

Five concerns for the UK arising from the EU Defence Union

By David Banks. With thanks to The Bruges group on whose website this appeared previously.

There are five main areas which the EU has been pursuing in order to establish what it calls an 'EU Defence Union' across the 28 EU countries, including the UK.

1. Procurement policy and incentives
2. Finance
3. Intelligence, Battlegroups and PESCO
4. UK defeat over HQ
5. Contradicting statements over UK involvement.

Since 23rd June 2016, the UK has made commitments in each of these above areas of defence with no debate in the British Parliament. Each one is described in more detail below:

1. Procurement policy and incentives

The UK has agreed to...

More power for the EU to enforce EU-wide tendering in defence contracts

An expanding remit for the EU over defence industrial strategy and joint-built assets

An expanding remit for the EU in purchasing and conduct of joint-owned assets

Incentives for UK defence companies to engage long-term with the developing EU-wide industrial strategy

The only reason the UK is permitted to build its own aircraft

carriers is by using an exemption to the EU Procurement Directive. The exemption is known as the security clause (Article 346) and is permitted when a member state feels there is a national security reason to reserve production for its domestic market. The European Commission is tightening application of the clause following a review in 2016 and has gained the consent of member states to do so. (EU Council Conclusions, 14 November 2016)

The EDA and EU Commission have a benchmark of achieving 35% pan-EU equipment procurement.

(EDA Benchmarks)

UK ministers have approved measures that allow the European Defence Agency to have a greater role in standardisation and certification. (EU Council conclusions in Security Defence, 18th May 2017)

These measures would amplify EU influence in the trading conditions of the defence sector and an additional tool for the enforcement of policy. For example, certification and mutual recognition of standards might be used as a barrier to entry to UK exporters in years ahead in the same way that EU 'standards' produce a barrier to non-EU exporters in other sectors. Conversely, certification and standards could be used as an incentive for UK manufacturers and policymakers to adhere to EU policy. Either way, the changes bring a measure of additional control to the European Commission.

The EU refers to EU defence industrial strategy as the European Defence Technology and Industrial Base (EDTIB) and has more recently started using the term 'Single Market for Defence'. With the objective of 'reducing duplication, the EU intends to integrate this market under coordinated joint projects and an EU-controlled policy environment. The aim is for the resulting combined EU defence industrial strategy to serve the needs of the EU's 'new level of ambition' in a

military context.

This above agreement on standardisation and certification is an additional method of directing the integration of the EDTIB beyond the two already mentioned previously: 1. enforcement of the pan-EU Procurement Directive and 2. financial incentives via the European Defence Fund.

The EU Commission could conceivably tell the UK after Brexit that 'access' to its newly coordinated 'Single Market for Defence' requires adherence to the Procurement Directive. Also, now that UK participation in the European Defence Fund's imminent incentive programmes is being concluded, UK 'withdrawal' could be viewed by the EU as an act that warrants retaliation or requires UK concessions.

2. Finance

The UK has agreed to...

The creation of the EU's first central military budget, the European Defence Fund

The use of European Investment Bank money (16% UK shareholding) for the European Defence Fund

The creation of a Cooperative Financial Mechanism (CFM) to augment the European Defence Agency

The creation of a Coordinated Annual Review of Defence (CARD), a mechanism which sees the EU offer financial incentives for adherence to EU planning over member state defence budgets.

The European Defence Fund will begin with a budget of only a few billion euros, but this money will be dangled in front of policy makers and defence companies to steer them towards joint activity and a policy environment that is under EU authority.

Millions of euros have already been placed into an “unprecedented level of engagement” with defence companies including defence industry conferences in the UK financed by the EU Commission, which started in April (Southampton) and are continuing throughout 2017 (Bournemouth etc).

UK companies are being invited to bid for the first tranche of European Defence Fund money in June 2017, via an EU Commission / EDA programme known as PADR (Preparatory Action for Defence Research). The programme is even being promoted by the UK Defence Solutions Centre, a UK-Government-funded unit which was formed to boost output of UK defence companies.

According to the EU Commission and EEAS, the Cooperative Financial Mechanism “will strengthen the European Defence Agency” as a central EU defence capabilities tool. The mechanism appears to be separate to the European Defence Fund. It is designed to manage member states’ money in a joint budget and will be spent on EDA research projects, military units conjoined under Permanent Structured Cooperation and joint assets.

This added financial firepower for the EDA overrides many years of policy by UK ministers who argued that the EDA’s scope and budget should be restricted. (European Defence Agency ministerial steering board, 18th May 2017)

The UK Government has a 16% (EUR 39 billion) stake in the EIB, the same as Italy, France and Germany (the four largest shareholders). The EU Commission is changing the lending criteria of the EIB to ensure it supports the European Defence Fund. The EIB is an instrument of the EU and operates in adherence to EU policy. There has been no confirmation of whether the UK will withdraw from the EIB, but to remain a shareholder would mean a level of participation in EU policy. The EIB has placed funds into infrastructure projects in the UK including Crossrail and the Manchester Metrolink.

The UK's consent to EIB funding for UK defence industries provides the EU with additional locks on UK participation in EU defence policy and on its EIB shareholding. These additional locks were made after the UK's referendum on EU membership and add to the task of unravelling these links after Brexit.

3. Intelligence, Battlegroups and PESCO

The UK has agreed to...

An increased size, scope and infrastructure of the EU's military intelligence agency as a central 'hub'.

Participation in a 2019 EU Battlegroup under EU Council control. Approval given pre-referendum. No confirmation from MOD about whether it is cancelled or continuing.

Drop objections to Permanent Structured Cooperation (first version of permanent military unification) by willing member states. MOD will not confirm whether the UK is staying out or not.

