



Ministry  
of Defence

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**GUTO BEBB MP**  
PARLIAMENTARY UNDER-SECRETARY OF STATE AND MINISTER  
FOR DEFENCE PROCUREMENT

MSU/4/2/2/5/SM

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*Dear Sir,*

I am writing to inform you that following my predecessor's letter of 11 of December 2017, a scrutiny override occurred on the 12 of December with the UK supporting the adoption of a first reading "general approach" for the European Defence Industrial Development Programme (EDIDP) draft Regulation at the General Affairs Council. The draft Regulation was adopted unchanged from the version you saw earlier. I am sorry this was necessary due to the compressed timescales of the EDIDP negotiation.

The EU Parliament are still formulating their own proposal on the Regulation for establishing the EDIDP, with a final vote due sometime in March. After this the Council and European Parliament Regulations (along with the original Commission proposal) will go to Trilogue, about which I shall of course keep you informed.

Furthermore, I would like to clarify that my predecessor's responses to the questions raised by the Committee (available at Appendix 1) in response to the Government's Explanatory Memorandum (dated 10 of July) can be published.

I am writing in similar terms to Lord Boswell and am copying this letter to the Clerks of both European Scrutiny Committees Foeke Noppert (House of Commons European Scrutiny Committee) and Eva George (House of Lords EU Select Committee), to Les Saunders, Department for Exiting the European Union, and Hannah Jaenicke Ministry of Defence departmental scrutiny co-ordinator.

*Yours sincerely,*  


**GUTO BEBB MP**

Sir William Cash MP  
Chairman of the House of Commons European Scrutiny Committee  
House of Commons  
London  
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Enclosure



## Appendix 1

### European Defence Fund: House of Commons European Scrutiny Committee Questions

**Q1. Inform the Committee at the earliest opportunity about the appetite among other Member States to allow for substantial participation of non-EU countries in the Research and Capability Windows of the European Defence Fund, in particular with respect to the criterion that EU nationals must own a majority of any organisations bidding for EDIDP funding;**

We believe there is some appetite among other Member States for participation of non-EU countries in the Research and Capability Window. For example, during the EDIDP discussions a majority of countries have been supportive to amendments to the original Commission proposed Regulation to confirm that non-EU industry could cooperate with EU industry in EDIDP supported programmes, and also to amendments which have produced a more flexible definition of an EU undertaking. The key caveats to these more flexible provisions have included that undertakings that are based entirely outside the EU cannot receive EU money, and that cooperation with non-EU undertakings must be consistent with the defence and security interests of the EU and the Member States. The security caveat has been inserted largely as a result of concerns from a small group of nations over cooperation with non-EU countries other than the UK. Discussions on the European Defence Research Programme are due to commence in 2018, which will provide further indication of the degree of appetite among other Member States towards third country participation

**Q2. Clarify whether it is Government's position that, during the Prime Minister's "implementation period", UK organisations should remain eligible for participation in the European Defence Fund in return for continued contributions by the UK for its share of commitments already made, and yet to be made, under the current Multiannual Financial Framework;**

This will be subject to discussion with the Commission, however, our position is that UK undertakings should remain eligible for participation in the European Defence Fund for as long as we continue to contribute to the existing Multiannual Financial Framework. In support of this I have recently written to my Letter Intent colleagues (France, Germany, Italy, Spain and Sweden) encouraging them to consider UK and UK industry participation in cooperative programmes that might be submitted for EDIDP funding.

**Q3. Explain if the Government's reference to Norway's participation in the defence research preparatory action means that it would also be willing to adhere to the eventual EDRP and EDDIP Regulations, and make a financial contribution proportional to the UK's GDP compared to that of the EU-EEA as a whole, in return for long-term post-Brexit participation in the funding elements of the EDF;**

As the Government set out in the recent paper "Foreign policy, defence and development: a future partnership paper"<sup>1</sup>, we are open to options and models for participating in the European Defence Fund after we have left the EU. From the Government's perspective, we recognise that one option could be a financial contribution in return for some kind of special status in the European Defence Fund, however, this has yet to be explored in any detail with the European Commission and the remaining Member States. Subject to the outcome of these discussions we will make an assessment of the available options, taking into our account our political, capability and industrial interests.

