broad a range of Member States as possible and be selected on the basis of calls for expressions of interest addressed to Ministries of Defence and subordinated agencies, other relevant governmental bodies , research institutes, universities, business associations or enterprises of the defence sector with a view to establishing a list of experts. By derogation from Article 237 of the Financial Regulation, this list shall not be made public.

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		not be made public, <i>in full or in part, where it is required on the grounds of the protection of public security.</i>	made public.	
293.	3. Independent experts shall have the appropriate security clearance issued by a Member State.	Commission proposal unchanged	3. The security credentials of appointed independent experts shall have the appropriate security clearance issued by a Member State be validated by the respective Member State.	3. <u>The security credentials of appointed</u> independent experts shall <u>be validated by the respective Member State.</u>
294.	4. The Committee referred to in Article 28 shall be informed annually on the list of experts.	4. The Committee referred to in Article 28 shall be informed annually on the list of experts.	4. The committee referred to in Article 28 shall be informed annually on the list of experts, to be transparent as to the security credentials of the experts. The Commission shall also ensure that experts do not evaluate, advise or assist on matters with regard to which they have a conflict of interests.	4. The committee referred to in Article 28 shall be informed annually on the list of experts, <u>to be transparent as to the security credentials of the experts. The Commission shall also ensure that experts do not evaluate, advise or assist on matters with regard to which they have a conflict of interests.</u>
295.	5. Independent experts shall be chosen on the basis of their skills, experience and knowledge appropriate to carry out the tasks assigned to them.	Commission proposal unchanged	Commission proposal unchanged	5. Independent experts shall be chosen on the basis of their skills, experience and knowledge appropriate to carry out the tasks assigned to them.
296.		5a. <i>The Commission shall ensure that an expert faced with a conflict of interest in relation to a matter on which the expert is required to provide an opinion does not evaluate, advise or assist on the specific matter in question.</i>		<i>Encompassed in Article 29(4) Council</i>
297.	<i>Article 30 Application of the rules on classified information</i>	<i>Article 30 Application of the rules on classified information</i>	<i>Article 30 Application of the rules on classified information</i>	<i>Article 30 Application of the rules on classified information</i>

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298.	1. Within the scope of this Regulation:	Commission proposal unchanged	Commission proposal unchanged	1. Within the scope of this Regulation:
299.	(a) each Member State or associated country shall ensure that its national security regulations offer a degree of protection of European Union classified information equivalent to that provided by the rules on security as set out in Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information ¹⁶ and by the security rules of the Council set out in the Annexes to Decision 2013/488/EU ¹⁷ ; ----- ¹⁶ OJ L 72, 17.3.2015, p. 53–88. ¹⁷ OJ L 274, 15.10.2013, p. 1–50.	Commission proposal unchanged	(a) each Member State or associated country shall ensure that its national security regulations offers a degree of protection of European Union classified information equivalent to that provided by the rules on security as set out in Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information ¹⁶ and by the security rules of the Council set out in the Annexes to Decision 2013/488/EU ¹⁶ ; (a1) the Commission shall protect classified information in accordance with the rules on security as set out in Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information; ----- ¹⁶ OJ L 72, 17.3.2015, p. 53–88. ¹⁶ OJ L 274, 15.10.2013, p. 1–50.	(a) each Member State shall ensure that it offers a degree of protection of European Union classified information equivalent to that provided by the security rules of the Council set out in the Annexes to Decision 2013/488/EU ¹⁶ ; (a1) the Commission shall protect classified information in accordance with the rules on security as set out in Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information; ----- ¹⁶ OJ L 274, 15.10.2013, p. 1–50.
300.	(b) Member States and associated countries shall without delay inform the Commission of the national security regulations referred to in point (a);	Commission proposal unchanged	(b) Member States and associated countries shall without delay inform the Commission of the national security regulations referred to in point (a);	<i>Deleted</i>
301.	(c) natural persons	Commission proposal unchanged	(c) natural persons resident in and	(c) natural persons resident in and

