Act in support of ammunition production

Put forward by the European Commission on 3 May 2023 to facilitate the ramping-up of production capacity for ammunition and missiles in the EU, the proposed act in support of ammunition production seeks to ensure that the European defence industry can better support Ukraine and EU Member States. Members agreed to trigger the urgent procedure during the May I 2023 plenary session. Parliament is set to proceed with a plenary vote on Parliament's position on the proposal, without a report, during the May II 2023 plenary session.

Background

The Council has recognised there is a specific urgent need for ground-to-ground and artillery ammunition, and missiles, in light of the Russian war on Ukraine. As CNN reports 'Ukraine is burning through ammunition faster than the US and NATO can produce it'. The Ukrainian military fires 5 000 artillery shells every day, an amount equal to the annual orders of smaller European states prior to the war. The current manufacturing capacity in the European Union is a 'closely guarded secret'. However, a leaked Estonian document suggests that the maximum production in the EU sits at approximately 230 000 rounds per annum, an amount used by Ukraine almost every month. The Russian war on Ukraine has laid bare European armament challenges, with production capacities being very low even for the most basic of equipment such as ammunition, with the European defence industry 'geared to peacetime production'. Given the increased needs for defence materiel, which are exacerbated by EU Member State deliveries to Ukraine, a boost to manufacturing capacity is required, especially due to the lead times needed to manufacture defence equipment. The increased demand for defence materiel following the Russian invasion of Ukraine has already led to manufacturers being unable to meet government demands. This is hardly surprising as European defence contractors have long been 'used to a situation of modest demand, relatively low unit numbers per system, and long lead times for development'. This is exacerbated by the fact that the European defence industry is based on a 'build-to-order' system, as defence contractors in Europe avoid producing arms without pre-orders, due to the high price of manufacturing, which in turn leads to long lead times for advanced defence capabilities. The main issue is that it takes large capital investment and years to create new plants. The defence industry would need solid, long-term orders to make it worthwhile from an economic perspective. Simply increasing production overnight is not an option.

On 2 March 2023, Ukraine sent a request for assistance to the EU for the supply of 155 mm-calibre artillery rounds. The Council agreed on a three-track proposal on ammunition (delivery from existing stocks; joint procurement from industry; increasing production) on 20 March 2023, which was endorsed by the European Council on 23 March 2023. On 13 April 2023, the Council adopted a €1 billion assistance measure under the European Peace Facility (EPF) – an off-budget fund of €8 billion – to support the Ukrainian army. It will enable the EU to reimburse Member States for ammunition donated to Ukraine from their own existing stocks (Track 1). Member States have provided 220 000 artillery rounds of different calibres, and 1 300 missiles as of 23 May. On 5 May 2023, the Council adopted another €1 billion assistance measure (Track 2) under the EPF, to jointly procure ammunition and missiles from the European defence industry and deliver them to Ukraine. Regarding Track 2, on 20 March 2023, EU Member States and Norway (24 participants as of 1 May 2023) signed a European Defence Agency (EDA) project arrangement for the collaborative procurement of ammunition. In parallel, complementary projects, led by France and Germany are also ongoing. Track 3 will be fulfilled through the proposed act in support of ammunition production.

Act in support of ammunition production

On 3 May 2023, the European Commission put forward a proposal for an act in support of ammunition production (ASAP). The proposal aims at facilitating an increase in the EU's ammunition and missile production capacity, to ensure that the European defence industry can better support Ukraine and EU
Member States in facing the new security environment. It seeks to ensure timely availability and supply of ground-to-ground and artillery ammunition and missiles. The main aims are to:

- support the reinforcement of the EU’s industrial production capacities for relevant defence products (ammunition and missiles),
- create a mechanism to map, monitor and plan for potential bottlenecks in supply chains,
- introduce a temporary regulatory framework to address the shortage in ammunition.

In the proposal, the Commission proposed a budget of €500 million. This budget would come from redeployment of the European Defence Fund (EDF – €260 million) and the future European defence industry reinforcement through common procurement act (EDIRPA – €240 million). The act would support different actions contributing to the European defence industry’s efforts to increase its production capacities (Article 8). Additionally, ASAP will facilitate the provision of financial assistance for EU companies in the field of ammunition and missiles, possibly through a ‘Ramp-Up Fund’. The instrument will finance up to 40% of the eligible costs of an action and, by way of derogation, up to 100% in certain cases (Article 9).

Eligible entities must be established in the Union or in an associated country (European Economic Area), in cases where entities are controlled by a third country, they must fulfil strict criteria to be eligible (Article 10). The proposed act is complementary to the future EDIRPA and existing EU initiatives, such as the EDF, Permanent Structured Cooperation (PESCO) and the Strategic Compass for security and defence. The ASAP and EDIRPA are complementary initiatives, on the supply and demand side respectively. EDIRPA aims at incentivising Member States to jointly procure urgently needed defence products, while ASAP directly supports producers’ efforts to increase production and reinforce supply chains.

One expert notes that the ‘Commission is breaking new ground’ as the EU will for the first time spend money 'not only on research and development, but indeed to support the defence industry'. He warns however that production is a ‘notoriously long-winded process’, but does believe that EU initiatives 'give a signal to industry that it is worthwhile investing in this’, despite industry concerns that demand may drop off instantly if the war in Ukraine ends. No existing legislation is dedicated specifically to the ramping up of production, tackling supply shortages and reducing delivery times. However, related legislation exists. The European Defence Fund is supposed to boost the competitiveness of the EU defence technological and industrial base by incentivising joint research and development of defence equipment. It uses one of the legal bases cited in ASAP (Article 173 TFEU – support for competitiveness of European industry), but also refers to Article 182, Article 183 and Article 188 TFEU. Legislation is also proposed in the field of joint procurement of defence materiel. The proposed EDIRPA, which is currently in the process of interinstitutional negotiations, also uses Article 173 TFEU as its legal basis. Additionally, the EPF allows the procurement of military materiel, inter alia to support partner countries (e.g. Ukraine).

In accordance with the ordinary legislative procedure, the Parliament decides on the ASAP proposal on an equal footing with the Council. Given its legal basis, the file has been assigned to the Committee on Industry, Research and Energy (ITRE), with the Foreign Affairs Committee (AFET), Internal Market and Consumer Protection Committee (IMCO) and Budget Committee (BUDG) asked to provide opinions. Members agreed (518 in favour, 59 against and 31 abstentions) to trigger the urgent procedure under Rule 163 of Parliament’s Rules of Procedure to proceed quickly with the legislative proposal without a committee report. A plenary vote on the proposal is set to take place during the May II 2023 plenary session. Members will then start negotiations with the Council to reach a political agreement. Parliament aims to adopt the law by the end of July 2023.

**European Parliament Position**

In its resolution of 18 January 2023 on the 2022 annual report on the implementation of the EU’s common security and defence policy, Parliament welcomed the new EU defence initiatives, including EDIRPA. Members called for increased budget and ambition in these initiatives. In its resolution of 16 February 2023 marking one year of Russia’s invasion and war of aggression against Ukraine, the Parliament called for a substantial increase in munitions deliveries to Ukraine. The joint ITRE/AFET report on the EDIRPA proposal calls among other things for an increase in budget, higher funding from the instrument for those countries most affected by the Russian war on Ukraine, and for EU countries to be able to take part in joint defence product procurement with Ukraine and Moldova.