



# GUIDELINES FACILITATING SMEs' ACCESS TO THE DEFENCE MARKET

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# 1. BACKGROUND

Small and Medium-sized Enterprises (SMEs) are considered to be the backbone of the EU economy in terms of jobs creation, growth and innovation. The role of SMEs in the European Defence Technological and Industrial Base (EDTIB) has gradually increased over time, partly as a result of greater outsourcing. SMEs are active in defence both as direct suppliers to Ministries of Defence or as subcontractors in the defence supply chain. Member States and Prime Contractors recognise their contributions and ability to respond promptly to changing military needs as well as their relevant role in research, technology and innovation. A number of SMEs that participate in defence markets are involved in dual-use and the increasing convergence of the defence and security sectors appear to be creating even greater emphasis on dual-use, whereas some SMEs remain specialized in defence related activities or in "niche" competencies and are consequently particularly dependant from military business.

SMEs have identified a number of difficulties in participating in the defence market including access to information, defence procurement, supply chain and finance. They claim to face barriers in promoting their innovative solutions to Government authorities and large companies. As defence supply chains have a substantial national focus, there are additional challenges for SMEs that wish to enter defence supply chains in other European countries. In part this may be due to

security of supply concerns but other factors such as specialization, standardisation, certification or export control are also relevant. Moreover, due to limited scale effect of most of military programmes, the sourcing strategies often orientate to single source procurements, with few flexibility for qualifying alternative sub-suppliers. The 2013 December European Council highlighted SMEs as an important element in the defence supply chain, a source of innovation and key enablers for competitiveness.

The role of SMEs in the defence supply chain is acknowledged also by the European Commission Communication COM (2013) 542 entitled: "Towards a more competitive and efficient defence and security sector" and its related Implementation Roadmap.

The EDTIB Strategy, approved by Defence Ministers in 2007, stressed that the future success of European Defence Industry would depend on the effective utilisation of human capital and innovation wherever these are to be found in Europe, in Small and Medium-sized Enterprises (SMEs) and in suppliers not always associated with defence. Consequently, and following the adoption of the "Guidelines for Facilitating SMEs' Access to the Defence Market" in October 2009 and the SME Action Plan in March 2013, the EDA performs work to support defence-related SMEs across the whole supply chain.

## 2. OBJECTIVES

The defence market's uniqueness relates to a number of issues such as technological level, programme cycle, security of supply, market regulation, security of information, business-model depending on public investment and industry's relationship with governments. Governments dominate the sector through a variety of roles such as regulators, owners, controlling shareholders, funders of R&D and as principal customers. Therefore, government attention should be directed to all supplier stakeholders, not only to the Prime Contractors but also to SMEs. To increase SMEs ability to access defence supply chains and to maximise the added-value that they may bring to military programmes, specific actions need to be developed and implemented.

The policy on SMEs, at European and national levels, should aim to remove barriers for the development of these companies.

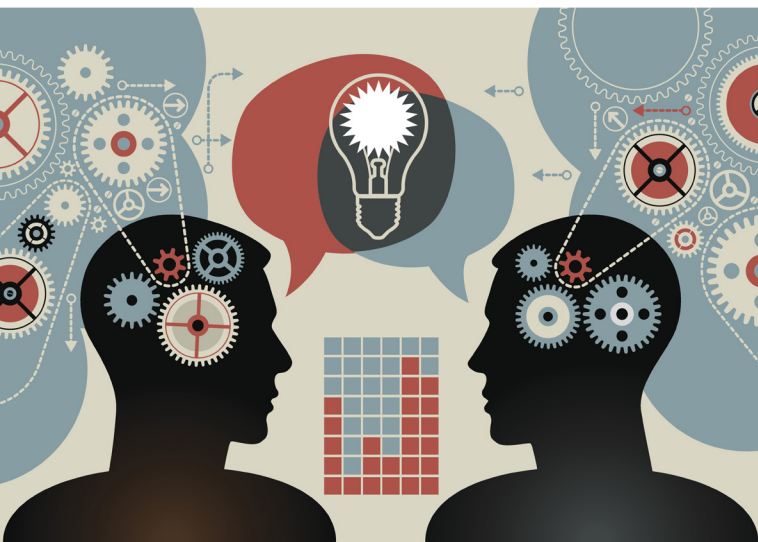
The main objectives of this document are to provide general guidance to Member States to:

- Improve SME access to information;
- Create better conditions for SMEs to access defence procurement opportunities;
- Increase the openness of the cross-border defence supply chain;
- Facilitate SME access to finance;
- Support SME involvement in Research and Innovation and facilitate the bridge between innovation/technologies and industrialisation/commercialisation;
- Improve SMEs' competitiveness, industrial performance; and
- Manage Security of Supply properly also at the level of SMEs.