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	<p>resident in and legal persons established in non-associated third countries may deal with EU classified information regarding the Fund only where they are subject, in those countries, to security regulations ensuring a degree of protection at least equivalent to that provided by the Commission's rules on security set out in Commission Decision (EU, Euratom) 2015/444 and by the security rules of the Council set out in the Annexes to Decision 2013/488/EU. The equivalence of the security regulations applied in a third country or international organisation shall be defined in a security of information agreement, including industrial security matters if relevant, 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;</p>		<p>legal persons established in non-associated third countries may deal with EU classified information regarding the Fund only where they are subject, in those countries, to security regulations ensuring a degree of protection at least equivalent to that provided by the Commission's rules on security set out in Commission Decision (EU, Euratom) 2015/444 and by the security rules of the Council set out in the Annexes to Decision 2013/488/EU;</p> <p>(c1) the equivalence of the security regulations applied in a third country or international organisation shall be defined in a security of information agreement, including industrial security matters if relevant, 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;</p>	<p>legal persons established in third countries may deal with EU classified information regarding the Fund only where they are subject, in those countries, to security regulations ensuring a degree of protection at least equivalent to that provided by the Commission's rules on security set out in Commission Decision (EU, Euratom) 2015/444 and by the security rules of the Council set out in Decision 2013/488/EU;</p> <p>(c1) the equivalence of the security regulations applied in a third country or international organisation shall be defined in a security of information agreement, including industrial security matters if relevant, 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;</p>
302.	<p>(d) without prejudice to Article 13 of Decision 2013/488/EU and to the rules governing the field of industrial security as set out in Commission Decision (EU, Euratom) 2015/444, a natural person or legal person, third country or international organisation may be given access to European Union classified information</p>	Commission proposal unchanged	Commission proposal unchanged	<p>(d) without prejudice to Article 13 of Decision 2013/488/EU and to the rules governing the field of industrial security as set out in Commission Decision (EU, Euratom) 2015/444, a natural person or legal person, third country or international organisation may be given access to European Union classified information where deemed necessary on</p>

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	where deemed 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.			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.
303.	2. When actions involve, require and/or contain classified information, the relevant funding body shall specify in the call for proposals/tenders documents the measures and requirements necessary to ensure the security of such information at the requisite level.	2. When actions involve, require and/or contain classified <i>or non-classified sensitive</i> information, the relevant funding body shall specify in the call for proposals/tenders documents the measures and requirements necessary to ensure the security of such information at the requisite level.	2. When actions involve, require and/or contain classified information, the relevant funding body shall specify in the call for proposals/tenders documents the measures and requirements necessary to ensure the security of such information at the requisite level.	2. When actions involve, require or contain classified information, the relevant funding body shall specify in the call for proposals/tenders documents the measures and requirements necessary to ensure the security of such information at the requisite level.
304.	3. In order to facilitate exchange of sensitive information between the Commission, the recipients and, where applicable the Member states, the Commission shall set up an electronic exchange system.	3. In order to facilitate exchange of <i>classified and non-classified</i> sensitive information between the Commission, the recipients and, where applicable the Member states, the Commission shall set up <i>a secure</i> electronic exchange system.	3. The Commission shall set up a secured exchange system in order to facilitate 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 and, where applicable the Member states, the Commission shall set up an electronic exchange system. The system shall take into account the Member States' national security regulations.	3. <u>The Commission shall set up a secured exchange system</u> in order to facilitate 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. <u>The system shall take into account the Member States' national security regulations.</u>
305.			4. The originatorship of classified foreground information generated in the performance of a research or a development action shall not affect the use or export of defence-related products by the Member States on	4. <u>The originatorship of classified foreground information generated in the performance of a research or a development action shall not affect the use or export of defence-related products by the Member States on</u>

