

QUESTIONS AND ANSWERS ON
EDA FRAMEWORK ARRANGEMENT FOR SECURITY OF SUPPLY

- **Question** : What are the main objectives of the EDA Framework Arrangement for Security of Supply (FA)?
- **Answer** : The FA aims to improve Security of Supply among Member States (MS) in order to support cross-border contracting and cooperation between MS. It sets out the key principle that Member States will do everything possible to assist and expedite each other's urgent requirements. In parallel, it greatly enhances mutual support and assistance on Security of Supply, as well as increases the level of mutual confidence amongst Member States;

- **Question** : Is the FA legally-binding for Member States?
- **Answer** : No. The FA is a legally non-binding instrument. Member States and countries having an administrative arrangement with the EDA can subscribe to the FA on a voluntary basis (subscribing Member States (SMS)). The subscription period was concluded on 30 March 2014.

- **Question** : Which Member States and countries having an administrative arrangement with the EDA, have subscribed to the FA?
- **Answer** : All 27 EDA participating Member States (pMS) as well as Norway have subscribed to the FA and currently participate in its implementation.

- **Question** : The FA, adopted by the November 2013 EDA Steering Board was the result of an update to the 2006 "Framework Arrangement for SoS between subscribing Member States (SMS) in Circumstances of Operational Urgency". Why such an update was necessary?
- **Answer** : The 2006 "Framework Arrangement for Security of Supply between subscribing Member States (SMS) in Circumstances of Operational Urgency" (FA) was connected to the voluntary Intergovernmental Regime to encourage competition in the European Defence Equipment Market (EDEM) and thus it was limited only to Member States procurements under Article 346 TFEU. In addition, the scope of the earlier FA was limited to circumstances of operational urgency in times of emergency, crisis or armed conflict. The coming into force of the Defence and Security Procurement Directive 2009/81/EC

significantly narrowed the scope of the earlier FA. Moreover, at present there are increased SoS requirements, stemming from the need for more cooperation between the pMS, due to limited resources. The Agency's Pooling & Sharing initiative encompasses a wide spectrum of capability development activities requiring increased mutual dependence between Member States and therefore, in order to succeed and provide efficient results, Pooling & Sharing has to be backed by sufficient supranational SoS. Based on the above mentioned the update of the 2006 FA was deemed necessary.

- **Question** : What is the relation between the updated FA and the current European legal framework on defence procurement?
- **Answer** : The updated FA is fully adapted to the new legal framework of the Defence and Security Procurement Directive 2009/81/EC and the Intra-Community Transfer Directive 2009/43/EC.

- **Question** : What is the FA scope and applicability in different types of defence procurements?
- **Answer** : The updated FA has a much wider scope than its predecessor, covering all acquisitions of defence goods and services (not commercial items) and it is not any more limited to acquisitions conducted under Article 346 TFEU. In addition, it has broader applicability as it covers peacetime and times of crisis as well and it is not any more limited to circumstances of operational urgency in times of emergency, crisis or armed conflict. It is applicable also to Security of Supply requirements arising within cooperative projects conducted either directly among sMS, or under the EDA framework e.g. Pooling & Sharing initiative. Finally, it's scope covers sMS acquisitions for goods and services from an inventory of another sMS and from a contracted supplier residing in another sMS territory.

- **Question** : How can a voluntary legally non-binding FA improve SoS in Europe and between sMS? Why would an FA sMS actually use the provisions of the FA in practice?
- **Answer** : Member States often face urgent and critical defence requirements, affecting their operational availability and regular day-to-day business. In some cases, in order to alleviate such situations in a prompt manner, the Member States need to turn for support to other Member States (which for example might have the assets required available in its inventory) or to industry (located in other Member States) to prioritise/expedite the delivery times of, or request additional, assets/services under a pre-existing contract. The FA provides a practical instrument and an established mechanism for any sMS in need

(requesting SMS) to request assistance from other SMS (assisting SMS) and at the same time, for the receiving SMS to assist the requesting SMS, under the principles of solidarity and cooperation.

In the specific cases that industry is involved in addressing SMS prioritisation/additional, the FA provisions contain a mechanism for the SMS on which the industry/contractor is located on, to provide support to the (requesting) SMS towards local industry.

- **Question** : Is any involvement by industry envisaged in the implementation of the FA by SMS?
- **Answer** : The FA among others foresees that SMS may conclude Codes of Conduct or other implementing arrangements to further define and implement the FA principles. The 15 May 2014 EDA Steering Board adopted a voluntary Code of Conduct on Prioritisation, associated to the FA, as a means to involve industry in the EDA Security of Supply framework. The CoC provides an instrument for the industry itself to accept a set of principles to further ensure SMS Security of Supply when handling such prioritisation/additional requests. The subscription period was concluded on 30 October 2014. All 27 EDA participating Member States (pMS) as well as Norway have subscribed to the CoC and currently participate in its implementation. For more information refer to related Q&A on Code of Conduct on Prioritisation.
- **Question** : Can industry itself use this FA?
Answer : No. The FA is a mechanism to facilitate support between SMS only. Industry's involvement in the implementation of the FA by SMS is addressed in the related Q&A above.
- **Question** : How is national FA implementation organised?
- **Answer** : It is up to the SMS to decide on the procedures that will be followed for national FA implementation, based among others on their internal regulations and organisational structure. However, to support the implementation and application of the FA, each FA SMS was requested by EDA to nominate national FA Point(s) of Contact (PoC(s)) to act as national focal points. The appropriate nomination of such national SoS FA PoC(s) will ensure the coherent national oversight, as well as the successful implementation of the FA provisions.

- **Question** : What should SMS do when need arises to utilise the FA in practice?
- **Answer** : When need to utilise the FA in practice arises, the requesting SMS are encouraged to take the following actions :
 - Draft a list of urgent requirements that need to be covered;
 - Forward the list to other FA subscribing Member State(s), especially the ones that have common systems in their inventory, with a request for support under the FA, utilizing whenever possible the established network of nominated SMS FA PoCs.
 - The Member State(s) receiving the request for support, should review and respond to the requesting SMS on the basis of the FA, e.g. identifying parts that are in its(their) inventory and could be provided to the requesting SMS from stock.
 - The requesting and assisting SMS will then need to proceed to agree bilaterally the exact terms and conditions for the provision of support.

- **Question** : What is EDA's role after the adoption of the FA?
- **Answer** : EDA is acting as a facilitator to support SMS in national implementation and application of the FA. If requested, EDA can act as an interlocutor to facilitate better communication between Member States involved, including the use of the established network of FA SMS PoCs, as well as to clarify procedural aspects in relation to the FA implementation. In parallel, upon receiving a copy of an SMS request to other SMS for support under the FA, the Agency can initiate concurrently additional support actions, e.g. further identification of Member States with common requirements/systems, as potential candidates for providing the required support.

- **Question** : How will the EDA monitor the national FA implementation?
- **Answer** : The EDA is supporting the monitoring of national FA implementation, by among others developing dedicated template(s) to facilitate the regular gathering of national FA implementation from SMS (in an annual basis). In parallel, the EDA has previously established a network of working level participating Member States and Norway SoS experts, forming the EDA SoS Experts Working Group, which convene in regular meetings, together with the nominated FA PoCs , to discuss all issues pertaining to national implementation of the FA and monitoring procedures, in view of identifying the state of play and possible improvements for the future.