## 3. KEY PRINCIPLES

Member States, under the valid regulatory corpus, will ensure transparency, fair and equal treatment of suppliers including SMEs. At the same time the complexity of defence supply chains and the specificities of the defence market, ranging from export control to security of supply, have to be recognized and respected.

These non-binding Guidelines do not prejudice the interpretation and application of any national or EU laws or regulations. They are intended to complement other existing policies and documents directed towards facilitating SME access to the market and ensuring transparency and competition in the defence market.



## 4. GUIDELINES

### 4.1. ACCESS TO INFORMATION

#### > Inform on Existing Contracts

SMEs and suppliers should be kept informed, as much as possible, about foreseeable changes concerning running programs, in order they can anticipate and proceed with appropriate industrial adjustments or investments. It is indeed more difficult and challenging for a SME to manage unanticipated situations being at the other end of the supply-chain.

#### > Detect New Business Opportunities

Information is a key factor in competitive markets, particularly for SMEs. However, due to the specific nature of the defence sector, accessibility to information is often at the same time difficult. To function effectively in defence business, SMEs need, among others, to be able to understand the interaction between government procurement priorities and the latest developments in a range of technologies, and to understand the capability requirements of potential customers in order to translate these requirements into concrete technical opportunities corresponding to their skills and capacities.

To improve SME market awareness and ensure access to relevant information on business opportunities on a systematic and structured basis is key in order to strengthen their future capabilities and to remain innovative. Improved communication and transparency in regards to particular policies that improve SME access to information regarding long-term requirements and future

capabilities are fundamental as they allow SMEs to better target their efforts and facilitate their early involvement. SMEs also face difficulties in acquiring information on new procurements and on Prime Contractors' contracts that offer potential business opportunities for SMEs.

#### 4.1.1. Government-to-Government

Over time, a plethora of policies addressing SMEs as well as targeted actions and specific measures to support SME access to defence markets have been adopted at national level. Therefore, these guidelines are intended to facilitate an exchange of information between Member States on best practices and lessons learned on their support to SMEs.

Harmonisation of administrative requirements and of standardisation and certification policies could also deliver a significant benefit to SMEs that have an interest in operating in the defence sector across national borders.

#### Recommendations to Member States

- » To increase exchange of information on policies, actions, best practices and lessons learned on SMEs.
- » To promote industrial partnerships/cooperation in bilateral, regional or European relations, which may contribute increasing the effectiveness of co-operative military programmes.
- » To consider publication of brief information in English on their policies, actions or other measures in support of SMEs and creation of related web-based portal.
- » To contribute with relevant information to IT tools developed by EDA (Procurement Gateway, Extranet Forum, potential SME corner and e-guidance service).
- » To sustain a collaborative programme approach, which can also support SMEs to access defence markets and work together across national borders (e.g. through clusters and partnerships), promoting industrial networks and sectors of excellence, however avoiding unnecessary duplication and fragmentation.



## 4.1.2. Government-to-Industry

A good interaction between government departments and defence-related industry represent a significant element for the development of military and industrial capabilities. Defence or defence-related associations or clusters are particularly important for SMEs, which often lack the resources necessary to find information and penetrate the market.

### Recommendations to Member States

- » To regularly organise events for industry (conferences, seminars, workshops) either based on future armaments plans and R&T priorities or in relation to specific projects in order to facilitate industry's understanding of Ministry of Defence (MoD) priorities and to help the industry to anticipate the required technological innovations.
- » To publish Prior Information Notices (PIN) on a systematic basis for large contracts based on the provisions of the Defence and Security Procurement Directive (2009/81/EC).
- » To organise business-to-business events on specific major programmes and present to the industry related operational requirements and milestones in order to facilitate partnering/ clustering between the companies that may reinforce the competitiveness, structure key supply-chains and contribute to the effectiveness of co-operation within the EU.
- » To encourage National Defence Industry Associations (NDIAs) to nominate a SME lead to represent and promote their SME members.
- » To improve the relationship with NDIA's and other defence-related associations and support them in implementing the NDIA's best practice.
- » To create a dedicated office or to nominate a SME Point of Contact (SME PoC) within MoD or defence administration to inform, support and advise defence-related SMEs as well as to develop tools to improve the flow of information between governments and industry (e.g. help desks, IT tools).
- » To encourage NDIA's and other defence-related industrial associations and clusters to create innovative networks by including academia and research organisations, disseminate information to their members/partners and assist contractors to find suitable subcontractors.