**Q4. Clarify if and how the Government would seek to influence the strategic direction of the EDF once it is no longer represented on the Council or on the Fund's Coordination Board;**

Subject to any special agreement which continues to provide the UK with special access to the European Defence Fund (EDF) and its various governance bodies, we would look to continue to influence the EDF's strategic direction through a number of channels. These would include any bilateral relationship with the European Commission; a potential Administrative Arrangement with the European Defence Agency who we expect will have a significant ongoing role in the management and delivery of the EDF; our bilateral relationships, in particular with the Lol nations (France, Germany, Italy, Spain and Sweden), which could prove to be a useful vehicle for ongoing engagement with EU defence capability and industrial issues; and through NATO which will have an ongoing interest in ensuring that action under the EDF complements NATO priorities and that it does not undermine the broader transatlantic relationship.

**Q5. Set out what benefits the defence industry has identified in its discussions with the Government of being out of EU's regulatory framework for defence procurement and development, and the level of market access into the Single Market UK suppliers would enjoy under WTO rules;**

It is difficult to assess the benefits of being out of the EU's regulatory framework, as there is no clear picture of what possible reform would look like. The Government will engage with key stakeholders in the defence sector to carefully consider longer-term options for the UK's defence procurement rules when we understand the outcome of the negotiations with the EU. Most stakeholders in government and industry who commented on this issue in the Five Year Statutory Review of the Defence and Security Public Contracts Regulations 2011 believed that the defence procurement rules could be simplified to reduce the regulatory burden<sup>2</sup>. However, it would be wrong to speculate about possible reforms at this stage. The WTO Agreement on Government Procurement ("GPA") has a general exception that GPA parties may apply for procurement necessary for the protection of essential security interest relating to the procurement of arms, ammunition and war material or procurement indispensable for national security or national defence. This means that EU Member States

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<sup>1</sup> <https://www.gov.uk/government/publications/foreign-policy-defence-and-development-a-future-partnership-paper> p20, para 75.

<sup>2</sup> <https://www.gov.uk/government/publications/defence-and-security-public-contracts-regulations-2011-5-year-statutory-review> p41-42 identifies a number of potential reforms that would deliver benefits to Government and Industry.

will retain the power to decide the level of market access they allow UK suppliers for goods and services covered by the EU Defence and Security Directive. Government procurement of dual-use and civil goods and services in the defence sector under the EU Public Procurement Directive will be open suppliers from GPA parties.

The Government will continue to have regular dialogue with defence industry to address market access issues arising from leaving the EU. We recognise that it is important that the Government works with defence industry to achieve the best results throughout and beyond the process of our withdrawal from the EU

**Q6. Keep the Committee informed on developments in the establishment of the standardised financial instruments for joint acquisition projects, and whether the UK intends to make use of the toolbox once it is established;**

There is still little detail on the Commission's proposal to establish a Financial Toolbox. The European Commission chaired a high level conference on the 27th of November, which set out a roadmap to the launch of this specific part of the European Defence Fund. The focus of this meeting was on identifying the nature of the problem, in particular the challenge in bringing together and synchronising various member states financial resources and the high initial spend for long use, rather than proposing any specific solutions at this early stage. This initiative will be taken forward in an Expert Groups consisting of the European Commission, Member States (both MOD and Treasury representatives) and the European Defence Agency early in 2018.

**Q7. Confirm how the Government will seek to ensure that the financial toolbox under the Capability Window does not duplicate efforts by OCCAR.**

While noting that the Financial Toolbox remains an embryonic proposal, at this stage we do not envisage it in anyway duplicating the work of OCCAR; instead the Financial Toolbox if it is to be used at all should be used in a way that makes procuring through OCCAR easier. In support of this, during any Expert Group discussions, expected to commence in early 2018, we will make it clear that OCCAR provides a highly skilled and efficient international project management organisation and that there should be no duplication of its role. We are confident that at least the other OCCAR nations will also express this view (Belgium, Germany, France, Italy and Spain). We believe this unique status is also recognised by the European Commission and the European Defence Agency, the latter of whom has an Administrative Arrangement with OCCAR, which sets out their mutual roles and how they will work together.

