

ADMINISTRATIVE ARRANGEMENT

BETWEEN

THE EUROPEAN DEFENCE AGENCY

AND

THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA

The European Defence Agency ("EDA" or "the Agency"),

and

The Department of Defense of the United States of America ("U.S. DoD"),

Hereinafter referred to jointly as the "Participants" and individually as a "Participant",

RECALLING the initial request dated 08 November 2016, from the U.S. DoD to the Head of the Agency to initiate discussions for the conclusion of an Administrative Arrangement, as well as the commitment to work towards an Administrative Arrangement confirmed by the leaders of the European Union ("EU") and the United States ("U.S.") in the 2021 EU-US Summit statement "*Towards a renewed Transatlantic partnership*";

HAVING REGARD to Articles 42(3) and 45 of the Treaty on European Union, establishing the Agency and setting out its tasks, and Article 26 of Council Decision (CFSP) 2015/1835 of 12 October 2015, defining the statute, seat, and operational rules of the Agency ("EDA Council Decision");

RECOGNISING the importance of the transatlantic partnership between the European Union and the United States to which an Administrative Arrangement between EDA and the U.S. DoD is expected to contribute, thereby strengthening the EU-U.S. dialogue, increasing mutual transparency and laying the groundwork for mutually beneficial cooperation in view of concrete gains, such as enhanced interoperability between armed forces of EU Member States and of the United States;

ACKNOWLEDGING the importance of a stronger and more capable European defence that contributes to global and Transatlantic security and is complementary to NATO, and recalling the shared desire to

deepen the U.S.-EU security and defence relationship and to foster a closer, balanced and mutually beneficial partnership between the U.S. DoD and EDA, including U.S. involvement in EU defence initiatives within EDA's mission to support practical defence cooperation and best leverage defence resources;

RECALLING also the EDA principles for cooperation with third parties, as agreed by the Steering Board on 16 November 2021, in particular, that enhanced defence cooperation through the Administrative Arrangement should bring added value and mutual benefit, on a balanced and reciprocal basis; protect primarily the defence interests of all participating Member States ("pMS"); make the European defence industry more sustainable, innovative and competitive; avoid any dependencies considered unacceptable or restrictions imposed on any EDA pMS or EDA; and on the basis of shared values, contribute to the fulfilment of the security and defence interests of the Union and its Member States;

NOTING that the EDA principles for cooperation with third parties identify four main areas of cooperation, namely (i) synergies and enablers; (ii) EU wider policies relevant to defence; (iii) capability development; and (iv) research and technology;

NOTING that, in addition to the dedicated dialogue on all topics within EDA's mission, information exchange and collaborative activities under this Arrangement focus initially on the first two areas mentioned above, and that collaboration may, upon mutual consent, progressively develop into further areas in the future;

NOTING that an Administrative Arrangement provides the framework for cooperation with the Agency, as the prerequisite to participate in EDA activities subject to pMS' approval and on a case-by-case basis, given that there is no observer status in EDA;

RECALLING the principles for defence cooperation with partners in the Permanent Structured Cooperation (PESCO) set out in Article 3 of Council Decision (CFSP) 2020/1639 of 05 November 2020 establishing the general conditions under which third States could exceptionally be invited to participate in individual PESCO projects, and that having an Administrative Arrangement which has taken effect with EDA is one of the conditions set out for PESCO projects implemented with the support of EDA; and

HAVING REGARD to the EDA Steering Board decision dated 16 November 2021 mandating EDA to negotiate an Administrative Arrangement with the U.S. DoD;

HAVE REACHED THE FOLLOWING UNDERSTANDING:

1. Definitions

For the purposes of this Arrangement:

- (a) "Steering Board" means the Agency's decision-making body, composed of representatives of pMS, as established under Article 8 of the EDA Council Decision, with the tasks and powers set out under Article 9 of the EDA Council Decision;
- (b) "participating Member State (pMS)" means a Member State which participates in the Agency;
- (c) "regulated content" means any item controlled by U.S. or pMS export control regulations (e.g., military technology and equipment; defence articles, defence services, and related technical data; and commodities, software, and technology).

