
EC proposal for the Act in Support of Ammunition Production (ASAP) summary of the main provisions

Main sources for this note:

Defence: [€500 million and new measures to urgently boost EU defence industry capacities in ammunition production](#), EC press release, 03/05/2023

Official draft text (EN only): https://defence-industry-space.ec.europa.eu/eu-defence-industry/act-support-ammunition-production-asap_en

[Confidentiel] ASAP. Pour renforcer l'industrie européenne des munitions. Les principaux éléments de la proposition, B2pro, Nicolas Gros-Verheyde, 02/05/2023

[EU defence industry faces staff shortage amid increased production demand](#), Euractiv, Aurélie Pugnet, 03/05/2023

The proposal is the third pillar of the [three-tracks plan adopted by the 27 foreign ministers on 20 March for delivery and joint procurement of ammunition for Ukraine](#).

The budget and where the money should come from in particular has given rise to strong internal discussions. The objective of the programme is to enable the European industry to increase its ammunition production capacity and secure its supply chain. The proposal includes two pillars, a budgetary one to provide the arms industry willing to produce more with co-financing from the EU budget, and a regulatory one with a set of temporary derogations "to remove obstacles to the ramp-up". The proposal is based on the demands of the arms industry expressed during Commissioner Breton's tour of arms companies across Europe.

Like the EDF and EDIRPA, the programme is based on Article 73 of the Treaty (EU competences in the field of industry), whereas the tool is clearly aligned with and responds to a security and defence objectives, which further questions the legal basis chosen.

Annual production capacity of one million rounds of heavy ammunition and long-term guarantees

The main aim is to support the arms industry production capacity with a quantified objective to increase production capacity to one million rounds of ammunition per year in Europe. This figure is in addition to the objective of delivering one million shells and missiles to Ukraine in one year, as defined by the 27 under parts 1 and 2 of the ammunition plan (funded by the European Peace Facility). All types of heavy ammunition are concerned (NATO or ex-Soviet standard) and all technologies (simple or guided), used for heavy artillery (e.g. 102 or 152, 155 mm), air defence, as well as missiles "if necessary and requested by the Ukrainians".

Through ASAP, the EC is providing guarantees to both Member States and arms companies: Member States want to be assured that they will be able to be re-supplied in time when they empty their stocks to deliver rapidly to Ukraine, while arms companies want to be assured with medium- to long-term contracts before they can launch new production lines, with part of their investment costs covered by the European budget and their operations covered by new orders. Which leads to one question: unless 'betting' that the war in Ukraine will continue for years, to whom will all this ammunition be sold once the conflict will be over?

Budgetary pillar: €500 millions fund, wide access to EU structural funds, EIB and private finance

The first pillar puts €500 million on the table to co-finance arms companies who want to increase their production line, up to 40% to 60% (or even more when adding support from the Structural Funds or other EU funds). Half of this new fund should come from EDIRPA (the latter being reduced to €250 million) and the other half from the EU Defence Fund. It remains to be seen how MEPs will react to this as they call for EDIRPA's budget to be doubled to €1 billion and for the EDF budget to be increased during the EU's multi-annual budget review.

According to B2pro, internal debates about the ASAP budget were heated, with fierce opposition from the Austrian Commissioner Johannes Hahn, in charge of the budget, to feed ASAP with fresh money. The compromise reached includes the possibility to re-evaluate the ASAP budget upwards, in case many good quality applications are received, as well as a mechanism to bail out the EDF budget at the time of examining the 2024 annual budget (in case there are margins left, due to inflation for example). This bailout could reach €200 million (reducing the EDF contribution to ASAP to €60 million).

The EC expects a leverage effect through co-financing that would bring the total investment in the whole supply chain to around €1 billion. However, the experience of the PADR and EDIDP shows that projects generally tend to apply for the maximum possible amount of EU co-financing. And in this case, the missing co-financing can be partly obtained from other EU funds. It is therefore very likely that the level of co-financing by Member States or private funding is well below 50%.

For who and how

The ASAP minimum co-financing level will be 40%, with two possible cumulative bonuses: +10% to manufacturers who agree to shift their production to Ukraine or European security, and +10% to manufacturers who develop new partnerships.

The applicants must be located in Europe, but the award criteria will be somewhat more flexible than those set in the two existing funds (EDF and EDIRPA). The rules about the company's control will be lighter for the prime contractors and there will be no additional criteria for subcontractors. Manufacturers will thus be able to continue being supplied from their usual subcontractors even when they are not based in the EU, for material like nitrocellulose or nitroglycerin for example.

Projects may be awarded either as a direct grant or following calls for proposals. They will be awarded to a specific industry around a project. There is no obligation to built consortia of 2 or 3 partners, contrary to the EDF or EDIRPA, but if so it will be taken into account in the evaluation of proposals, as will the engagement into negotiations for the joint purchase of ammunition.