## 4.2. ACCESS TO DEFENCE PROCUREMENT (GOVERNMENT-TO-INDUSTRY)

SMEs' difficulties related to the defence market result mainly from limited access to information about contract and subcontract opportunities; the complexity of procurement procedures and administrative burden; short time limits; delayed payments; required certification; and language barriers.

Fair competition and transparency in procurement procedures are essential especially for SMEs who face barriers in promoting themselves to relevant administrations of Member States, Prime Contractors and other relevant contractors in the supply chain. Hence, Member States should, over and above these Guidelines, exploit the principles and recommendations of the Small Business Act for Europe and the European Code of Best Practices facilitating access by SMEs to public procurement contracts in their defence procurement policy.

### 4.2.1. Timely Payments

Effective financial management remains one of the major challenges that SMEs are facing. With scarce financial resources any late payments can have adverse impact on cash flow management, particularly affecting SMEs in both their competitiveness and viability.

### Recommendations to Member States

- » To ensure that payments are made by the contracting authorities on time (within contractual or statutory period of time established by the Late Payments Directive, 2011/7/EU), possibly within 30 calendar days. Similarly, the authorities should encourage Prime Contractors to apply the same payment time in its sub-contracts with SMEs, as in the main contract.
- » To utilise e-procurement systems to speed-up invoicing and billing that will benefit all suppliers, including SMEs.

## 4.2.2. Subcontracting

The Defence and Security Procurement Directive, especially the subcontracting provisions, is intended to generate increased involvement of SMEs in the defence market, and to promote free movement and competitiveness in subcontracting markets, as well as the effective management of suppliers and SMEs, in order to achieve the best value for money. However, efficient use of these subcontracting provisions is not sufficient to reach the goal of an open market at the subcontractor level. Additional actions and measures are required to promote SME access to cross-border supply chains.

### Recommendations to Member States

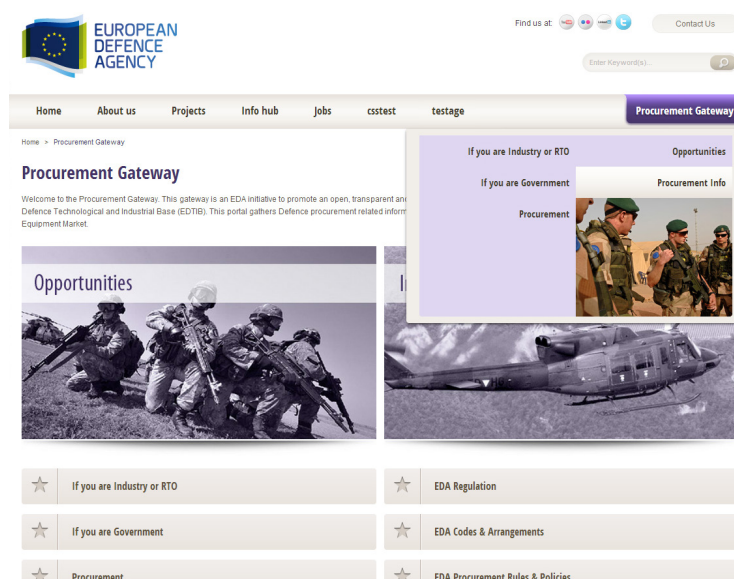
- » To share information on best practices in applying the subcontracting provisions.
- » To encourage Prime Contractors, for example through guidelines for industry, codes of good business behaviour, clauses in the call for tender, to deal with their subcontractors on not less favourable terms than those between contracting authorities and Prime Contractors.
- » To encourage Prime Contractors to develop specific subcontracting policies and processes facilitating SMEs access to their supply chains.
- » To create and use IT tools supporting cross-border market access for SMEs and contacts between SMEs and Prime Contractors and OEMs.
- » To create and publish an electronic database with information on defence-related SMEs and their main capabilities in order to promote them to Prime Contractors and large enterprises and facilitate the networking, marketing and clustering of SMEs around common competencies.
- » To include in the Prior Information Notice (PIN) reference to the potential requirements on subcontracting.
- » To require tenderers to indicate in their offers their intention to subcontract, and the procedures they intend to adopt.
- » To promote and support grouping of SMEs to form networked clusters in order to facilitate and enhance their ability to bid into programmes at all levels.