2. Principle of the relationship

- 2.1. The purpose of this Arrangement is to provide a framework for the Participants to exchange information and explore collaborative activities falling within the scope of EDA's mission, with a view to obtaining mutually beneficial output and results.
- 2.2. In accordance with the EDA principles for cooperation with third parties, collaboration within the scope of this Arrangement in the areas set out in section 3 is intended to develop progressively and remain subject to the mutual decision of the Participants in accordance with their respective decision-making procedures.
- 2.3. To that end, the Participants intend to exchange views and information on matters of common interest in order to facilitate the identification of potential topics of mutual interest and to maximise reciprocal opportunities for cooperation.
- 2.4. Activities within the initial scope of cooperation as defined in section 3 of this Arrangement may only involve representatives of pMS, EDA, and the U.S. DoD, and other agencies and organisations of the U.S. government, as appropriate, excluding in principle representatives from industry, unless mutually decided by the Participants in accordance with their respective decision-making procedures.
- 2.5. EDA's participation under this Arrangement is conducted in full respect of the single institutional framework of the EU, as well as the decision-making autonomy of the Union.

3. Areas of cooperation

3.1. Pursuant to paragraph 2.2., the initial step in the progressive development of the cooperation is the establishment of a dedicated dialogue between the Participants, which is intended to allow for discussions of a general nature between EDA and its pMS, and the U.S. DoD, on all topics within EDA's mission. It may include the following:

- (a) bilateral consultations between EDA and U.S. DoD representatives, at the appropriate level;
- (b) invitations for U.S. DoD to attend relevant meetings of the EDA Steering Board, in accordance with EDA Council Decision article 8(7), or dedicated meetings with pMS, in accordance with EDA Council Decision article 26(6); and
- (c) invitations for EDA to attend meetings convened by the U.S. DoD.

3.2. In addition, the initial scope of collaboration covers the following areas:

- (a) Synergies and enablers; and
- (b) Wider EU policies relevant to defence.

3.3. Within the areas identified in paragraph 3.2., Participants jointly decide to initially cooperate in the following specific activities:

- (a) participation in the European Defence Standardisation Committee open session;
- (b) consultations on the impact on defence of Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH);
- (c) consultations on supply chain issues;
- (d) consultations on Military Mobility;
- (e) consultations on the impact of Climate Change on Defence; and
- (f) other opportunities for collaboration as mutually decided by the Participants in accordance with their respective decision-making procedures.

3.4. Activities falling under the areas capability development, as well as research and technology, remain outside the scope of cooperation under this Arrangement.

3.5. The Participants do not intend for the initial scope of activities and information exchange set out in section 3 to entail the exchange of regulated content, and recognise the importance of ensuring that the dedicated dialogue and activities remain free of any unintended release of

regulated content. Accordingly, the Participants intend to ensure that information shared, whether in writing or orally by representatives of the Participants and of pMS, is appropriately cleared in accordance with national laws, regulations, and procedures.

3.6. In the event of unauthorised release of regulated content, the Participants intend to consult immediately and look for an amicable way to address the matter with their competent authorities, including those of pMS, where appropriate, consistent with applicable laws and regulations.

4. Modalities for consultation

4.1. The Participants intend to consult each other promptly in response to a request for consultation regarding any matter related to this Arrangement and to attempt to conclude consultations expeditiously with a view to reaching mutually satisfactory conclusions. Any request for consultations should include the reasons therefor and should state whether procedural time-limits or other considerations require the consultations to be expedited. These consultations are to take place at the appropriate level.

4.2. To facilitate consultations, the Participants intend to appoint points of contact ("PoCs") at the working level.

4.3. The Participants intend to ensure that PoCs exchanges occur on a regular basis, in order:

(a) to give to the U.S. DoD maximum advance notice, visibility, and details on which to base its decisions on possible activities of interest within the scope defined in section 3, and

(b) to provide EDA with information about the potential contribution of U.S. DoD to these activities, enabling it to provide such information to the Steering Board.

5. Special provisions

5.1. It is not the intent of the Participants that this Arrangement be considered legally binding under international law.

5.2. This Arrangement does not create any authority to perform any work, award any contract, transfer funds, or otherwise obligate in any way any of the Participants to make or provide any financial or non-financial contribution to any other Participant for any purpose. The Participants understand they are expected to cover their own costs for any activities stemming out of this Arrangement.

5.3. Where relevant, any collaborative projects identified by the Participants are to be carried out under separate agreements or arrangements entered into by the Participants. In those cases, the

Participants intend to make every effort to prepare the necessary documentation and secure the required approvals as expeditiously as possible.

