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EU NEWS

● European Defence Action Plan of November 30, 2016: what’s next

In our previous issue (NBB 2016-2 dated 08.12.16), we summarised the main proposals of the Defence Action Plan (EDAP) presented by the Commission in November 30, 2016.

the EU Summit of December 15 discussed the EDAP

On December 15, the heads of states & governments of the 28 Member States discussed this EDAP and security issues in general. The 'Conclusions' of this European Council (also called EU Summit) are confirming the general trend around defence issues we are witnessing already. More precisely, in these conclusions our 'leaders' refer back to the NATO guidelines about military expenditures and “calls for reinforcing cooperation in the development of required capabilities as well as committing to making such capabilities available when necessary”.

Then they welcome Federica Mogherini’s proposals in her Implementation Plan of the EU Global Strategy in the area of Security and Defence as well as the European Defence Action Plan presented by the Commission.

You may wonder what is the relationship and/or difference between these 2 documents, and I bet that many people are as confused as you are; not sure that I can answer that very clearly, except that the first one is more political and comprehensive, but also more general and under control of the Member States, while the second one is coming from the Commission and is more industry-driven as well as committing to making such capabilities available when necessary.

What will be the next steps?

What is important also is that Member States are expecting rapid progress in both processes: that means already in the first quarter of 2017.

They want Mogherini to put proposals about, inter alia, “the process of developing military capabilities taking into account Research and Technology (R&T) and industrial aspects”. Regarding the Defence Action Plan, they call on “all relevant actors to take work forward” and the Foreign Affairs Council “to rapidly examine the related Commission proposals. (...) The Commission is also invited to make proposals in the first semester of 2017 for the establishment of a European Defence Fund including a window on the joint development of capabilities commonly agreed by the Member States.”

Regarding the 'implementation steering group' that is supposed to meet in the first quarter of 2017 and the 'consultation forum' with the European defence industry, no further information was publicly communicated. I will try to dig into that further in the coming weeks.

Interesting to note too that Member States reminded the EU Commission about their sovereignty on defence issues, “by stressing the importance of fully involving Member States”.

Part of EDAP proposals (in particular those relating to using more the existing funds for the defence sector, such as regional funds, structural funds for SMEs, Erasmus + etc.) will probably be discussed under the mid-term revision of the EU Multi-Financial Framework (a 7-years financial framework running from 2014 to 2020 and within which EU annual budgets are negotiated), and which is starting now. As ENAAT we cannot be following that in details, but I am trying to alert other organisations and EU stakeholders that might not be aware of it, hoping that they will take it up.

Will the European Investment Bank (EIB) start investing in defence projects? Not yet but...

The Defence Action Plan was also calling for an end to the restricted sectors to access EIB funds. Indeed currently the
EU funding for military research: Preparatory action, property rights and future EU programme

What is the advancement of the Preparatory Action (PA)?

As you know the PA on defence research was voted last year with a budget of 25 million EUR for 2017. On January 25, the Commission talked at an EP meeting on security and defence and answered MEPs questions.

A delegation agreement should be signed between the EC and the EDA in March 2017, so that the EDA can implement the PA and manage the budget. An annual programme will be agreed between MS, the EC and EDA under what is called the "comitology rules". Under such rules, in principle the main decision body is the programme committee to be made-up of Member States representatives. However the EC also said that because of the specificity of the defence sector, those rules should be adapted in order to "preserve confidentiality". What does that mean concretely is not clear yet, and when answering concerns of MEPs about their role of control, the EC also said that "normal procedures would be preserved", but again remaining very vague.

In terms of priorities, apparently a first list of about a dozen topics will be presented to MS to decide. Some were mentioned like 'platforms and drones', 'control and command of communications', 'systems for "soldiers of the future"'. The annual budgets foreseen are €25 million for 2017, €35 million for 2018 and €30 million for 2019 (a total of €90 million over the three years).

What about Intellectual & Industrial Property Rights (IPR)?

Interesting to see that the issue of the Intellectual Property Rights, but also industrial rights, is not resolved yet despite the long discussions and 'industry-favourable' compromise reached for the on-going Pilot project on defence research (voted in 2014-2015), and under which the following general principles should apply:

- the results shall be owned by the beneficiaries of the grant (e.g. military industry and research groups)
- other members of the consortium in the project would have limited access only to the results of their 'partners', "under fair and reasonable conditions" (in other words: royalties for the beneficiary holding the rights)
- the EU and the Member States shall enjoy royalty-free access rights for the purpose of the development of their policies and programmes (limited to non-commercial and non-competitive use)

Last but not least, “the Commission may object to transfers of ownership or to grants of a license or sub-license to another entity registered or based outside the EU Member States, if it considers that such action is inconsistent with the interests of the Union or security considerations. In such cases, the transfer or licensing shall not take place unless the Commission is satisfied that appropriate safeguards will be put in place. The Commission is to be notified in advance of any such transfer or licensing”.