The European External Action Service (the EU's 'foreign ministry') has put forward plans to grow the role of its intelligence agency known as the Single Intelligence Analysis Capacity (SIAC). (EU Council conclusions in Security Defence, 6 March 2017 and 18 May 2017).

SIAC is composed of the EU Military Staff Intelligence Directorate and the 'civilian' EU INTCEN. The EU Council agreed to develop them as an EU "hub for strategic information, early warning and comprehensive analysis".

Member States, including the UK, have been asked to consider initiatives and ways to interact with these plans. (Security and Defence Implementation Plan, 14 November 2016).

The UK was scheduled to lead an EU Battlegroup in Jan-Jun 2019. The MOD will not state whether Britain's participation

will be cancelled or proceed.

The UK has agreed to...

The reordering of EU agencies to include 'permanent planning' of EU defence missions and a 'coordinated military command chain'.

The creation of a permanent military HQ with staff responsible for strategy and operations. It was kept as a non-executive function of the EU, but executive power over EU military developments rests with the EU Council and EU Commission.

Drop its objections to the wordings that describe the new HQ (May 2017) because previous approval in March 2017 had made later objections invalid.

The EU Council, with UK consent, has agreed to reorder the European External Action Service to "develop the necessary structures and capabilities for the permanent planning and conduct of CSDP missions and operations" with "distinct but coordinated civilian and military chains of command".

These will work under the political control, strategy and leadership of the EU Council's Political and Security Committee.

(EU Council Conclusions, 14th November 2016, with UK ministerial approval. Confirmed by EU Council heads of government conclusions, 15th December 2016)

The plans include the creation of an operational HQ, the Military Planning and Conduct Capability (MPCC). While the UK made an issue of the MPCC being prevented from having executive powers, this was a pointless fight as the executive power over the MPCC's deployments already resides with the EU Council.

(EU Council Conclusions, 6th March 2017. Confirmed by EU

Council conclusions, 18th May 2017)

5. Contradicting statements over UK involvement.

The UK has agreed to...

Participate in measures that apply to UK defence without the approval of Parliament, nor even a debate.

Participate in developing plans until at least March 2019, possibly March 2022 or even longer.

Provide the EU with several new powers over UK defence and a new bargaining chip for the EU.

Accept measures that mean a more complicated and time-consuming withdrawal process that the UK didn't face before the first of the EU Defence Union agreements in November 2016.

Provisional statements on PESCO (Permanent Structured Cooperation) while keeping open the prospect of UK participation in PESCO and the EU Council-controlled EU Battlegroups in 2019.

Each time new agreements are made, additional hours will need to be spent on severing EU ties and controls. New agreements are currently being formed in finance, intelligence, regulation, procurement strategy, joint assets, joint missions and research. This will impact upon several departments of government.

The duration of UK involvement might be expected to be until March 2019 (the anticipated end of Britain's membership) and possibly March 2022 (end of a three-year transition deal which requires adherence to EU policy) and potentially even longer. Until then, even adhering to new EU measures (in finance, intelligence, regulation, procurement strategy, joint assets, joint missions and research) will add complexity to the UK's exit negotiations, potentially extending the duration of the exit process.

Not a single one of these agreements at the EU Council has ever been mentioned in the House of Commons, let alone subject to a vote by MPs. All defence agreements at the EU Council take the UK further down the road of military integration and have had an immediate effect regarding UK participation. The EU Commission immediately embarked on a dialogue with UK defence companies about incentives to participate in EU defence integration projects.

EU Council conclusions are considered by the EU commission to have been co-authored by UK diplomats. Therefore, if a minister does not raise objection during an EU Council meeting, conclusions are considered to represent a joint direction, or consent, of all member states.

The EU Commission has stated that agreements the UK enters as a member state "must be carried out in full" while the UK remains subject to the EU's treaties.

In addition, the EU has said it is not willing to even begin to discuss UK withdrawal from EU defence arrangements until a withdrawal agreement has been settled and "all other matters" agreed, because defence is "too important to be a part of the main negotiations". This means the UK will be obliged to adhere to these rapidly developing measures for at least two years to 2019 and there is a real possibility of the UK being tied in for an additional transition period of three years up to 2022.

The Foreign Office minister Sir Alan Duncan wrote to the European Scrutiny Committee chairman in December 2016 to inform the committee of the plans and agreements the UK was entering, as is required under UK Parliamentary protocols. Sir Alan Duncan told the committee there were parts of the Security and Defence Implementation Plan (SDIP) which his team 'liked' and no decision had yet been made over the quantum of UK involvement and for how long. This may be contrasted with the Foreign Secretary's October and November statements that

the UK did not wish to prevent the EU27 from participating in agreements in which the UK had no interest itself in participating.

The European Scrutiny Committee marked Sir Alan Duncan's letter and corresponding agreements as 'politically important' to have them discussed in the relevant Parliamentary Select Committees of Foreign Affairs, Defence and Exiting the EU.

Meanwhile, the EU Commission will know it may now employ all of the UK's recent set of agreements in defence as a bargaining chip, a threat, a delaying tactic and a deepening 'binding agent' to EU membership. It is conceivable that EU officials will cite the example of UK defence companies who have the promise of European Defence Fund money as a means of influencing or undermining perceptions among UK observers or negotiators in the realm of defence.

Finally, an answer we received from the MOD (19th May 2016) said that the British government had not ruled out joining PESCO in spite of its control by EU Council and CSDP:

"Decisions on UK engagement with CSDP after we leave the EU, including with initiatives such as PESCO, will be part of the wider negotiations."

A UK Rep spokesperson had earlier (18th May 2016) told us the UK might participate in the EU Battlegroups after Brexit, which is also controlled by the EU and CSDP.

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