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			whose territory the recipients are established.	<u>whose territory the recipients are established.</u>
306.	<i>Article 31 Monitoring and reporting</i>	<i>Article 31 Monitoring and reporting</i>	<i>Article 31 Monitoring and reporting</i>	<i>Article 31 Monitoring and reporting</i>
307.	1. Indicators to monitor implementation and progress of the Fund towards the achievement of the general and specific objectives set out in Article 3 are set out in Annex.	Commission proposal unchanged	Commission proposal unchanged	1. Indicators to monitor implementation and progress of the Fund towards the achievement of the general and specific objectives set out in Article 3 are set out in Annex.
308.	2. To ensure effective assessment of progress of the Fund towards the achievement of its objectives, the Commission is empowered to adopt delegated acts in accordance with Article 36 to amend the Annex to review or complement the indicators where considered necessary and to supplement this Regulation with provisions on the establishment of a monitoring and evaluation framework.	Commission proposal unchanged	Commission proposal unchanged	2. To ensure effective assessment of progress of the Fund towards the achievement of its objectives, the Commission is empowered to adopt delegated acts in accordance with Article 36 to amend the Annex to review or complement the indicators where considered necessary and to supplement this Regulation with provisions on the establishment of a monitoring and evaluation framework.
309.	3. The Commission shall regularly monitor the implementation of the Fund and annually report on the progress made. To this end, the Commission shall put in place necessary monitoring arrangements.	3. The Commission shall regularly monitor <i>and evaluate</i> the implementation of the Fund and annually report <i>to the European Parliament and the Council</i> on the progress made. <i>That annual report shall contain a section on the implementation of Article 7.</i> To this end, the Commission shall put in place necessary monitoring arrangements.	3. The Commission shall regularly monitor the implementation of the Fund and annually report on the progress made, including the implementation of lessons identified and lessons learned from the EDIDP and PADR. To this end, the Commission shall put in place necessary monitoring arrangements.	3. The Commission shall regularly monitor the implementation of the Fund and annually report, <i>to the European Parliament and the Council</i> , on the progress made, including the implementation of lessons identified and lessons learned from the EDIDP and PADR. To this end, the Commission shall put in place necessary monitoring arrangements.

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310.	4. The performance reporting system shall ensure that data for monitoring the Fund implementation and results are collected efficiently, effectively and in a timely fashion. To that end, proportionate reporting requirements shall be imposed on recipients of Union funds.	Commission proposal unchanged	Commission proposal unchanged	4. The performance reporting system shall ensure that data for monitoring the Fund implementation and results are collected efficiently, effectively and in a timely fashion. To that end, proportionate reporting requirements shall be imposed on recipients of Union funds.
311.	<i>Article 32 Evaluation of the Fund</i>	<i>Article 32 Evaluation of the Fund</i>	<i>Article 32 Evaluation of the Fund</i>	<i>Article 32 Evaluation of the Fund</i>
312.	1. Evaluations shall be carried out in a timely manner to feed into the decision-making process.	Commission proposal unchanged	Commission proposal unchanged	1. Evaluations shall be carried out in a timely manner to feed into the decision-making process.
313.	2. The interim evaluation of the Fund shall be performed once there is sufficient information available about the implementation of the Fund, but no later than four years after the start of the Fund implementation. The interim evaluation report will include notably, an assessment of the governance of the Fund, implementation rates, project award results including SMEs and mid-caps involvement and the degree of their cross-border participation, and funding granted in accordance with Article [195] of the Financial Regulation by 31 July 2024. The Commission may submit proposals for any appropriate amendments to the present regulation.	2. The interim evaluation of the Fund shall be performed once there is sufficient information available about the implementation of the Fund, but no later than four years after the start of the Fund implementation. The interim evaluation report will shall include notably, an assessment of the governance of the Fund, <i>the lessons learned from the European Defence Industrial Development Programme and Preparatory Action on Defence Research, an assessment of the implementation of the ethics procedures as referred to in Article 7</i> , implementation rates, project award results including SMEs and mid-caps involvement and the degree of their cross-border participation, <i>the</i>	2. The interim evaluation of the Fund shall be performed once there is sufficient information available about the its implementation of the Fund , but no later than four years after the start of the Fund its implementation. The interim evaluation report will notably include notably , an assessment of the governance of the Fund including independent experts , implementation rates, project award results including the level of involvement and the degree of their cross-border participation, rates of reimbursement of indirect costs as defined in Article 16 , and funding granted in accordance with Article [195] of the Financial Regulation, as well as information on the countries of origin	2. The interim evaluation of the Fund shall be performed once there is sufficient information available about its implementation, but no later than four years after the start of its implementation. The interim evaluation report will notably include an assessment of the governance of the Fund including independent experts, the implementation of the ethics procedures as referred to in Article 7 , implementation rates, project award results including the level of involvement of SMEs and mid-caps and the degree of their cross-border participation, rates of reimbursement of indirect costs as defined in Article 16, the amounts allocated to disruptive technologies in calls for proposals , and