Financial support will be provided to actions contributing to *“optimising, expanding, modernising, upgrading or repurposing existing production capacities; establishing new production capacities or cross-border industrial partnerships; building up and making available reserved surge manufacturing capacities; testing or reconditioning processes to make existing ammunition and missiles useable for longer; reskilling and upskilling related workforce”*.

The proposal provides for a retroactivity clause so that actions having begun after 20 March 2023 may be eligible for EU support.

Additional funding through structural funds, EIB or other banks

In addition to co-financing from ASAP, arms companies will be able to make full use of the structural funds (Regional Fund, European Social Fund, Cohesion Fund) as well as funds from the Recovery plan. Such access was already possible, but is now made clear and loud. It could be used to develop a local plant, modernise an existing plant by making it "green" compatible, or initiate skills/up-skilling training processes, for example.

In theory, additional funding could also be provided by the European Investment Bank as part the EIB's role to supplement funding for European projects. But the EIB is still reluctant to finance the arms industry sector, and the EC is threatening to turn to other banks and facilitate the arms industry access to to both public and private financing, potentially through a dedicated facility, the 'Ramp-up Fund'.

Regulatory pillar: temporary derogations from social rights, environmental rules, intra-EU arms transfers

On the regulatory side, the proposal provides for the possibility of derogating from some European regulations, for example in terms of working hours (for instance to ease the rules restricting working shifts at night or on

Sundays), environmental authorisation or public contracts. These derogation measures will be limited in time (until 2025 when the ASAP programme should end).

Defence companies, including the biggest ones, are struggling to recruit personnel to work in their factories, and Commissioner Breton proposed to *“think out of box”* in times of *“a war economy”*, like using the European Social Fund and replicating measures taken for the COVID-19 vaccines production, such as the decision to *“set up a sort of skills pool and set up partnerships with skills transfers, to help us speed up in this transition period”* when *“we needed to mobilize skills, to share skills from one member state to another”*.

The text also provides for a power of intervention, for example, if a company refuses to redirect part of its production to Ukraine or European stocks. Without going as far as the American DPA (Defence Production Act), it provides for a dialogue mechanism in the event of a crisis, as provided for in the European Chips Act (on semiconductors).

Facilitating arms transfers and undermining arms export control

Other tailored measures aim at speeding up common procurement by allowing to open an existing framework agreement to other Member States that were not originally party to it, and by exempting transfers from prior authorisation within the EU.

Art 20 of the draft Regulation wants to facilitate intra-EU transfers of *“ammunition and fuze setting devices, and specially designed components therefor”* (ML3) as well as of *“missiles and related equipment and accessories, and specially designed components therefor”* (ML4) by exempting them from prior authorisation for transfers between Member States. This will weaken the possibility for national countries to control where their components may be re-exported, while the draft article sets no ‘alternative’ safeguards. Those ammunition, missiles, devices, accessories or components could be re-exported, as such or integrated, anywhere in the world. This looks like another attempt of the Commission to lower down arms exports control to the lowest common denominator.

Limited parliamentary control and accelerated adoption process

The instrument will be implemented through an implementing act (article 12), meaning that the European Parliament will have no possibility to influence whatsoever the way the programme will be implemented. This ‘exemption clause’ became in fact the norm for all the EU instruments funding the arms industry or other defence-related activities.

The ASAP draft text adds an extra limitation to parliamentary control. Under the argument of urgency, the normal eight-week period for national parliaments to react to an adopted EU legislation is suppressed. The Regulation will enter into the force directly the day of its publication in the Official Journal. Considering the accelerated adoption process (see below), this can be considered a very serious attack on the democratic principles of the EU.

The ambition of Commissioner Breton is to complete the examination of the text before the end of June, or at the latest by mid-July, present the work programme and the first calls for proposals during the summer and have the first contracts signed in September!

To support this accelerated pace and avoid lengthy discussions as it happened with EDIPRA, the Commission will invoke Article 163 of the EP’s Rules of Procedure, which allows for a direct shortened examination in plenary, without going through the thematic committees. This requires three essential conditions: the request for urgent procedure must be duly justified; the announcement of the urgency must be made in plenary, the draft being voted on at the following plenary; and the text must be available in all the official languages. This procedure was used for the COVID certificate or for the ratification of the agreement with the UK on North Ireland.

The EC will present the proposal to the plenary on 8 May, meaning that the EP could adopt its position as soon as 31 May or 1st of June. Then negotiations will start with Member States. Such accelerated procedure gives hardly room for amendments and critical debate.

Access to the official documents:

[Proposal for a Regulation of the European Parliament and of the Council on establishing the Act in Support of Ammunition Production](#), COM(2023)237 final

[Questions and Answers on the Act in Support of Ammunition Production](#), 03/05/2023

[ASAP Fact-sheet](#), 03/05/2023