

# Weakening our defences: dangers in the Political Declaration

*Lieutenant-General Jonathon Riley provides a 10-point assessment of the defence section of the negotiations, following research by the **Veterans for Britain** team which involved reviewing the EU defence policy.*

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## **1. Defence is actually in the negotiation texts**

Most people think defence is not part of the EU negotiations, but it is very much in the frame due to several lines in the Political Declaration, the text which guides the talks over the future relationship. These lines contain a proposal for the UK to remain under the EU's defence bodies (and even to join a new one to which we did not belong as an EU member). The main problem is that these lines are rarely mentioned and few people in the UK truly understand the EU's defence bodies.

## **2. Recent EU developments make the texts more of a problem**

Since these EU defence bodies have recently begun to grow in terms of political power and financial scale, a legally-binding commitment to stay under them would naturally have significant consequences for UK defence autonomy. The relevant lines of the Political Declaration were produced during Theresa May's premiership. The reason the Political Declaration is relevant is that it is the EU's route map for

the negotiations as agreed by the UK and outlines the EU's intentions if there is to be a deal.

### **3. Why have we not heard more about this?**

A common response among people who hear about this problem for the first time is to ask why something so significant as the UK's future defence decision-making autonomy could be at stake – and yet is so rarely mentioned. This is a question which bothers those who follow the subject too. There are many reasons and they include, among others: the rapid pace of internal EU political agreements on defence since 2016; the failure of researchers to keep pace; the consequent failure of politicians and observers to follow the subject; and the belief that it would not affect the UK because we have left the EU. People also assume that anything concerning defence in the negotiations would see the UK in a controlling position, given the UK's status as a military power. However, this viewpoint is outdated as it ignores the development of the EU's political structures for defence on which any defence negotiations would be based. The EU would have any discussion about these structures on its own terms or not at all.

### **4. The EU's preferred defence tie-in for the UK has unstated consequences**

Indeed, an observer who had not followed EU political agreements on defence would not know the legal consequences of each of the defence bodies in the Political Declaration and therefore would not flag their inclusion as a point of concern. After all, the text does not contain words of warning. It does not contain an overview of new centralised decision-making across a new decision-making network and layers of influence over policy and planning. It does not explain consequences for defence autonomy arising from those

new factors. The documents and agreements underpinning the EU's expanded defence architecture weigh in at more than a quarter of a million words, but there is not so much as a web link to this material. Instead, to the untrained eye, they appear as mere headings on a page.

## **5. More selective language points to concealment**

The defence section of the Political Declaration contains a further example of selective language. The section names only three EU defence bodies, which is itself a nonsense. These three are in fact inextricable from the wider legal context of the EU's defence architecture, a point confirmed by personnel from the EU side and from Whitehall. There are more than twenty structures, policies and rules which are tied to the three which are named and it is obligatory for participating states to adhere. This would have been understood by those compiling the text, therefore the omission of the wider links can be regarded as an act of concealment.

## **6. Johnson Government has made positive noises**

Boris Johnson's Government, to its credit, has responded to warnings from campaigners about this political quicksand. Although very few ministers can list the EU defence bodies in the Political Declaration (and fewer still know the EU structures and policies to which they link) several people in Boris Johnson's team know what is going on and have taken action. They ensured that the new version of the Political Declaration would not produce an immediate attachment to EU defence in the style of the version proposed by Theresa May's Government. Instead, it now says the UK will 'consider' participating (link below). However, this new approach brings an obvious risk of producing the same outcome. Not least because ministers who are still unaware of the detail of EU

defence are inclined to ask for advice from the wrong people, namely the small group of Government officials who were involved in designing UK involvement in EU defence under May and were selected for that purpose. Alternatively, ministers might ask defence industries which have received advice about the EU defence architecture from the very same pool of Government officials. Those officials have in fact been proactive in harvesting industry opinion on the basis of advice they have provided. The Government's paper, 'The UK's approach to negotiations with the European Union' published on 27 February 2020 did not make any reference to defence, leading people to believe that the promise to 'consider' joining EU defence programmes and structures had been dropped. However, it was in fact present in the broad category of 'EU programmes'. It said:

*'The UK is ready to consider standard third country participation in certain Union programmes where it is in the UK's and the EU's interest that we do so.'*

This was confirmed by an April 2020 letter from a team in the Foreign Office which has steered UK participation in EU defence, the Euro-Atlantic Security Policy Unit (EASP unit). It expanded on the language by saying:

*'Lastly, the EU Commission has proposed to create a new security and defence budget for the next Multiannual Financial Framework (MFF), which will last from 2021 to 2027 inclusive. The UK is ready to consider standard third country participation in certain EU programmes where it is in the UK's interest that we do so. These programmes must represent a real benefit to British people and industry and any agreements relating to programmes should contain fair terms for UK participation. This should include fair treatment of participants, a fair and appropriate financial contribution, provisions allowing for sound financial management by both parties, and appropriate governance and consultation.'*

Got that? The UK is ready to consider this deep and detailed involvement, even though ministers and MPs seem to not know the first thing about it. It is at least true to say that the EASP unit is ready to consider involvement. So ready in fact that they have been the sole team writing defensive reassurances for ministers since 2016 saying that EU defence is nothing to worry about.