## 4.2.3. Language

SMEs typically face a language barrier because many procurement notices are published only in the national language. SMEs do not have the resources to translate all such notices, in order to check relevance for their business. Therefore any information provided in English would be of help to SMEs in identifying opportunities of interest across Europe. This would not have to be legally binding (e.g. "courtesy translation").

### Recommendations to Member States

- » To provide a short summary (non-legally binding) of all published tender opportunities in English, aimed at helping SMEs filter opportunities that may be of interest to them and so may help SMEs to enter markets in other countries.
- » To publish tender notices in English, when possible and practicable.



#### 4.2.4. Contract Documentation

During the tendering process, a company is required to provide a number of documents in order to demonstrate its technical/professional capacity or eligibility to participate in the defence procurement contracts. Even where the Defence and Security Procurement Directive clarifies the baseline, national practices tend to vary.

This creates in some cases artificial barriers for SME access to the procurement procedures launched by the contracting authorities. Therefore, Member States should simplify and optimise contract documentation by taking into consideration the SMEs' lack of resources. Making MoD's procurement processes more transparent, simpler and faster should be a priority for Member States in their support to SMEs.

##### Recommendations to Member States

- » To promote transparency and facilitate SME understanding of national procurement practices on the standard documents requested by the contracting authorities to prove the company's capacity to accomplish the criteria for qualitative selection (e.g. personal situation, professional activity, economic and financial standing, technical and professional ability).
- » To interact and dialog directly with SMEs to understand ways in which the national procurement practices may hamper SMEs or make it difficult for them to access procurement procedures.
- » To address SMEs in the procurement training and invite SMEs' representatives to present the problems they face during the acquisition process.
- » To divide tenders into smaller lots, where it is possible.
- » To use e-procurement to roll out simplified, streamlined contract templates for lower value procurements, reducing the volume of paperwork and improving consistency.
- » • To develop and adapt tender documents taking into account the difficulties some provisions could create to SMEs (e.g. special technical provisions for the procurement of R&T, liquidated damages or penalty clauses).

#### 4.2.5. Lower Value Contracts

Facilitating SME access to the European-wide defence market and increasing their awareness of possible business opportunities outside national markets are also related to the lower value contract opportunities.

##### Recommendations to Member States

- » To set the time limit for the receipt of tenders of no less than 20 days (subject to the complexity of the contract) with an exception of urgent operational requirements acquisition, for contracts below the threshold applied in the Directive No 2009/81/EC, but above €250 000.
- » To set up a simple competitive procurement procedure dedicated to SMEs for small amount contracts (e.g. below €15 000).
- » To use a common core prequalification information document (specify "reasonable" technical/professional ability requirements as selection criteria) for lower value contracts.





