RESPONSE TO THE EUROPEAN COMMISSION’S REPORT “A NEW DEAL FOR EUROPEAN DEFENCE” (COM (2014) 387)

(Implementation Roadmap for Communication (2013) 542, “Towards a more competitive and efficient defence and security sector”)

About ASD
ASD represents the Aeronautics, Space, Security and Defence industries in Europe. Based in Brussels, the organisation’s membership today comprises 15 major European aerospace and defence companies and 27 member associations in 20 countries (Austria, Belgium, Bulgaria, the Czech Republic, Denmark, Finland, France, Germany, Greece, Ireland, Italy, the Netherlands, Norway, Poland, Portugal, Spain, Sweden, Switzerland, Turkey and the UK). These industries reach a turnover of 197.3 billion euros, invest 20 billion euros in R&D, employ 778,000 people and count over 3000 companies, 80,000 suppliers, many of which are SMEs.
Executive Summary

This paper is offered as a constructive response from the European defence industry, acting through its trade association ASD, to the Commission’s implementation Roadmap “A new deal for European defence” of 24/6/2014.

Europe’s defence industry fully supports the following strategic actions announced in the Roadmap:

1. Policies aimed at establishing a more level playing field in the internal market for defence, including actions aimed at ensuring more consistent and appropriate use of certain exclusions from the Defence Procurement Directive 2009/81, in particular Government-to-Government sales;

2. An industrial policy which fosters the competitiveness of European defence industries and helps to deliver, at affordable prices, the capabilities Europe needs to guarantee its security and strategic autonomy;

3. The preparation of a roadmap for a comprehensive EU-wide Security of Supply regime and the steps to remove the impediments to cross-border procurement;

4. Support for SMEs, in particular facilitation of cross-border market access and the establishment of an Ad hoc Advisory Group between the Commission, Member States and industry to identify options for promoting cross-border supply chains;

5. The beginning of the implementation of the Maritime Security Strategy;

6. The identification of potential civ-mil synergies in the three capability areas announced in the European Council Conclusions of December 2013 (RPAS, Satcoms and Cyber);

7. The Preparatory Action on CSDP-related research and associated consideration of a significant funding stream for CSDP focused research in the next Framework Programme;

Industry also supports the following horizontal actions:

1. Ensure access to critical raw materials,

2. Develop relevant skills,

3. Facilitate defence transfers within the EU in line with the intentions of Directive 2009/43,

4. Consolidate defence standards and align certification, thereby reducing costs, without duplicating similar NATO or Member States actions,

5. Broaden the scope of EU R&D programmes to encompass technologies with dual use applications.

At the same time, industry still has some concerns:

1. Industry shares and appreciates the European Commission’s view that defence is “an industry that plays a crucial role in the wider European economy... and a sector that is essential to retain if Europe is to remain a world-leading centre for manufacturing and innovation”(COM (2013) 542 final, introduction). For that very consideration, industry is pressing the Commission to address ways to ease the dividing line between industrial, competition and research policies, and to consider a comprehensive approach (like in the European maritime security strategy) specific to defence and with a coherent set of ad hoc policies aimed at improving competitive conditions.
2. To avoid damaging an already fragile European defence industry, careful account needs to be taken of the specificities of the defence market. The industry would welcome a changing of priorities, with a more pro-active role by the EU with specific tools and incentives rather than more rules and bureaucracy.

3. Most of the Commission's initiatives are still declarations of intention. Whether they will achieve their objective will depend on the way they are implemented and filled with substance. What matters is content, and here the devil is in the detail. Active participation of industry will be crucial to ensure the success of the announced actions.

4. Industry is cautious with regard to the added value of the initiatives on defence exports and control of assets. Here, the Commission should be particularly careful to avoid unintended negative consequences of its actions.

Up until now, the involvement of industry in the process has been limited. Regular and close consultation is necessary to ensure the effectiveness of the Commission’s actions. We therefore suggest establishing a permanent and structured dialogue through ASD on all aspects of the Roadmap.

Moreover, we believe that a number of “game changing” actions are needed if we are to genuinely improve the competitiveness of Europe’s defence industry. Many of these are not actions that can be solely driven by the European Commission, but we contend that the Commission can play a role in driving these forwards, whether as facilitator, enabler or catalyst.
Introduction

ASD, the Aerospace and Defence Industries Association of Europe, developed this paper in response to the Implementation Roadmap of 24/06/2014. We welcome the Roadmap’s stated ambition to improve the competitiveness of Europe’s defence industry and support most of the announced initiatives (clarification of exclusions, security of supply, SME, standardisation, Preparatory Action on CSDP-related research,...)

