
NEWS FROM THE BRUSSELS' BUBBLE

#2021-1, 02 February 2021

Main news items:

- ✓ Final deal on next EU long-term budget (MFF2021-2027) paving final adoption of Defence Fund
- ✓ BREXIT: no deal on Foreign policy and defence cooperation

In short:

- ✓ arms exports: end-users' certificates for SALWs, Venezuela, dual-use goods
- ✓ EP report on AI in civil and military uses adopted with narrow majority
- ✓ subjective list of interesting links

2021 EU Calendar: main meetings to come

- 01 January 2021** Portuguese Presidency
- 2-3 March** Informal meeting of EU Defence Ministers
- 4-5 March** Informal meeting of EU Foreign Affairs Ministers (Gymnich)
- 25-26 March** European Council
- 20 April** [R&T Conference | Impact of Disruptive Technologies on Defence](#), co-organised by European Defence Agency and Portuguese Ministry of Defence, Porto
- 4 May** Formal meeting of EU Defence Ministers

[Access the previous Newsletters here](#)

Adoption of EU long-term budget (2021-2027) enables formal launch of EU Defence Fund

On 10 November, the German Presidency of the EU and the European parliament reached an agreement on the overall EU long term budget for 2021-2027, which has unlocked the discussions on specific instruments like the Defence Fund. In this overall budget, MEPs obtained an increase of €16 billion (notably for the 'health' programme, the 'Horizon' research programme and Erasmus), mainly financed by competition fines. The increase under Horizon Europe

will among others benefit the 'security cluster', up to €1.9bn (+0.6bn). The deal was then voted by the EP and accepted by all EU leaders on 11 December after some 'adjustments' of the Rule of law conditionality to avoid Hungary's veto.

This does not impact the amount dedicated to the Defence Fund which was already agreed upon, but it paves the way for its formal start in 2021.

➤ Regulation for the EU Defence Fund: final deal voted by ITRE Committee

A final deal on the EDF regulation was then reached on 14 December. The last points under discussion were mainly of technical nature, like the end date of the programme (whether 31/12/2027 sharp or aligned with the end of the global long-term budget), in other words allowing for an extension of the EDF even if

there is no agreement on the next long-term budget in 2027 for example.

The final text is pretty similar to the one we described in our Newsletter [2019-1](#) (8 March 2019), thus equally problematic as illustrated in our [2019 fact-sheet](#):

- The Fund is merely subsidising the arms industry and aims at boosting the competitiveness of the arms

industry, including on the global scene; in other words it will exacerbate the global arms race;

- Member States preserve their full sovereignty on arms exports licensing, while digging into the EU community budget; not that Europeanization of arms exports control would necessarily be a positive move knowing the current over-influence of the arms industry on the decision-making process of the EDF, but as a point of principle this is rather a step back in terms of EU democratic functioning;
- The Fund will focus on the research and development in intelligence-surveillance-reconnaissance, unmanned systems, AI and autonomous systems, and other disruptive technologies, while the legal and ethical assessments of projects currently does not seem to meet international obligations. (see our [latest fact-sheet](#))
- If direct support to Lethal Autonomous Weapons ('killer-robots') is prohibited (one of the few wins of

the EP), this is "*without prejudice to the possibility to provide funding for actions for the development of early warning systems and countermeasures for defensive purposes.*" Indirect contribution to the development of LAWs is thus possible.

- By derogation to standard EU rules, the EP has no say on the implementation of the Fund, and the limited transparency will make it difficult to conduct a proper monitoring based on other sources than the official EC reports.

The final text of the Regulation was voted by the ITRE Committee on 14 January with a large majority, and should pass the final vote in Plenary session mid or late March.

For its part, the European Commission already started preparing the launch of the Fund end of last year, after the political agreement on the global EU budget was reached, as the remaining procedural steps were taken for granted.

➤ News about current implementation of PADR and EDIDP

The EDA has released information on the last PADR project selected in 2018. The domination of the big 4, as illustrated in our latest [fact-sheet](#) is further confirmed, and France now becomes the largest beneficiary of both PADR and EDIDP in number of beneficiaries (overtaking Italy) as well as in number of grants (20% of all grants). Thales remains number one of companies with 17 grants now. (*The fact-sheet will be updated in the coming weeks*)

As for implementation, the Organisation for Joint Armament Cooperation (OCCAR) will be in charge of the management and implementation of 2 major projects under the EDIDP, funded through a direct award process: the ESSOR project (*European Secure Software defined Radio*, subsidized up to €37 million) and the EURODRONE project to produce a European 'arm-able' drone (the MALE RPAS programme, subsidized up to €100 million).

A new nomination at the Commission's DG DEFIS confirms a strong representation of France at key

posts: the new Director of the Defence Industry Directorate is *François Arbault*, a loyal to Michel Barnier since the latter was French Commissioner for Internal market (2010-2014, during which he played a key role in paving the way to the EDF) up to the Brexit Task Force.