### 4.3. ACCESS TO SUPPLY CHAIN

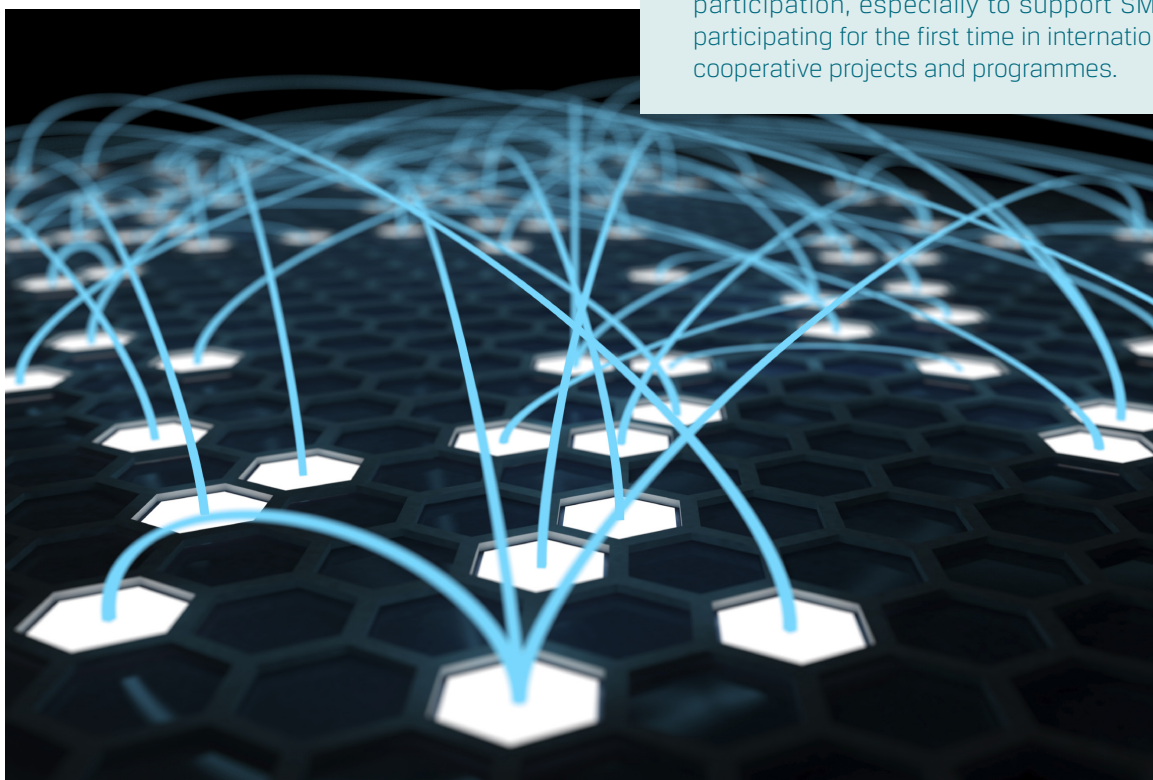
A significant proportion of defence contracts relate to procurements of large armament systems, where systems integration is often a key factor and is beyond the scope of SMEs. SMEs have a major role in the supply chains on these defence programmes mainly as subcontractors. At the same time SMEs continue to face challenges in finding their first client in defence sector and accessing defence supply chains, particularly those where the Prime Contractor is based in a different country.

Except the options on subcontracting provided by the Directive No 2009/81/EC, Member States traditionally consider it not their role to intervene in the business procedures of the Prime Contractors. Irrespective of this Member States can support SMEs access to supply chains by encouraging Prime Contractors and OEMs to regularly explore and/or benchmark potential new subcontractors and by increasing openness and transparency in their supply chains.

It is also up to Prime Contractors to carry out market survey to detect potential know-how amongst SMEs which correspond to military demands, and to facilitate the bridge between SMEs and customers.

#### Recommendations to Member States

- » To encourage Prime Contractors to increase SMEs' participation from EU Member States in the supply chain for Government contracts by advertising online subcontract opportunities and provide guidance to SMEs on their processes of subcontractor selection.
- » To conclude agreements/arrangements with Prime Contractors with the purpose of strengthening their relationship with SMEs.
- » To encourage NDIAs to create an electronic database on SMEs, take an active role in supporting SMEs and help them to find their first client in the defence sector.
- » To encourage development of clusters / networks and creation of 'clusters-of-clusters' to increase cross-border cooperation.
- » To encourage Prime Contractors to explore innovative methods in order to provide financing support to SMEs in their supply chain.
- » To design financial or non-financial incentives for Prime Contractors to open up supply chains.
- » To encourage industrial meetings between Prime Contractors and SMEs with MoD participation, especially to support SMEs participating for the first time in international cooperative projects and programmes.





#### 4.4. ACCESS TO FINANCE

A range of funding programmes has been implemented by Member States across the EU, making use of a wide range of different instruments. Many of these are available to companies that produce dual-use products. Key in determining SME participation in funded research programmes is the structure of the programme, particularly with respect to the structure of risks and rewards and the SME's bargaining position with its potential customers: Prime Contractors and their major suppliers.

Finance for SMEs in general tends to be rationed and it is for this reason that numerous programmes that support SME access to finance have been established. Such policies can occur at three different geographic levels: EU-wide, national or regional level.

It is challenging for SMEs to fully understand the range of financial support available and this is where NDIA's, defence-related associations and clusters can also help.

