

The Exit Deal: Defence Risks and Booby Traps

What it says

The Withdrawal Agreement and Political Declaration would harm British defence autonomy because they contain implied commitments to new EU Defence governance structures. They call for UK participation 'to the extent possible under EU law' in:

- The European Defence Fund – defence purchasing budget and a tool for policy compliance
- EU Permanent Structured Cooperation – permanent integration of defence capabilities and control
- European Defence Agency - promotes integration via EU defence policy and acts as governance body for the EU Commission's defence budget schemes.

The first two are new since the Brexit vote, and the third has seen its remit greatly expanded. All of this has happened with UK ministers bypassing Parliamentary scrutiny to provide consent at EU Council. This alone should never have happened.

'Extent possible under EU law'

EU law permits non-EU states to participate in the above IF they commit to the wider EU Defence policy architecture which is enshrined in EU Council agreements and being rolled out gradually in the months and years ahead. This includes:

- A mechanism for steering participant states' Defence budgets (CARD);
- A new military HQ (MPCC), notwithstanding the UK's past veto;
- Centralised intelligence sharing for projects and missions the EU chooses to undertake;
- Budgets; Cash-for-compliance, bribing states with their own money (Athena, CARD, EU Defence Fund + incentive link to PESCO); Further financial schemes to integrate EU member states' military spending programmes, such as Cooperative Financial Mechanism.
- A larger EU role in developing, purchasing, licensing and using new defence technology (ERDP);
- Defence industrial rules enforcing transnational contracting (tighter EU Defence Directive);
- Politically tying in UK funds still sitting in the European Investment Bank;
- The UK adopts new EU decisions under EU defence policy and is even obliged to allow EU defence policy to be 'promoted' through Government and officialdom. (ESDC);
- New governance structures for EU programmes, where EU institutions such as European Defence Agency set budget, appoint advisers and managers and control licensing and rules;
- Obligation to participate in European Defence Agency-led integration schemes via EU defence policy.

Ministers have created future UK participation arrangements for all these structures and have even entered trials for most of the new ones.

More salami slicing in Defence

All these structures would impair future autonomous defence decision-making in the UK and would have a gradually growing effect – integrating policies, structures and funds over a period of years to focus decision-making incrementally at a joint level.

No parliamentary scrutiny of the jigsaw

The EU's Defence architecture is unfamiliar territory for most MPs because Foreign Office units which put the UK further into it after the Brexit vote provided inadequate information to Parliament, even as ministers were disparately agreeing its individual components. The speed of ministerial consent removed the opportunity for adequate Parliamentary scrutiny or votes on seven separate occasions, in breach of the Scrutiny Reserve Resolution 1998.

The Withdrawal Agreement sees the UK in the above structures during the 2019-20 period – a period of further growth in the EU Defence architecture when several trials will develop into fixed and budgeted programmes. However, the WA also provides for an 'agreement governing the future relationship in the areas of Common Foreign and Security Policy and Common Defence and Security Policy', which poses the risk of a blank cheque now emerging if MPs are not vigilant, or if they fail to consider the range of developments as a corporate whole.

Backstop threat

The backstop kicks in if the UK and EU fail to reach agreement during transition over matters outlined in the Political Declaration. However, the PD commits the UK to the EU defence architecture “to the extent possible under EU law”. This means the UK either submits itself to full EU authority in the area of defence in perpetuity or takes the backstop. It will be the EU's choice as to whether the UK's permanent legal commitment matches the one made in the PD. If the UK does not accept full EU authority in defence, the EU can keep the UK stuck in the backstop for an undetermined period, under EU terms.

Deal eliminates choice

The exit deals (WA and PD), coupled with ministers' decision to join EU defence and defence industrial integration schemes since the Brexit vote, collectively limit the UK's strategic freedom in the future. In effect, HMG is continuing to endorse and participate in the slow but gradual development of an EU Common Defence Policy, intrinsically threatening both NATO and the UK's privileged status with the US. If this is a deliberate policy choice, it ought to be made consciously.

What 'À la carte'?

While ministers say they hope to negotiate a much looser bilateral commitment on the UK's own terms, their officials have publicly contradicted this and in key areas privately pursued a policy of 'EU business as usual'. The key risks involve rigid institutional tie-ins, especially with the European Defence Fund and European Defence Agency, both underpinned by the Common Security and Defence Policy. The UK is drifting into the EU Defence orbit. Ministers need to get a grip.