2 of the 3 Heads of Unit under this Directorate are also French: *Anne Fort* for Defence Industry & Market Policy, and *Alain Alexis* for the Industrial Development. Not to say of course about the current French Commissioner *Thierry Breton*, in charge of the Defence and Space policy, and his political adviser on Defence and Space *Fabrice Comptour*.

To add on, the assistant to Mr Pesonen (current Director-General of DG DEFIS), *Guillaume de La Brosse*, was previously Defence Adviser at the EC internal think-tank (European Political Strategy Centre) just when former Commissioner Elzbieta Bienkowska was setting-up the PADR and the EDIDP...

➤ Role of the European Defence Agency: a facilitator for MS and Industry to access EDF

Once the Preparatory Action will be over, the EDA should have only a limited role in the implementation of the European Defence Fund, now under the EU Commission's remit.

At least formally, although it will probably continue to play a key role in promoting the Fund with the industry and supporting potential beneficiaries to submit projects.

Indeed EU Member States defined priorities for the EDA in 2021, in which they call the Agency to "stimulate" projects in the context of the European Defence Fund. In particular, it should "facilitate informal exchanges" between states, including in the framework of the EDIDP/EDF "facilitation platform" created within the Agency.

The Agency's work should not be limited to 'pure' military matters, but should "contribute to the defence aspects of more general EU policies". This includes cyber, hybrid threats, space, the maritime domain, the Single European Sky, artificial intelligence, REACH (Registration, Evaluation, Authorisation and Restriction of Chemicals), energy and the environment, circular economy and climate change.

Links to relevant documents

[PR 10/11/2020: Next MFF and Recovery Package: Council Presidency reaches political agreement with EP](#)

[PR 14/12/2020: Provisional agreement reached on setting-up the European Defence Fund](#)

[Final compromise text on EDF, 21/12/2020](#)

[Contribution agreement signature between EC and OCCAR \(20/11/2020\)](#)

[Council Guidelines for EDA's work in 2021](#)

Brexit: no deal on foreign policy and defence

The last-minute deal between the EU and UK reached on 24 December does not include foreign policy, external security and defence cooperation, as the UK had decided to exclude these areas from the negotiations already several months ago (to the exception of disarmament).

Concretely this means no formal frame for

coordinating sanctions like black lists or embargoes, and that in principle UK cannot participate in EU CSDP missions or operations, nor in capacity initiatives like PESCO, EDF or CARD.

Under PESCO and the EDF, UK will now be considered as a third country like the US, Switzerland or Israël.

(main source: [B2pro](#))

➤ **What's in: internal security, cybersecurity, HorizonEurope, space, nuclear safety, dual-use**

The general agreement does include a frame for cooperation in internal security matters (terrorism, Europol, Eurojust) mainly as with any third country (no privileged cooperation nor direct access to EU databases); The frame for cybersecurity allows for a more in-depth cooperation if both sides wish so: from regular exchanges on all aspects of the cyber policy to cooperation between the EU Computer Emergency Response Team and UK's team, and participation to the EU Cooperation Group, as well as, upon request, certain activities of the European agency for cybersecurity (ENISA).

The deal also allows the UK to participate in five key EU programmes for the period 2021-2027, mainly in research, space and nuclear safety. This will be in exchange for a UK financial contribution to the EU budget and under certain exceptions.

UK-based research centres and companies will thus be able to continue to participate in the Horizon Europe

research programme, with one exception: for programmes that Europeans intend to reserve for Member States only in defence and security aspects.

Similarly, the United Kingdom will be able to contribute to and benefit from the European earth monitoring programme Copernicus and the EU satellite surveillance & tracking services. But it will not be able to access Galileo's military encrypted signal.

It will also be able to participate in EURATOM's training and research programme and in the ITER civil nuclear fusion test facility.

In parallel, the Commission proposed to grant the UK and Northern Ireland a *Union General Export Authorisation* for the export of certain dual-use items, under the argument that UK is a "low risk" country, has signed all international treaties and "applies proportionate and adequate controls". The Regulation was voted by the EP on 26 November and adopted by the Council on 16 December.

➤ **Agreement on classified information: a prerequisite for participation in PESCO and EDF**

Another specific agreement was signed in December on the "security procedures for exchanging and

protecting classified information", with provisions similar to what exists already with a number of third

countries. Such deal is not insignificant:

It is a precondition for any cooperation on internal or external security: the fight against terrorism, satellite surveillance or cybersecurity, but also for a possible participation in PESCO projects (see [NBB 2020-4, 22.12.20](#), on conditions for third countries

➤ **And now what?**

And indeed the discussion is not over...

French MoD Florence Parly explained on 12 January that the modalities for a possible involvement of UK in European security would be part of discussions to come between the French general delegate to armament (DGA) and his UK counterpart, including the option of reviving the Lancaster House agreements.

On 25 January, EU MFAs already started discussing the issue during the Council's informal lunch upon the initiative of Josep Borrell. According to the media it was mainly about exchanging on the different views and expectations from Member States.

What is at stake at this stage is to send a positive sign to the British government while preserving a common EU-27 approach and avoid bilateral discussions where

participation in PESCO) as well as for any participation in a CSDP mission/ operation.

