

## **FRAMEWORK ARRANGEMENT FOR SECURITY OF SUPPLY BETWEEN SUBSCRIBING MEMBER STATES**

### **INTRODUCTION**

The development and sustainment of defence capabilities in Europe rest on a robust and dynamic European Defence Technological and Industrial Base (EDTIB) underpinned by an open and globally competitive European Defence Equipment Market (EDEM).

An effective EDEM entails that Member States when placing orders with suppliers on the territory of other Member States have full assurance that these suppliers are and remain dependable and competitive sources of supply.

Focus on preserving and enhancing defence capabilities EDA Pooling & Sharing initiative encompasses, in addition to the common development of military equipment, also common procurement, shared maintenance and training, joint supply management, combined logistics, and all other aspects of military capabilities. Pooling & Sharing leads to increased mutual dependence, which has to be backed by sufficient Security of Supply, a critical prerequisite for efficient and systematic Pooling & Sharing.

### **OBJECTIVES AND SCOPE**

This legally non-binding Framework Arrangement for Security of Supply sets out a mechanism for mutual support and assistance between Member States, who on a voluntary basis choose to subscribe to it (subscribing Member States SMS), for situations when in peacetime or in crisis times, including but not limited to circumstances of operational urgency critical defence goods or services are needed urgently and are available from another Member State. It applies to the supply of such defence goods or services either from a contracted supplier or from an inventory of another SMS, with the exception of commercial goods and services commonly available in the market at the time of the request.

### **OVERARCHING PRINCIPLES**

sMS will do everything possible, consistent with their national laws and international obligations – and having particular regard to Title V/chapter 2/section 2 of the Treaty on the European Union (TEU) – to assist and expedite, when requested, each other's urgent and critical defence requirements.

The sMS will also work to increase the level of mutual confidence amongst themselves, in particular by improving the predictability of their policies. All sMS will support efforts to simplify amongst them intra-community transfers and transits of defence goods and technologies, in full compliance with the Directive 2009/43/EC simplifying terms and conditions of transfers of defence-related products within the European Union.

In furtherance of these mutual commitments and without prejudice to their national laws and international obligations sMS have agreed as follows:

### **GOODS AND SERVICES FROM AN ECONOMIC OPERATOR**

1. If one or more SMS request(s) defence goods or services from an economic operator located in the territory of another SMS due to an urgent and critical defence requirement, this or these SMS will engage in immediate consultation with the requesting SMS based on the principles of cooperation and solidarity, with the aim of ensuring that the requirement is met as expeditiously as possible.
2. In addition to taking all possible steps to expedite its administrative processes, each SMS will also, if so requested by another SMS, engage with suppliers on its territory to help ensure that an appropriate priority is given to the needs of the requesting SMS in matters of ordering, re-allocating supplies of defence goods or services or modifying existing defence goods.
3. The requesting SMS will meet any additional cost falling to the assisting SMS. This additional cost resulting from the requesting SMS' requirement shall be first estimated and submitted to the requesting SMS for approval.
4. If needed, the requesting SMS will negotiate in good faith with the respective supplier on the terms and conditions of such accelerated, re-allocated or modified supply. The supplier must not be asked to bear any loss in fulfilling such requirements.

### **GOODS AND SERVICES FROM ONE OR SEVERAL SMS**

5. If one or more SMS request(s) defence goods or services from one or several other SMS due to an urgent and critical defence requirement, this or these SMS will engage in immediate consultation with the requesting SMS based on the principles of cooperation and solidarity, with the aim of ensuring that the requirement is met as expeditiously as possible.
6. This or these SMS will consider urgently and sympathetically any request for provision of defence services or goods mainly, from its or their own stocks on a compensation basis.

### **SECURITY OF SUPPLY POINTS OF CONTACT (POCS)**

7. To support the implementation and application of this Framework Arrangement, SMS will establish national Security of Supply PoCs with the following tasks:
  - a) Exercise oversight of this Framework Arrangement and act as the focal point for all consultation related to it.
  - b) Promote this Framework Arrangement and its provisions in their respective Member States.

- c) When requested facilitate that SMS:
- (i) Engage in immediate consultation with all SMS involved/affected based on the principles of cooperation and solidarity;
  - (ii) Engage with suppliers on their respective territory to facilitate as appropriate negotiation with the requesting SMS in matters of ordering, re-allocation of supplies or modification of existing defence goods;
  - (iii) Consider urgently and sympathetically any request for provision of defence goods from government-owned stocks;
  - (iv) Consider urgently and sympathetically any request for provision of defence services from government sources;
  - (v) Meet as needed to discuss Security of Supply issues related to the implementation of the Framework Arrangement.

### **IMPLEMENTATION OF THE FRAMEWORK ARRANGEMENT**

8. Neither this Framework Arrangement nor the commitments contained therein are designed to rectify inadequate contracting or provisioning and should not be used to substitute the normal contracting process.
9. Taking into account the provisions of the Defence and Security Procurement Directive 2009/81/EC on Security of Supply this Framework Arrangement is providing a mechanism for mutual assistance and support between SMS. This Framework Arrangement shall be applied in full compliance with the provisions of Directives 2009/81/EC and 2009/43/EC.
10. With the support of EDA all or some SMS may conclude codes of conduct or other implementing arrangements to further define and implement the principles of this Framework Arrangement. For those SMS not participating to such arrangements such details will have to be developed and agreed upon on a case-by-case basis between all stakeholders.
11. EDA will act as a facilitator to support the national implementation and application of this Framework Arrangement. To enable this and ensure a coherent implementation of the Framework Arrangement, SMS, subject to each SMS' policy for Security of Information, will inform the EDA on a yearly basis on how they have applied this Framework Arrangement.