We are keen to engage with the European Commission to help develop the thinking on these. This is particularly important since we understand that most initiatives are still to be defined in detail. We must avoid that well-intentioned actions cause damage to the European defence industry because insufficient care is taken to ensure that the specificities of the defence sector are taken into account. We see this risk in particular for the actions on control of assets and exports to third markets.

Industry has a strong interest that the Commission’s initiatives fulfil their declared objective, i.e. strengthen Europe’s defence sector, and that it has the knowledge and expertise to achieve this objective. We therefore call upon the Commission to enter - through ASD - into a structured and permanent dialogue with industry on the implementation of the Roadmap. This dialogue should take place at both strategic and technical level.

It seems obvious that defence is a key economic sector, which underpins our long term security and provides multiple proven spin-off benefits into civil sectors. Yet there is a clear and widening gap between the supportive political rhetoric we hear on defence and the stark reality of budget cuts and decline. Hard decisions are needed to ensure that Europe maintains effective defence industrial capabilities. If we do not take significant near-term actions, there is no doubt that key capabilities will soon die out and ultimately Europe will lose the strategic autonomy that ensures it has the freedom to act without over-dependency on Allies.

In this context we believe that a number of additional “game changing” actions are needed if we are to genuinely improve the competitiveness of Europe’s defence industry. Many of these are not actions that can be solely driven by the European Commission, but we contend that the Commission can play a role in driving these forwards, whether as facilitator, enabler or catalyst.

The main game-changing actions that ASD advocates are:

1. Clarify the degree of strategic autonomy that the EU needs in order to assure long term sovereignty of operational capability and freedom to act, without over-dependency on other Allies for key capabilities;
2. Consolidate demand based on identification and adoption of key common capability requirements;
3. Launch multiple ambitious new development and production, cooperative programmes, undertaken by groups of like-minded Member States on a non-exclusive basis, addressing the identified requirements;
4. Define, agree and foster the key industrial and technological capabilities that underpin Europe’s strategic autonomy and should therefore be nurtured and retained on-shore within the European Defence Industrial Base;
5. Launch new, substantial investment in defence-oriented research, particularly focusing on key technologies that will underpin operational capabilities;
6. Make a firm commitment to maintain adequate defence spending, in the perspective of a dialogue on European long-term capability needs between Member States and the EU, in synergy with NATO;
7. Base trading relationships with non-European markets on principles of equity and fairness. As long as this equity and fairness cannot be achieved, individual Member States should favour European sourcing for those capabilities that underpin Europe’s strategic autonomy.
Analysis of the Roadmap

0 - Strategic autonomy of Europe

In contrast to the Communication of July 2013¹ and the European Council Conclusions of December 2013², there is little apparent urgency and no reference to a level of ambition such as strategic autonomy in the implementation Roadmap.

The Roadmap therefore seems politically too modest and lacks ambition. This may be understandable, given the technical nature of the document and the time of its adoption. However, with a view to the European Council of June 2015, the new European Commission should recognize as soon as possible the urgency of defence matters and turn declarations into concrete actions.

1 - Internal Market

• Market monitoring
The industry has no problem with the market monitoring actions. On the contrary, the implementation of the Directives 2009/43 and 2009/81 and their impact must be carefully assessed before envisaging any new legislative initiatives.

• Clarification of certain exclusions
Industry supports the objective of a more open European defence market and agrees with the Commission that there is a need to clarify the use of certain exclusions from Directive 2009/81. Given the potential impact of the use of these exclusions on the European defence industrial base, industry would welcome being involved in the clarification process.

The exclusions relating to Government-to-Government sales and contracts awarded by international organizations should be addressed in a balanced way considering elements of competition and sovereignty issues. Industry welcomes fair and open defence procurement practices and therefore supports Commission initiatives to ensure a more level playing field and competition on fair and equal terms namely between European and non-European Government-to-Government offers (e.g. US FMS).

