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**CONTRIBUTION**

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From:	UK Delegation
To:	Friends of the Presidency Group on the European Defence Fund (EDF)
N° prev. doc.:	WK 11775 2018 INIT
Subject:	UK comments on the 1st Presidency Compromise Proposal

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Delegations will find attached the comments by the UK on the 1st Presidency Compromise Proposal.

## UK Proposed Changes to EDF Compromise Text issued on 5<sup>th</sup> of October

### UK reserves the right to issue further amendments

#### Article 3

Objectives of the Fund

##### 3.1

The general objective of the Fund is to foster the competitiveness, efficiency and innovation capacity of the European defence industry, by supporting collaborative actions and cross-border cooperation between legal entities throughout the Union, including in particular SMEs and mid-caps, as well as fostering its **competitiveness in the global market and** the better exploitation of the industrial potential of innovation, research and technological development, at each stage of the industrial life cycle, thus contributing to the Union strategic autonomy. The Fund should also contribute to the freedom of action of the Union **and the ability to work with partners.**

##### Why:

Important to highlight that a focus for industrial and research policies is to ensure the industry is better able to compete in the global defence market; and that the European defence market is part of a wider global defence market.

“Ability to work with partners” is language taken from the December 2013 Council Conclusions, highlighting Defence fits into broader international alliances.

##### 3.2 b

(b) support collaborative development projects of defence products and technologies consistent with defence capability and technology priorities commonly agreed by Member States within the framework of the Common Foreign and Security Policy, **thereby contributing to a more competitive European defence market capable of attracting investment and knowledge**; and particularly in the context of the Capability Development Plan, thus contributing to greater efficiency of defence spending within the Union, achieving greater economies of scale, reducing the risk of unnecessary duplication and as such reducing the fragmentation of defence products and technologies throughout the Union. Ultimately, the Fund will lead to greater interoperability between Member States' capabilities.

##### Why:

Important that the focus is also on maintaining an open European defence market that attracts new investment, rather than risk closing itself off from the wider global economy.

#### Article 10

Eligible Entities

##### 10.9

For the purpose of this Article, subcontractors involved in an action supported by the fund refers to subcontractors with a direct contractual relationship to an applicant, other subcontractors to which at least 10% of the total eligible costs of the action is allocated, and subcontractors which may require access to EU classified information **in accordance with Article 3 of Council Decision 015/44** in order to carry out the action, and which are not members of the consortium.

##### Why:

With EU funds, the controls should be on EU classified information only. Capturing all classified information would significantly extend competence and add additional administrative burden. This has moved on since EDIDP in that classified information is now properly defined and controlled in Article 30.

##### 10.10

**In addition to the above, European interest organisations shall be eligible for funding. Such organisations are defined as an international organisation, the majority of whose members are Member States or Associate Members, and whose principal objective is to promote scientific and technological cooperation in Europe.**

Why: While the NATO Centre for Maritime Research and Experimentation was eligible for funding in the PADR in accordance with this eligibility definition, and is participating in OCEAN 2020, however it might not be captured by the general EDF Article 10 eligibility criteria. This conflicts with the EDF recital 3, making the most of research excellence in Europe and NATO-EU cooperation.

### **Article 13**

Award Criteria

c) contribution to the competitiveness of the European defence industry, **through showing that the proposed action is a demonstrably positive balance of cost, efficiency and effectiveness** in particular by creating new market opportunities and interdependencies and accelerating the growth of companies throughout the Union;

Why:

In assessing an action important that due weight is given to the potential costs of the action vis a vis its eventual benefit, measured in effectiveness and efficiency.

**gg) Contribution to interoperability in that capabilities developed with financial assistance from the Fund are consistent with existing technical specifications and international civil and defence standards, including NATO where applicable;**

Why:

Interoperability mentioned in objectives but not in criteria, also important to take account of wider defence standards, especially NATO.

### **Article 22**

**22.2 If Union support is provided in the form of public procurement, Member States and associated countries shall enjoy access rights to the results, free of charge, upon their explicit written request**

Why:

To align with proposed text in 25.4 and because this is not standard practice in defence and would therefore be unattractive to industry.

### **Article 25**

Ownership of all other results of development activities

25.2

The results of actions receiving support from supported by the Fund shall not be subject to any control or restriction by non-associated third countries or by non-associated third country entities, directly, or indirectly through one or more intermediate legal entities, including in terms of technology transfer.

**25.2.a By exception from 25.2, controls or restrictions may be permitted provided that they are necessary for achieving the objectives of an action and are in the security and defence interests of the Union and the Member States. In all cases where the use of such non-associated third country technology is proposed, a legally binding Intellectual Property agreement will be established by the applicants and the third country entity and submitted alongside the consortium's call response.**

25.2b. This Regulation shall not affect the discretion of Member States as regards policy on the export of defence-related products.

Why: An entity based in a third country may be eligible to participate in an action in accordance with Article 10, & therefore on the basis it provides its own funding. However despite part funding, Article 25.2 implies that

such an entity can have no property rights in the results. This will inevitably deter third country industry from cooperating and undermine the intent behind Article 10.

Rather than be so strict and potentially undermine both EU/Member States interests, increasing cost, curtailing competitiveness and the overall capability value of the Fund, a more nuanced judgement is recommended taking into account broader defence and security interests and delivering the objectives of the Action.

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