Even though no specific agreement has been reached yet on defence matters, important milestones are being put in place....

the UK could more easily 'take the lead'. This tension is well illustrated in [Borrell's blog article](#) where he writes that "at last Monday's Foreign affairs Council (FAC) there was widespread support for a constructive and prudent approach with EU interests and unity as the guiding principles", but also that "this will require discipline from member states when the UK will approach them, as it probably will."

The two main options for the EU are either a general agreement on all aspects of defence and external security, which looks quite unrealistic so far, or specific ad-hoc agreements per topic. The latter would more easily pave the way for a deal on UK participation to the Defence Fund, without the constraints under PESCO or the Common Security and Defence Policy (CSDP). The best-case scenario for the arms industry...

Links to relevant documents:

[EC Q&A: EU-UK Trade and Cooperation Agreement](#), 24.12.2020

[Brexit treaty offers no easy path to EU defence research funding for UK](#), Science Business, 05.01.2021

[EU Regulation granting a Union General Export Authorisation for the export of certain dual-use items from the Union to the United Kingdom of Great Britain and Northern Ireland](#), OJL 432, 21.12.2020

[EU-UK agreement concerning security procedures for exchanging and protecting classified information](#), OJL 444, 31.12.2020

[After Brexit, how can the EU and UK best cooperate on foreign policy?](#) HR/VP blog, 29/01/2021

Short News

➤ **arms exports: end-users' certificates for SALWs, Venezuela, dual-use goods**

On 15 January, "the EU Council adopted a decision establishing a set of common features that end-user certificates for the export of SALW and their ammunition will have to respect. The aim is to diminish the risk of arms diversion to illicit or unintended users, create a level playing field and increase clarity for the defence industry and its clients regarding relevant requirements." This decision is one of the measures coming from the 2019 review of the EU Common Position on arms exports control. See the [EU Council Press release](#), and the [Council Decision \(CFSP\) 2021/38](#) in all EU languages

Venezuela could challenge the EU arms embargo in court. A third state is fully entitled to challenge restrictive measures adopted by the Council against it before the European Court of Justice, the Advocate General at the ECJ considers. See [ECJ Press release](#)

Dual-use goods, whether civilian or military, have been subject to coordinated export controls in the European Union since the 2000s. A revision was underway for the last 4 years, and an agreement was finally reached on November 9 between the EP and the Council. Final adoption is foreseen early 2021. According to the [EC Press release](#), "the changes agreed today will upgrade and strengthen the EU's export control toolbox to respond

effectively to evolving security risks and emerging technologies. Thanks to the new Regulation, the EU can now effectively protect its interests and values and, in particular, address the risk of violations of human rights associated with trade in cyber-surveillance technologies without prior agreement at multilateral level. It also enhances the EU's capacity to control trade flows in sensitive new and emerging technologies”.

However, the move also seems to make a large use of EU and national general authorisations which allows for the export of certain goods to certain destinations with no limitations of quantity nor any time limit. It also “leaves it up to member states to decide whether the new restrictions could include the export of products such as facial recognition technologies, which are currently being employed in the curtailment of human rights in certain totalitarian countries.” Read more on Euractiv, [EU to restrict sale of cyber-surveillance goods to repressive regimes](#), 10/11/2020

➤ **EP report on Artificial intelligence in civil and military uses adopted with small majority**

On 20 January the EP adopted its Report “on artificial intelligence: questions of interpretation and application of international law in so far as the EU is affected in the areas of civil and military uses and of state authority outside the scope of criminal justice”, drafted by MEP Gilles Lebreton (French far-right) from the Legal affairs committee. (see [NBB 2020-3, 27/10/20](#)). It was adopted in plenary by a narrow majority, with 364 votes in favour, 274 against and 52 abstentions. Left groups, including the Social Democrats, announced that they would vote 'Against'. [The Report is available here](#)

In parallel The Left (GUE/NGL) published a report it had commissioned to Christoph Marischka, from the Information Centre on Militarisation: [Artificial Intelligence in European Defence: autonomous armament?](#) “The report takes a comprehensive look into the use of AI in EU defence planning. It also examines the threats and impact posed by new AI applications, and how they could eventually render international law meaningless. The research also reveals in detail what role AI has played in various EU armament programmes (EDIDP, EDF and PESCO), and the political consequences of the bloc’s militarisation.”

➤ **Subjective list of interesting links**

For those of you following climate change and peace, and interested in EU developments, you can access below the official report of a conference organised by the EU think tank EU Institute for Security Studies and the European External Action Service in December 2020

<https://www.iss.europa.eu/content/climate-change-defence-and-crisis-management-reflection-action>

[War Is Not Innate to Humanity—A More Peaceful Future Is Possible, Says Historical Anthropologist](#)

[Weapons for peace? What to expect in 2021 from the EU’s new ‘peace facility’](#), Saferworld Blog, 11.01.2021

[Why the EU needs to be a global maritime security provider](#), EEAS, HR/VP Blog, 27/01/2021

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