#### Recommendations to Member States

- » To advise SMEs about the relevant forms of funds such as grants, guarantees, loans, venture capital.
- » To facilitate SME access to information on opportunities provided by the EU funding instruments.
- » To enhance dialog with national bodies in charge of the EU funding instruments in order to support defence-related SMEs to access such instruments and programmes (e.g. European Structural and Investment Funds/ ESIF, Horizon 2020, COSME, Erasmus +).
- » To identify and introduce MoD's priorities in the national/regional programmes related to EU funding instruments and to liaise with the responsible authorities at a national or regional level.
- » To identify and point out R&T priorities and industrial capabilities in supporting labs, universities, large enterprises or system integrators as well as SMEs with the aim of developing R&T projects with the support of relevant European funding instruments.
- » To promote to Industry and particularly to SMEs the methodologies and guides provided by the EDA, European Commission and other institutions regarding the use of EU funds.

## 4.5. SUPPORT TO INNOVATION

Research and Technology (R&T) is one of the areas where SMEs can succeed in direct competition. Therefore, actions fostering government cooperation with innovative and responsive SMEs are needed to support a vibrant EDTIB.

The innovative and creative capacity of SMEs is not always fully exploited as many SMEs are not aware of the intellectual property (IP) system or the protection it can provide for their inventions, brands, and designs. Also, due to their size, SMEs have limited resources to protect, monitor and claim infringements of their IP.

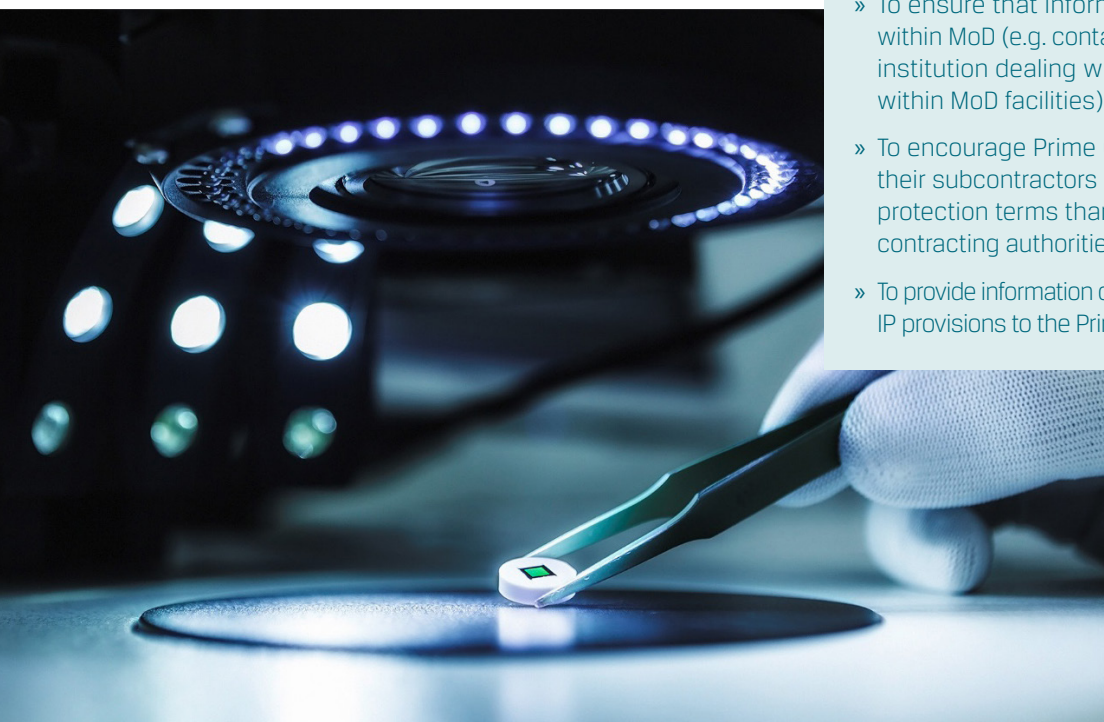
SMEs participation in innovation is also hindered by the lack of funds or resources to comply with co-funding rules and lack of knowledge on the key stakeholders within the MoD.

Collaborative programmes between government and industry provide good incentives to increase SME participation in R&T. This requires however appropriate provisions for IP and for exploitation of the technology developed.