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		<p><i>distribution of funding among different categories of subcontractors according to the definition referred to in point 9 of Article 10, the budget allocated to disruptive technologies and funding granted in accordance with Article [195] of the Financial Regulation by 31 July 2024. The interim evaluation shall also contain information on the countries of origin of the recipients, the number of countries involved in individual projects, and, where possible, the distribution of the generated intellectual property rights.</i> The Commission may submit proposals for any appropriate amendments to the present regulation.</p>	<p>of the recipients and, where possible, the distribution of the generated IPRs, by 31 July 2024. The Commission may submit proposals for any appropriate amendments to the present Regulation.</p>	<p>funding granted in accordance with Article 195 of the Financial Regulation, by 31 July 2024. <u><i>The interim evaluation shall also contain information on the countries of origin of the recipients, the number of countries involved in individual projects and, where possible, the distribution of the generated intellectual property rights.</i></u> The Commission may submit proposals for any appropriate amendments to the present Regulation.</p>
314.	<p>3. At the end of the implementation period but no later than four years after the 31 December 2031, a final evaluation of the Fund implementation shall be carried out by the Commission. The final evaluation report shall include the results of the implementation and to the extent possible given timing the impact of the Fund. The report - building on relevant consultations of Member States and associated countries and key stakeholders - shall notably assess the progress made towards the achievement of objectives set out in Article 3. It shall also analyse cross</p>	<p>3. At the end of the implementation period but no later than four years after the 31 December 20312027, a final evaluation of the Fund implementation shall be carried out by the Commission. The final evaluation report shall include the results of the implementation and to the extent possible given timing the impact of the Fund. The report - building on relevant consultations of Member States and associated countries and key stakeholders - shall notably assess the progress made towards the achievement of objectives set out in Article 3. It shall also</p>	<p>3. At the end of the implementation period but no later than four years after the 31 December 20312027, a final evaluation of the Fund implementation shall be carried out by the Commission. The final evaluation report shall include the results of the implementation and to the extent possible given timing the impact of the Fund. The report—, building on relevant consultations of Member States and associated countries and key stakeholders—, shall notably assess the progress made towards the achievement of the objectives set out in Article 3. It shall also help identify where the Union is dependent on third</p>	<p>3. At the end of the implementation period but no later than four years after 31 December 20312027, a final evaluation of the Fund implementation shall be carried out by the Commission. The final evaluation report shall include the results of the implementation and to the extent possible given timing the impact of the Fund. The report—, building on relevant consultations of Member States and associated countries and key stakeholders —, shall notably assess the progress made towards the achievement of the objectives set out in Article 3. It shall also help identify where the Union is dependent on third countries for the</p>

