



## EUROPEAN DEFENCE AGENCY

Brussels, 6 December 2005

### PRESS RELEASE

## **EDA WELCOMES EUROPEAN COMMISSION MOVE ON DEFENCE PROCUREMENT RULES (BRUSSELS, 6 DECEMBER 2005)**

The European Defence Agency today welcomed the European Commission's announcement on improving EU rules for the procurement of defence equipment.

[The Commission today outlined its proposals](#) for future initiatives in the sector, including plans for an Interpretative Communication on the scope of Article 296 of the Treaty Establishing the European Community, which restricts cross-border competition by allowing Member States to claim an exemption on national security grounds from normal EU public procurement rules.

The Commission also said it would propose a specific Directive covering defence procurement where Article 296 does not apply.

"Today's announcement by the Commission is a welcome complement to the Code of Conduct," said EDA Chief Executive Nick Witney. "Both the Agency and the Commission are concerned to see more competition in defence procurement to give better value for money and strengthen the competitiveness of the European defence industry."

EU Defence Ministers, meeting as the Steering Board of the EDA, agreed in November to introduce a voluntary Code of Conduct next year which would for the first time introduce competition into defence procurement contracts for which Member States claim exemption under Article 296. The Code of Conduct is an EDA initiative and will be implemented and monitored by the Agency.

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“The Commission is focusing on injecting more competition in areas of defence procurement not covered by Article 296 and on defining the application of the derogation. But where exemptions are invoked, which is the case today for more than 50% of the defence equipment purchases by EU governments, the EDA Code of Conduct will help to ensure that there is transparent and fair competition,” he added.

The EDA believes that an Interpretative Communication might help clarify in what circumstances the Commission would consider Article 296 to be legitimately invoked, and thereby assist MS in their judgements in this regard, without prejudice to their prerogatives under the Treaty, in particular in relation to the protection of the essential interests of their security.

A Directive, as a legal instrument, requires thorough knowledge about the nature of the market, including the segment where article 296 applies. The historic lack of transparency in this sector means that this knowledge is currently limited, so a Directive should be seen as a longer term solution to establish a level playing field for fair competition in areas where Article 296 does not apply.

The EDA has been working closely with the Commission and stands ready to continue working in partnership on common efforts to support the creation of an internationally competitive EDEM, including the strengthening of the European Defence Technological and Industrial Base.

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## - Background information -

The European Defence Agency (EDA) was established by the Council on 12 July 2004. It is designed "to support the Council and the Member States in their effort to improve European defence capabilities in the field of crisis management and to sustain the ESDP as it stands now and develops in the future". More specifically, the Agency is ascribed four functions, relating to:

- a) defence capabilities development;
- b) armaments cooperation;
- c) the European defence technological and industrial base and defence equipment market;
- d) research and technology.

These functions all relate to improving Europe's defence performance, by promoting coherence in place of fragmentation.

The Agency's tasks are:

- to work for a more comprehensive and systematic approach to defining and meeting the capability needs of ESDP ( supporting, for example, the "Headline Goal 2010" initiative);
- to promote equipment collaborations, both to contribute to defence capabilities and as catalysts for further restructuring of the European defence industry;
- to promote European defence-relevant R&T, as vital both to a healthy defence technological and industrial base and to defining and satisfying future capability requirements. This will involve pursuing collaborative use of national defence R&T funds, in the context of a European policy which identifies priorities.

The EDA is an Agency of the European Union. All EU Member States, except Denmark, participate. High Representative Javier Solana is Head of the Agency and chairman of the Steering Board, which acts under the Council's authority and within the framework of guidelines issued by the Council.