## **7. UK political advice on the subject is back in the wrong hands**

The fact remains that no salaried official on the Brexit side of the argument has the sole task of understanding the EU defence architecture, despite its size and political significance for the current government. Therefore, the current process in which the Government 'considers' attachment is back in the hands of the officials who engineered May's intended commitment.

## **8. The role of 'freelancing' UK officials cannot be underestimated**

A small group of officials who possess the most knowledge of the EU defence architecture have provided their views on the subject at various times. Their views can be found within publicly-available information, often in the form of speeches at think tanks or Parliamentary hearings. Their contributions present an entirely complimentary view of the EU defence architecture and puts forward a case for UK involvement. At no point do they urge caution about the risks to UK autonomy from collective EU decision-making formats, neither do they give reference to these risks. It is noteworthy that several of these officials have either had second jobs or previous jobs in the EU's institutions. Their role in the UK's involvement in the EU defence architecture is extensive, has taken place

over several years and deserves an analysis of its own. Their role is essential for anyone attempting to understand MPs' low awareness and ministers' questionable decision-making in this topic. Bringing the UK to the brink of being perpetually under EU defence decision-making is a vast and complicated task. It is difficult to see how it could have been conceived and carried out without a controlling influence from the officials who actually understood the subject rather than the ministers who did not.

## **9. Drawing a line in the sand**

The Johnson Government must be encouraged to maintain its line and avoid moving back towards an attachment to the defence policy of the EU institutions as proposed during Theresa May's premiership. It is unrealistic to expect non-Government MPs to help in this endeavour because inadequate or incorrect briefings have made them part of the problem. The key to preventing slippage is the supply of information to key decision-makers and the public about the EU defence architecture and the three components of it named in the Political Declaration. The EU wants the UK to remain attached to its defence policy architecture and the period of risk extends for the duration of the Implementation Period (also known as transition period). During this time, the UK remains within the bulk of the legal commitments associated with the EU defence architecture (including the commitments to EU foreign, security and defence policy found in Title V of the EU treaties). This provides the EU (and those keen on UK attachment to EU defence) with a regulatory 'bridge' allowing the EU to describe attachment as mere continuity. After 31 December 2020, UK adherence to the EU defence architecture must be constructed from a blank canvas and new laws implemented for the purpose, thus guaranteeing considerable inertia or opposition, something the EU wants to avoid.

## 10. What ministers need to know

Several points must be made clear to those supporting the UK side of the future partnership talks:

- Any amount of structured UK involvement in the EU defence architecture, including its defence industrial bodies, brings ***an obligation to follow EU defence policy***. This is made clear by the EU's statements and rules and confirmed by EU officials and UK officials. It is also illustrated by the networked structure of the EU's new defence architecture. Less well-informed UK officials have once mistakenly suggested that obligations may be reduced through negotiation.
- ***The EU is not offering ad hoc involvement in EU defence bodies***, it is offering attachment on the same basis and with the same expectations as member states. This means full compliance with the EU as described in the defence parts of the EU treaties, directives and EU Council agreements.
- **UK attachment to EU defence industrial bodies is not an advantage to UK industry** but rather an impediment because of the rules, benchmarks and strategies the EU imposes. These bodies and their associated rules work to remove UK industry's advantage in respect to the UK Government defence equipment budget (the largest in Europe), in order to create a 'domestic' EU-wide defence procurement market. Under this arrangement, purchasing authorities (e.g. the UK Ministry of Defence) must pursue an EU definition of 'best value' which is not allowed to include national taxpayer best value or national interest. Therefore, the national advantages derived from retaining a contract domestically (such as preserving jobs, investment or essential skills) cannot be a decisive factor in awarding the contract. It is through this EU mechanism that the UK has seen many of

its large defence contracts lost to overseas (including non-EU) shipbuilders, manufacturers and suppliers. British industry would continue to lose opportunities in this way if it is compelled to stay in EU mechanisms by the three defence bodies named in the Political Declaration. In fact the situation would become worse as the industrial rules and strategies of the EU defence architecture are growing in scope and power. It is important to mention this subject because ministers' understanding of the defence industry dimension could ultimately be decisive in whether the UK participates in the whole EU defence architecture.

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