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	border participation, including of SMEs and mid-caps in projects implemented under the Fund as well as the integration of SMEs and Mid-caps in the global value chain. The evaluation shall also contain information on the countries of origin of the recipients and, where possible, the distribution of the generated intellectual property rights.	analyse cross border participation, including of SMEs and mid-caps in projects implemented under the Fund as well as the integration of SMEs and Mid-caps in the global value chain. The evaluation shall also contain information on the countries of origin of the recipients and, where possible, the distribution of the generated intellectual property rights.	countries for the development of defence products and technologies. It shall also analyse cross-border participation, including of SMEs and mid-caps, in projects implemented under the Fund as well as the integration of SMEs and Mid-caps in the global value chain and the contribution of the Fund to addressing the shortfalls identified in the Capability Development Plan. The evaluation shall also contain information on the countries of origin of the recipients and, where possible, the distribution of the generated intellectual property rights.	development of defence products and technologies. It shall also analyse cross-border participation, including of SMEs and mid-caps, in projects implemented under the Fund as well as the integration of SMEs and mid-caps in the global value chain and the contribution of the Fund to addressing the shortfalls identified in the Capability Development Plan. The evaluation shall also contain information on the countries of origin of the recipients and, where possible, the distribution of the generated intellectual property rights.
315.	4. The Commission shall communicate the conclusions of the evaluations accompanied by its observations, to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.	Commission proposal unchanged	Commission proposal unchanged	4. The Commission shall communicate the conclusions of the evaluations accompanied by its observations, to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.
316.	<i>Article 33 Audits</i>	<i>Article 33 Audits</i>	<i>Article 33 Audits</i>	<i>Article 33 Audits</i>
317.	Audits on the use of the Union contribution carried out by persons or entities, including by other than those mandated by the Union Institutions or bodies, shall form the basis of the overall assurance pursuant to Article [127] of the Financial Regulation. The European Court of Auditors shall examine the accounts of all revenue	Commission proposal unchanged	Audits on the use of the Union contribution carried out by persons or entities, including by other than those mandated by the Union Institutions or bodies, shall form the basis of the overall assurance pursuant to Article [127] of the Financial Regulation. The European Court of Auditors shall examine the accounts of all revenue and expenditure	Audits on the use of the Union contribution carried out by persons or entities, including by other than those mandated by the Union Institutions or bodies, shall form the basis of the overall assurance pursuant to Article 127 of the Financial Regulation. The European Court of Auditors shall examine the accounts of all revenue and expenditure

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	and expenditure of the Union according to Article 287 TFEU.		of the Union according to Article 287 TFEU.	of the Union according to Article 287 TFEU.
318.	<i>Article 34</i> <i>Protection of the financial interests of the Union</i>	<i>Article 34</i> <i>Protection of the financial interests of the Union</i>	<i>Article 34</i> <i>Protection of the financial interests of the Union</i>	<i>Article 34</i> <i>Protection of the financial interests of the Union</i>
319.	Where a third country participates in the Fund by a decision under an international agreement or by virtue of any other legal instrument, the third country shall grant the necessary rights and access required for the authorising officer responsible, the European Anti-Fraud Office (OLAF), the European Court of Auditors to comprehensively exert their respective competences. In the case of OLAF, such rights shall include the right to carry out investigations, including on-the-spot checks and inspections, provided for in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council concerning investigations conducted by the European Anti-Fraud Office (OLAF).	Commission proposal unchanged	1. The Commission shall take appropriate measures to ensure that, when actions financed under this Regulation are implemented, the financial interests of the Union are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by effective checks and, if irregularities are detected, by the recovery of the amounts wrongly paid and, where appropriate, by effective, proportionate and dissuasive administrative and financial penalties.	Where a third country participates in the Fund by a decision under an international agreement or by virtue of any other legal instrument, the third country shall grant the necessary rights and access required for the authorising officer responsible, OLAF and the European Court of Auditors to comprehensively exert their respective competences. In the case of the OLAF, such rights shall include the right to carry out investigations, including on-the-spot checks and inspections, provided for in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council concerning investigations conducted by the European Anti-Fraud Office.
320.			2. The Commission or its representatives and the Court of Auditors shall have the power of audit or, in the case of international organisations, the power of verification in accordance with agreements reached with them, on the basis of documents and on the spot, over all grant beneficiaries,	

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			contractors and subcontractors who have received Union funds under this Regulation.	
321.			<p>3. The European Anti-Fraud Office (OLAF) may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council¹⁷ and Council Regulation (Euratom, EC) No 2185/96¹⁸, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with Union funding or a budgetary guarantee under this Regulation.</p> <p>-----</p> <p>¹⁷ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).</p> <p>¹⁸ Council Regulation (Euratom, EC)</p>	