6. Exchange of information and security matters

- 6.1. The Participants may exchange information pertaining to the cooperation as set out in sections 2 and 3. The Participants intend to ensure that any information provided in accordance with this Arrangement is used only for the purpose for which it has been provided.
- 6.2. Classified information exchanged pursuant to this Arrangement should be handled in accordance with the provisions of the Agreement Between the European Union and the Government of the United States of America on the Security of Classified Information signed in Washington on 30 April 2007 (the GSA).
- 6.3. Implementing provisions for the secure handling of classified information in accordance with the GSA are specified in Annex A (Implementing Provisions on Handling and Protection of Classified Information), which forms an integral part of this Arrangement.

7. Issue resolution

- 7.1. Any issue relating to the interpretation or execution of this Arrangement should be resolved only by consultation among the Participants, and should not be referred to a national court, an international tribunal, or to any other person or entity for its settlement.

8. Final Provisions

- 8.1. This Arrangement, including its Annex, enters into effect on the date of the last signature by the Participants.
- 8.2. This Arrangement may be modified upon mutual written consent of the Participants in accordance with their respective decision-making procedures.
- 8.3. This Arrangement may be discontinued by mutual written decision. The Participants intend to provide three (3) months written notice to the other Participant in the event of unilateral discontinuation. Upon such notice, the Participants intend to consult immediately to discuss the appropriate course of action to conclude any outstanding activities.

Signed in Brussels on 26 April 2023 in duplicate, in the English language only.

For the European Defence Agency



Jiří ŠEDIVÝ
Chief Executive

For the Department of Defense of the United States of America



Dr. William A. LAPLANTE
Under Secretary of Defense for Acquisition and Sustainment

ANNEX A

IMPLEMENTING PROVISIONS ON HANDLING AND PROTECTION OF CLASSIFIED INFORMATION

POINTS OF CONTACT

1. The points of contact of the competent security authorities responsible for the implementation of this Annex are:

For the European Defence Agency (EDA)

Security and Infrastructure Unit

Corporate Services Directorate (CSD/SECINFRA)

Rue des Drapiers, 17-23

B- 1050 - Brussels

For the United States Department of Defense (US DoD)

Defense Technology Security Administration (DTSA)

4800 Mark Center Drive

Suite 07F09-02

Alexandria, Virginia 22350

2. The points of contact designated by the Participants in this section are responsible for identifying and implementing the necessary procedures for the exchange of classified information under this Arrangement, in accordance with the GSA and applicable laws and regulations.
3. The points of contact intend to maintain constant liaison to oversee the release and exchange of classified information under this Arrangement. The points of contact intend to meet to discuss and review matters of common interest and assess the implementation of this Annex.

CLASSIFICATION SYSTEM

4. Classification markings as set out in Article 3 of the GSA, should be used to indicate the sensitivity of the classified information, and the security procedures and regulations which apply for its protection, as set out in Article 4 of the GSA.
5. Within the U.S. DoD, information classified RESTREINT UE/EU RESTRICTED should be handled on a "need-to-know basis" and should be afforded a level of protection at least equivalent to that foreseen in the Council security rules (Council Decision 2013/488/EU of 23 September 2013 on the

security rules for protecting EU classified information). With reference to Article 3.3. of the GSA, classified information originated by one of the Participants and provided to the other should include an explicit releasability marking, such as:

	EDA EXAMPLE	US DoD EXAMPLE
CLASSIFICATION MARKING	<i>SECRET UE/EU SECRET</i>	<i>SECRET</i>
RELEASABILITY MARKING	<i>RELEASABLE TO U.S.</i>	<i>RELEASABLE TO EDA</i>

6. For the purpose of this Arrangement and unless otherwise mutually decided in writing, releasable to EDA means to EDA staff as well as EDA pMS.
7. In accordance with Article 9 of the GSA, classified information should be transmitted between the Participants through mutually decided channels.

REGISTRIES

8. The Participants intend to establish a registry system for the receipt, dispatch, control, and storage of classified information, in accordance with the GSA.
9. Registries are responsible for, inter alia:
 - (a) Registratiqn and storage of classified information;
 - (b) Distribution and control of classified information; and
 - (c) Downgrading, declassification, and/or destruction of classified information (including the maintenance of destruction certificates), subject to the written consent of the originator.
10. The points of contact designated by the Participants in this Annex are responsible for the implementation and oversight of their respective classified registries and intend to inform their counterparts of the establishment and disestablishment of registries containing classified information.

VISITS

11. The Participants intend to facilitate reciprocal visits in accordance with Article 11 of the GSA to ensure that information released by the Participants is properly protected. Such visits should be conducted in accordance with mutually decided processes.