



Ministry
of Defence

MINISTRY OF DEFENCE
FLOOR 5, ZONE B, MAIN BUILDING
WHITEHALL LONDON SW1A 2HB

Telephone 020 7218 9000 (Switchboard)

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

MSU/4/2/2/5/is

17 April 2018

Dear Bill,

In accordance with the letter you will have received from my Honourable colleague, The Rt Hon Lord Howe, I write to inform you and the European Scrutiny Committee that the European Defence Industrial Programme (EDIDP) Regulation has had its first reading in the European Parliament.

As you know, an amended version of the European Commission's initial draft was endorsed by Ministers at the EU General Affairs Council (GAC) on 12th December. The Council version modified many of the provisions to our advantage, in particular by recognising that third country industry could take part in the EDIDP, albeit with no EU funding. Furthermore the amended version confirms that companies based in the EU but owned by third country parties, such as BAES Hagglands in Sweden owned by BAES US, were eligible for funding. These provisions are especially important because although the current Regulation only applies up to 2020, the Commission are likely to be guided by its terms in drafting any post 2020 EDF Regulation.

The Regulation cleared the Committee stage on 28th February, led the Committee on Industry, Research and Energy. This agreed restrictions that aim to prevent a parent company outside the EU being involved in any decisions made by their subsidiaries related to the EDIDP activity and leaving it with the Commission to test whether sufficient controls are in place. Fortunately, the Council provision allowing third country based industry to participate on a pay to play basis have been included. Parliament approved the proposals on 13th of March, with Trilogue commencing on the 15th of March. The aspiration is to have the Regulation finally agreed by June 2018 to make it possible to allocate EU funds from the beginning of 2019.

I also wish to address the points raised during the 31st January sitting of the European Scrutiny Committee. At that sitting, I was asked to provide clarity on the following:

Sir William Cash MP
Chair of the European Scrutiny Committee
House of Commons
London
SW1A 0AA

- **how, and by whom, assurances by a host Member State about the eligibility for EDIDP funding of an undertaking controlled from a third country would be assessed, and whether other Member States could challenge those assurances;**

This was left for each member state to determine in accordance with its own national processes, the assumption being it would as a minimum entail some form of confirmation from a recognised source, for example a department of defence or economics. Member states could theoretically challenge these assurances in the programme committee before final award of proposals, however the general assumption is that if the Commission is part funding member state led projects they already have legitimacy.

- **how the existence of an EU-based “executive management structure” of such third country-controlled undertakings would be assessed in practice, and against which criteria, to ensure it was indeed effectively run from within the EU;**

This again was left as a national decision. In recognition of differences in sovereignty and market philosophies, it was considered more appropriate that a nation would best know whether the local undertaking had sufficient managerial autonomy and that it had sufficient independence to take some account of the member state’s national interests.

- **who would judge whether “competitive substitutes” for the necessary assets or resources for an EDIDP project are available within the EU, before a beneficiary could source them from a non-EU undertaking;**

In the first instance this would be a decision for the consortia who then might be required to provide evidence to support this to the Commission.

- **whether cooperation with entities located in a country subject to CFSP sanctions would be allowed in principle, if not in practice; and**

While not specifically excluded, such cooperation would likely fall foul of cooperation contrary to the security interests of the member states and the Union.

- **what level of political representation the Government will seek within the Foreign Affairs Council and the Commission’s EDIDP Committee, where individual funding decisions will be made, during the post-Brexit transitional period (when the UK will still contribute to the EDIDP as if it were a Member State).**

In accordance with the draft Written Agreement, the UK will have no right to attend to programme committees. However, we will be making the case for UK participation in the programme committees for the following reasons: The Prime Minister has stated a desire to remain associated with the EDF long term; we will still be contributing; and we are supporting UK industrial participation where we believe we have a lot to offer.

As the EDIDP Regulation continues through the Trilogue process, my officials continue to press for a text that remains largely in accordance with that agreed at the GAC last December.

I will provide further updates in due course.

I am copying this letter to The Lord Boswell of Aynho, Chair of the EU Select Committee; 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 to James Ward, Ministry of Defence.

*Yours sincerely,
Guto*

GUTO BEBB MP