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			No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).	
322.			<p>4. Without prejudice to paragraphs 1, 2 and 3, cooperation agreements with third countries and with international organisations, contracts, grant agreements and grant decisions, resulting from the implementation of this Regulation shall contain provisions expressly empowering the Commission, the Court of Auditors and OLAF to conduct such audits and investigations, in accordance with their respective competences. This shall include provisions to ensure that any third party involved in the implementation of Union funds or of a financing operation supported, in whole or in part, by a budgetary guarantee grant equivalent rights.</p> <p>Where a third country participates in the Fund by a decision under an international agreement or by virtue of any other legal instrument, the third country shall grant the necessary rights and access required for the authorising officer responsible,</p>	

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			the European Anti-Fraud Office (OLAF), the European Court of Auditors to comprehensively exert their respective competences. In the case of OLAF, such rights shall include the right to carry out investigations, including on the spot checks and inspections, provided for in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council concerning investigations conducted by the European Anti-Fraud Office (OLAF).	
323.	<i>Article 35 Information, communication and publicity</i>	<i>Article 35 Information, communication and publicity</i>	<i>Article 35 Information, communication and publicity</i>	<i>Article 35 Information, communication and publicity</i>
324.	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.	Commission proposal unchanged	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. The possibility to publish academic papers based on the results of research actions shall be regulated in the funding or financing agreement.	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. <u>The possibility to publish academic papers based on the results of research actions shall be regulated in the funding or financing agreement.</u>
325.	2. The Commission shall implement information and communication actions relating to the Fund, and its actions and results. Financial resources allocated to the Fund shall also contribute to the	2. The Commission shall implement information and communication actions relating to the Fund, and its actions and results. Financial resources allocated to the Fund shall also contribute to the	Commission proposal unchanged	2. The Commission shall implement information and communication actions relating to the Fund, and its actions and results. Financial resources allocated to the Fund shall also contribute to the communication of the political priorities

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	corporate communication of the political priorities of the Union, as far as they are related to the objectives referred to in Article 3.	corporate <i>Commission's</i> communication of the political priorities of the Union, as far as they are related to the objectives referred to in Article 3. <i>Those financial resources may be used for projects on statistics on the defence industry and projects to pilot the collection of data.</i>		of the Union, as far as they are related to the objectives referred to in Article 3.
326.	TITLE V DELEGATED ACTS, TRANSITIONAL AND FINAL PROVISIONS	TITLE V DELEGATED ACTS, TRANSITIONAL AND FINAL PROVISIONS	TITLE V DELEGATED ACTS, TRANSITIONAL AND FINAL PROVISIONS	TITLE V DELEGATED ACTS, TRANSITIONAL AND FINAL PROVISIONS
327.	<i>Article 36 Delegated acts</i>	<i>Article 36 Delegated acts</i>	<i>Article 36 Delegated acts</i>	<i>Article 36 Delegated acts</i>
328.	1. The power to adopt delegated acts referred to in Article 31 shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of this Regulation.	Commission proposal unchanged	Commission proposal unchanged	1. The power to adopt delegated acts referred to in Article 31 shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of this Regulation.
329.	2. The delegation of power referred to in Article 31 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	Commission proposal unchanged	Commission proposal unchanged	2. The delegation of power referred to in Article 31 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

Row no	COMMISSION PROPOSAL 2018/0254 (COD) doc. 10084/18 + ADD 1 + ADD 2	EP amendments	Council partial General Approach doc. 14094/1/18 REV 1	Provisional compromise proposals and comments
	validity of any delegated acts already in force.			force.
330.	3. 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 on Better Law-Making of 13 April 2016.	Commission proposal unchanged	Commission proposal unchanged	3. 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 on Better Law-Making of 13 April 2016.
331.	4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.	Commission proposal unchanged	Commission proposal unchanged	4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
332.	5. A delegated act adopted pursuant to Article 31 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.	Commission proposal unchanged	Commission proposal unchanged	5. A delegated act adopted pursuant to Article 31 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.
333.	<i>Article 37 Repeal</i>	<i>Article 37 Repeal</i>	<i>Article 37 Repeal</i>	<i>Article 37 Repeal</i>
334.	Regulation (EU) No .../... (European Defence Industrial Development Programme) is repealed with effect	Commission proposal unchanged	Regulation (EU) No .../... 2018/1092 (European Defence Industrial Development Programme) is repealed	Regulation (EU) 2018/1092 (European Defence Industrial Development Programme) is repealed with effect from

