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#### **WORKING DOCUMENT**

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From:	Presidency
To:	Ad hoc working party on defence industry
Subject:	European defence industry reinforcement through common procurement act (EDIRPA) - Second Presidency compromise proposal - Comments by Greece

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Delegations will find enclosed the Greek comments on the second Presidency compromise proposal on EDIRPA.

**EL Delegation proposals after the second reading of the Chair's compromise proposal and in 'Options Article 8' document**

**Recital (17)**

[REDACTED]

[REDACTED]

**Recital (18)**

[REDACTED]

[REDACTED]

**Article 2**

In general, Greek delegation reaffirms the support of all the definitions to be consistently written with the agreed language in EDF and other official documents of EU. The same language should be adopted for the same term, regardless the scope of the document. On top of that, EDF provisions are proved adequate enough, either for EU security interests or for competition purposes.

**Article 2.5**

(5) 'procurement agent' means a contracting authority established in a Member or an associated country , including international organisations or Union agencies **which serve the union security and defence interests and do not exclude any member states from the procurement** , designated by Member States to conduct a common procurement on their behalf.

Argumentation :

Inclusivity of a potent non NATO member in a potential procurement assigned to NSPA or a non OCCAR member to procurement assigned to OCCAR etc.

**Article 2.6**

'defence products' means.....works and **services** necessary...

**Article 3.2**

[REDACTED]

[REDACTED]

**Article 8**

Greek delegation supports the compromise proposal consistent to EDF and applicated on the EDIRPA Regulation. The following amendments are derived from rev2 , from the meeting on Tuesday and the respective "Options Article 8 " document of the chair.

**Article 8.1.2.3.4**

We support the language in the 'Options Article 8' and on top of that, **we strongly support the 8.4 to be included in the art 8.**

**Article 8.5 (based on ' Options Article 8')**

[REDACTED]

[REDACTED]

**Article 8.6**

The guarantees as referred to in paragraph 5 **will be monitored** and shall be based .....

**Article 8.7**

The procurement agent shall provide ....shall be made available to the Commission **upon request.**

Argumentation :

The guarantees availability to the Commission and to the member states should be the rule , due to security interests and economic transparency on the EU budget spendings.

### **Article 8.9**

Common procurement .....to use it and **transfer it**.

### **Article 8.9 bis : disregard the proposed 8.9 bis on 'Options Article 8'**

Argumentation :

M-s reserve the right to procure without exploiting EDIRPA funding

### **Article 8.10 b**

Other subcontractors to which at least 10% of the value of the contract is allocated .  
**A capp of 30% for the total subcontracting is prerequisite.**

### **Article 8.11 : disregard the proposed 8.11 on 'Options Article 8'**

Argumentation :

M-s reserve the right to procure without exploiting EDIRPA funding

### **Article 10.2**

**Upon request**, the commission shall share its evaluation as well as the underlying information submitted by the applicants with the committee referred to in Article 14 **and the member states**.

Argumentation :

The guarantees availability to the Commission and to the member states should be the rule , due to security interests and economic transparency on the EU budget spendings.

### **Article 12.a**

**We strongly suport that should stay as it is in the first rev, exactly as it was in its totality:**

#### Article 12a

#### Application of the rules on classified information

Within the scope of this Regulation:

(a) each Member State shall ensure that it offers a degree of protection of EU classified information equivalent to that provided by the security rules of the Council set out in Council Decision 2013/488/EU;

(b) the Commission shall protect classified information in accordance with the security rules set out in Decision (EU, Euratom) 2015/444;

(c) natural persons who are resident in and legal persons that are established in a third country may handle EU classified information regarding the Instrument only where they are subject, in those countries, to security regulations ensuring a degree of protection at least equivalent to that provided by the security rules of the Commission and of the Council, as set out in Decision (EU, Euratom) 2015/444 and Decision 2013/488/EU, respectively;

(d) the equivalence of the security regulations applied in a third country or by an international organisation shall be laid down in a security of information agreement, including industrial security matters if relevant, concluded or to be concluded between the Union and that third country or international organisation in accordance with the procedure provided for in Article 218 TFEU and taking into account Article 13 of Decision 2013/488/EU; and

(e) without prejudice to Article 13 of Decision 2013/488/EU and to the rules governing the field of industrial security set out in Decision (EU, Euratom) 2015/444, a natural or legal person, third country or international organisation may be given access to EU classified information where considered to be necessary on a case-by-case basis, according to the nature and content of such information, the recipient's need to know and the degree of advantage to the Union.

1. Member States shall determine among themselves the arrangements applicable to the protection of classified information for the purposes of the common procurement, in accordance with national laws and regulations.

2. The Commission shall protect EU classified information received in relation to the Instrument in accordance with the security rules set out in Decision (EU, Euratom) 2015/444.

3. The Commission shall set up a secured exchange system in order to facilitate the exchange of sensitive information and classified information, respectively between the Commission and the Member States and associated countries and, where appropriate, with the applicants and the recipients. That system shall take into account the Member States' national security regulations.