Although we may consider those conditions to be very favourable to the industry, it is even not sure that these general principles will be actually respected: indeed article 7.3 of the Rules of participation* start by saying that “Regarding the IPR arrangements of the projects, a case by case approach shall be adopted with negotiations with the participants taking place before the award”. And all this seems not to be satisfactory yet for the industry as underlined by French MEP Arnaud Danjean. The EC itself recognised that discussions for IPR under the coming Preparatory action are still going-on and will be “passionate”, as “national interests” are at stake, including regarding exports modalities (of EU-funded results).

The future European Defence Research Programme (ERDP)

As we know and as the EC clearly stated in January 25, the PA is only the first step towards a full European Defence Research Programme from 2021, with a minimum annual budget of €500 million (€3.5 billion over 7 years), and which mainly aims at supporting the military industry, behind the EDTIB acronym (European Defence Technological and Industrial Base). The European Commission will have to present a proposal in the framework of the discussions about the next Multi-annual Financial Framework (MFF) for 2021-2027. The official proposals about the next MFF and a Defence research programme will only come in 2018, probably around the...
summer, but in fact the informal discussions are already starting in the framework of the mid-term review of the current MFF (2014-2020). Therefore it is worth starting to alert citizens and try to influence our national governments from now on, as it may be too late once the formal procedure will be on next year.

For the time being, it seems that 2 options are on the table: either enlarge the existing Research programme (currently H2020) to the military sector, or create a separate defence research programme. But the first option would oblige the defence industry to respect most of the standard rules of EU grants for research... In both options the issue of the legality of such move (e.g. direct EU funding to the military) remains; but the EC didn’t want to say how they plan to justify that.

**Conclusions of the EU Foreign Affairs Council, 06.02.2017**

During their February 6 meeting, EU Foreign Affairs ministers discussed issues related to arms proliferation. Abstracts:

**EU strategy against the proliferation of weapons of mass destruction**

The Council took note of the annual progress report on the implementation of the European Union strategy against the proliferation of weapons of mass destruction (WMD). The EU strategy against the proliferation of WMD was adopted on 12 December 2003. The report covers the main non-proliferation, disarmament and arms export control activities undertaken in 2016. It focuses on: nuclear issues, chemical and biological weapons, ballistic missiles, chemical, biological, radiological and nuclear (CBRN) risk mitigation, the implementation of UNSC resolution 1540 and export controls and space issues. The report also outlines the work with partners in the G7 format, the political dialogue meetings, the cooperation with think-tanks and the WMD non-proliferation clauses in partnership agreements.

**In short**

- **Capacity-Building for Security and Development (CBSD): Council Conclusions and industry push**

For those of you following the proposal to use EU development funds, more precisely the 'Instrument for Stability and Peace', for capacity building of military forces in development countries (see ENAAT newsletter 2016-1 dated 14.07.16), note that the European Summit of 15 December also considered this issue and urges the EP and the Foreign Affairs Council to reach an agreement by mid-2017. So things should go fast now...

After some months of delay and confusion, the EP has now appointed a Rapporteur on this proposal, the French centre-right Arnaud Danjean... Not a good news as he is a strong supporter of the arms industry, and mainly involved in security and defence, NATO and EU-US relations issues, rather than in peace and development ones...

The arms industry is of course following that closely. As a matter of fact, it has been digging into “business opportunities” in the EU funding for external actions for long, and adopted an insightful position paper on CBSD, which according to them “should cover the procurement of both equipments and services” with no restrictions. Buying arms with development funds to alleviate poverty...

- **EP committee backs firearms reform**

“The European Parliament’s internal market committee on 26/01 voted through reforms to tighten the sale and distribution of firearms throughout the EU following terror attacks. The reformed directive imposes more controls on blank firing and inadequately deactivated weapons. The initial proposal had drawn sharp criticism from sport shooters, hunters, reservists and collectors. The bill is now set to be approved in March by parliament’s plenary.” EU Observer

- **Socialist MEPs seek new role after ending their coalition with centre-right: a chance for peace groups?**

If you’re passionate about the EU bubble you may already know all about the election of the EP President and related alliance changes that happened early January. If not, well the only important thing to retain is that the largest political...
group, the centre-right EPP, is now chairing the European Parliament (German MEP Manfred Weber) and that the Alliance of Socialists and Democrats (S&D group) decided to put an end to the 'grand coalition' between S&D and the EPP that was killing any real debate at the EP from scratch (they did so mainly because they didn't want to leave the seat rather than for good reasons though). **Could this be an opportunity for peace groups and for our priority issues at EU level?**

Indeed the S&D being now in an “opposition role”, they might more easily take a critical stance on many issues and have more freedom to do so. On the other hand, there are also internal divergent views between the more “leftists” ones willing to cooperate with the GREENS and even the GUE, the social-democrats in-between, and the “social-liberals” much closer to liberal MEPs. Not to say about different national interests... However it is also up to us to try and influence them at this early stage when they need to redefine their role and positioning. From Brussels I'll be identifying friendly MEPs, and at national level I would encourage you to try and influence both your national and European socialist Parliamentarians to become more vocal on peace and arms-related issues at any opportunity.