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	from 1 January 2021.		with effect from 1 January 2021.	1 January 2021.
335.	<i>Article 38</i> <i>Transitional provisions</i>	<i>Article 38</i> <i>Transitional provisions</i>	<i>Article 38</i> <i>Transitional provisions</i>	<i>Article 38</i> <i>Transitional provisions</i>
336.	1. This Regulation shall not affect the continuation or modification of the actions concerned, until their closure, under [European Defence Industrial Development Programme Regulation] as well as the Preparatory Action for Defence Research, which shall continue to apply to the actions concerned until their closure.	Commission proposal unchanged	1. This Regulation shall not affect the continuation or modification of the actions concerned, until their closure, under Regulation (EU) 2018/1092 [European Defence Industrial Development Programme Regulation] as well as the Preparatory Action for Defence Research, which shall continue to apply to the actions concerned until their closure, as well as to their results.	1. This Regulation shall not affect the continuation or modification of the actions concerned, until their closure, under Regulation (EU) 2018/1092 as well as the Preparatory Action for Defence Research, which shall continue to apply to the actions concerned until their closure, as well as to their results.
337.	2. The financial envelope of the Fund may also cover technical and administrative assistance expenses necessary to ensure the transition between the Fund and the measures adopted under its predecessors, the [European Defence Industrial Development Programme Regulation] as well as the Preparatory Action for Defence Research.	Commission proposal unchanged	2. The financial envelope of the Fund may also cover technical and administrative assistance expenses necessary to ensure the transition between the Fund and the measures adopted under its predecessors, the [European Defence Industrial Development Programme Regulation] as well as the Preparatory Action for Defence Research.	2. The financial envelope of the Fund may also cover technical and administrative assistance expenses necessary to ensure the transition between the Fund and the measures adopted under its predecessors, the European Defence Industrial Development Programme and the Preparatory Action for Defence Research.
338.	3. If necessary, appropriations may be entered in the budget beyond 2027 to cover the expenses provided for in Article 4 paragraph 4, to enable the management of actions not completed by 31 December 2027.	Commission proposal unchanged	Commission proposal unchanged	3. If necessary, appropriations may be entered in the budget beyond 2027 to cover the expenses provided for in Article 4 paragraph 4, to enable the management of actions not completed by 31 December 2027.
339.	<i>Article 39</i> <i>Entry into force</i>	<i>Article 39</i> <i>Entry into force</i>	<i>Article 39</i> <i>Entry into force</i>	<i>Article 39</i> <i>Entry into force</i>

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340.	This Regulation shall enter into force on the third day following that of its publication in the <i>Official Journal of the European Union</i> . It shall be applicable as from 1 st January 2021.	Commission proposal unchanged	Commission proposal unchanged	This Regulation shall enter into force on the third day following that of its publication in the <i>Official Journal of the European Union</i> . It shall be applicable as from 1 st January 2021.
341.	This Regulation shall be binding in its entirety and directly applicable in all Member States.	Commission proposal unchanged	Commission proposal unchanged	This Regulation shall be binding in its entirety and directly applicable in all Member States.
342.	Done at Brussels,	Done at ... Brussels ,	Done at Brussels,	Done at Brussels,
343.	<i>For the European Parliament</i>	<i>For the European Parliament</i>	<i>For the European Parliament</i>	For the European Parliament
344.	<i>The President</i>	<i>The President</i>	<i>The President</i>	The President
345.	<i>For the Council</i>	<i>For the Council</i>	<i>For the Council</i>	For the Council
346.	<i>The President</i>	<i>The President</i>	<i>The President</i>	The President