Innovation remains however unexploited if not transformed into commercialised products or equipment. Therefore actions to foster and facilitate industrialisation and commercialisation of innovation should be set up, including partnerships between SMEs and big companies which can provide the necessary basis to bring the technology into markets.

### Recommendations to Member States

- » To distribute to the industry and SMEs particularly relevant information on future R&T priorities, new projects and cooperative opportunities.
- » To organise targeted workshops on future R&T priorities in order to foster possible proposals from SMEs;
- » To make contractual processes related to the collaborative programmes simple and reactive with the purpose of providing quick feedback from the industry.
- » To establish a dedicated body to provide an efficient support to SMEs with innovative concepts and technologies that may have defence applications.
- » To increase the specific defence budget for R&T and guarantee a minimum number of contracts on R&T to SMEs.
- » To encourage establishment of partnerships with civil research organizations to support dual-use innovations.
- » To set up measures to help to bring innovation and technologies into markets, and to encourage partnerships between SMEs and big companies in order to contribute to this objective (however considering carefully IP issues to facilitate SMEs to address also other market opportunities).
- » To ensure that information on IP is available within MoD (e.g. contact details to appropriate institution dealing with IP, booklets available within MoD facilities).
- » To encourage Prime Contractors to deal with their subcontractors on not less favourable IP protection terms than those agreed between contracting authorities and Prime Contractors.
- » To provide information on contractual process and IP provisions to the Prime Contractors and SMEs.



## 4.6. COMPETITIVENESS AND INDUSTRIAL PERFORMANCE

SMEs (or more generally sub-suppliers) will increase their chance to access Prime Contractors' supply-chains if they can offer attractive solutions in terms of competitiveness and industrial performance, in addition to their own know-how and innovation ability. It means in particular production costs, industrial organisation and management, on-time-delivery, stability of price and quality, standard and state of the art of assets and methods, etc.

### Recommendations to Member States

- » To establish regular exchanges with their Prime Contractors, and with the companies in the supply-chains, in order to increase mutual awareness of the actual situation in the supply chain, and foster appropriate necessary measures for anticipating and addressing possible degradation and to encourage Prime Contractors to provide appropriate assistance to suppliers as well as to incentivise them.
- » To accompany these industrial measures by public policies.
- » To support, when appropriate, consolidation or up-sizing between SMEs, that will contribute reinforcing their competencies, acquiring critical size and more generally improving the competitiveness and efficiency of the global supply-chain in the EU.

A specific survey should consequently be organised by Members States in coordination with Prime Contractors to contribute preserving guaranteed access to critical supplies and know how, and to anticipate any default of a critical supplier (e.g. bankruptcy, change of strategy, technical events, challenges).

### Recommendations to Member States

- » To identify critical suppliers at SME level and monitor, in coordination with Prime Contractors, any risk of default in order to anticipate and set up appropriate and necessary measures.
- » To urge Prime Contractors to set up such a survey of their critical suppliers, and to place in contracts with Prime Contractors appropriate provisions in order to address potential issues accordingly.
- » To accompany these measures by public policies in order to address and anticipate potential events at SMEs' level, which may jeopardize the Security of Supply.

## 5. EDA SUPPORT AND REPORT

## 4.7. SECURITY OF SUPPLY ASPECTS

Scale effects of military programmes often oblige to single sourcing strategies. As a consequence, re-qualifying alternative sub-suppliers may incur additional costs and delays, if the supplied product or equipment implies specific industrial capacities or skills, which must be anticipated and may not be compatible with the schedules and financial agendas. When selecting suppliers, these aspects must be considered carefully. For the same reason, it may be not obvious to open well established supply-chains to new entrants. Moreover, access of new entrants to defence supply-chains, or the maintaining of actual suppliers, is depending on the visibility, trust and confidence that there will be a guaranteed and durable access to the needed supplies.

EDA will support the implementation of these Guidelines' recommendations by the Member States.

In order to facilitate the information sharing between Member States and between Member States and EDA and to support EDA in identifying and developing further policies and actions in support of SMEs, a network of national SME PoCs has been established. SME PoCs will have regular meetings (at least once a year) and ad-hoc meetings on targeted subjects related to defence-related SMEs.

EDA will provide on a regular basis a Progress Report on the Guidelines' implementation reflecting also EDA actions in support of defence-related SMEs.