347.	ANNEX INDICATORS TO REPORT ON PROGRESS OF THE FUND TOWARDS THE ACHIEVEMENT OF ITS SPECIFIC OBJECTIVES		ANNEX INDICATORS TO REPORT ON PROGRESS OF THE FUND TOWARDS THE ACHIEVEMENT OF ITS SPECIFIC OBJECTIVES	ANNEX INDICATORS TO REPORT ON PROGRESS OF THE FUND TOWARDS THE ACHIEVEMENT OF ITS SPECIFIC OBJECTIVES
348.	Specific objective set out in Article 3(2)(a):		Commission proposal unchanged	
349.	Indicator 1 Undertakings <i>Measured by: Number of undertakings involved (by size, type and nationality)</i>		Indicator 1 Undertakings Participants <i>Measured by: Number of undertakings legal entities involved (sub-divided by size, type and nationality)</i>	Indicator 1 Participants <i>Measured by: Number of legal entities involved (sub-divided by size, type and nationality)</i>
350.	Indicator 2 Collaborative research <i>Measured by:</i> <i>2.1 Number and value of funded projects</i> <i>2.2 Cross-border collaboration: share of contracts awarded to SMEs and mid-caps, with value of contracts to cross-border collaboration</i>		Indicator 2 Collaborative research <i>Measured by:</i> <i>2.1 Number and value of funded projects</i> <i>2.2 Cross-border collaboration: share of contracts awarded to SMEs and mid-caps, with value of contracts to cross-border collaboration</i> <i>2.3 Share of recipients that did not carry out research activities with defence applications before the entry into force of the Fund</i>	Indicator 2 Collaborative research <i>Measured by:</i> <i>2.1 Number and value of funded projects</i> <i>2.2 Cross-border collaboration: share of contracts awarded to SMEs and mid-caps, with value of contracts to cross-border collaboration</i> <i><u>2.3 Share of recipients that did not carry out research activities with defence applications before the entry into force of the Fund</u></i>
351.	Indicator 3 Innovation products <i>Measured by: Number of new patents deriving from projects funded by the Fund</i>		Indicator 3 Innovation products <i>Measured by:</i> <i>3.1 Number of new patents deriving from projects funded supported by the Fund</i> <i>3.2 Aggregated distribution of patents amongst mid-caps, SMEs and legal entities that are neither mid-caps nor SMEs</i>	Indicator 3 Innovation products <i>Measured by:</i> <i>3.1 Number of new patents deriving from projects financially supported by the Fund</i> <i><u>3.2 Aggregated distribution of patents amongst mid-caps, SMEs and legal entities that are neither mid-caps nor</u></i>

			3.3 Aggregated distribution of patents per Member States	<u>SMEs</u> <u>3.3 Aggregated distribution of patents per Member States</u>
323.	Specific objective set out in Article 3(2)(b):		Commission proposal unchanged	Specific objective set out in Article 3(2)(b):
353.	Indicator 4 Collaborative capability development <i>Measured by: Number and value of funded projects</i>		Indicator 4 Collaborative capability development <i>Measured by: Number and value of funded projects actions that address the capability shortfalls identified in the Capability Development Plan</i>	Indicator 4 Collaborative capability development <i>Measured by: Number and value of funded <u>actions that address the capability shortfalls identified in the Capability Development Plan</u></i>
354.			Indicator 4a Continuous support over the full R&D cycle <i>Measured by: The presence in the background of IPRs or results generated in previously supported actions</i>	<u>Indicator 4a Continuous support over the full R&D cycle</u> <i><u>Measured by: The presence in the background of IPRs or results generated in previously supported actions</u></i>
355.	Indicator 5 Job creation/support: <i>Measured by: Number of supported defence R&D employees</i>		Indicator 5 Job creation/support:- <i>Measured by: Number of supported defence R&D employees per Member State</i>	Indicator 5 Job creation/support <i>Measured by: Number of supported defence R&D employees per Member State</i> <u>State</u>