¹ See Communication COM (2013) 542 final “Towards a more competitive and efficient defence and security sector” (Introduction): Europe must be able to assume its responsibilities for its own security and for international peace and stability in general. This necessitates a certain degree of strategic autonomy: to be a credible and reliable partner, Europe must be able to decide and to act without depending on the capabilities of third parties. Security of supply, access to critical technologies and operational sovereignty are therefore crucial
² See European Council Conclusions §2: The EU and its Member States must exercise greater responsibilities in response to those challenges if they want to contribute to maintaining peace and security* and §16: Europe must be able to assume its responsibilities for its own security and for international peace and stability in general. This necessitates a certain degree of strategic autonomy: to be a credible and reliable partner, Europe must be able to decide and to act without depending on the capabilities of third parties. Security of supply, access to critical technologies and operational sovereignty are therefore crucial.”

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• Offsets and Supply Chain
In an environment where economic offsets are disallowed, individual Member States will want to ensure that their domestic defence industries can thrive and hence retain the competencies needed to support their essential security interests. The Commission’s Roadmap announces actions aimed at opening up European defence supply chains to European SMEs. Such actions are essential for helping to maintain a broadly based and globally competitive European supply chain. At the same time, cross-border market access of SMEs should contribute to the competitiveness of supply chains. We therefore welcome the Commission’s intention to set up an Advisory Board to develop, together with stakeholders, options for promoting competitive cross-border supply chains.

Efforts to improve cross-border market access should include reducing administrative market barriers and improving transparency about business opportunities in the supply chains. Enhanced security of supply arrangements could also greatly facilitate cross-border market access.

Such actions are essential but not sufficient. The greatest opportunity to open up European supply chains will come from investment in new technologies/competencies, based on multilateral common requirements, leading to common procurement projects.

• Roadmap for a comprehensive security of supply regime
Security of supply is an essential element for the well-functioning of the internal market for defence. Industry therefore welcomes the Commission’s announcement to develop a roadmap for a comprehensive EU-wide Security of Supply regime, as requested by the European Council in December 2013. It calls upon the Commission to propose in this Security of Supply roadmap concrete and courageous steps which can make a real difference. Since industry would play a crucial role in a comprehensive security of supply regime, it should be involved directly and from the very beginning in this work.

• Defence transfers within the EU
The industry supports the principles enshrined in Directive 2009/43 about defence transfers within the EU, but observes that progress is slow and that the standardization in internal licensing has actually generated a multiplicity of national approaches. There remains real scope to coalesce on best practice. Problems related to the use of Transit Licences should also be addressed. In addition, non-sensitive export controlled products should be transferred using the General Transfer Licences in all Member States, as envisaged by the Directive. On all these issues, industry would be happy to actively support initiatives aimed at making Directive 2009/43 more effective.

• Control of assets
The Commission proposes a Green Paper on the control of strategic assets. It has to be noted that, under the Lisbon Treaty, defence remains a Member States’ competency. This is unlikely to change any time soon, and given the inevitable close ties between Member States’ governments and their major defence contractors, it is inconceivable that a European approach can replace national systems for the control of strategic defence industrial assets. There is a lack of clarity on the Commission’s intention in this field, which could be counterproductive and undermine Member States’ appetite for constructive discussion in other areas. In our view, the Green Paper should clearly discard all politically unrealistic options for the way ahead.

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2 – Promoting a more competitive defence industry

- Support to the European defence industry

The main objective of the Commission’s Communication of July 2013 was to enhance the competitiveness of the European defence industry, with a key lever being the development of an appropriate industrial policy. The implementation Roadmap briefly refers to such a policy, but the market-driven paradigm still appears to be the primary basis for the Commission’s approach. Industry therefore calls upon the European Commission to develop a more balanced approach and to ease the dividing line between industrial, competition and research policies.

Europe’s military operational capability and freedom of unilateral action (“strategic autonomy”) are intrinsically linked to the continuing existence of a strong European defence industry. The industry also provides assured security of supply and makes a significant positive contribution to the European economy and balance of payments. Given this, a debate should be initiated on the key defence industrial and technological capabilities that underpin Europe’s strategic autonomy and should therefore be nurtured and ring-fenced on-shore in Europe. This debate should also be used to clarify the European Defence and Technological Industrial Base “EDTIB” concept, since although the term is widely cited by the European institutions and Member States, it remains ill-defined.

- Standardisation

The Commission proposes to contribute to the promotion of European defence standards through its expertise in civil standardisation. The industry welcomes this initiative since it will certainly contribute significantly to the abatement of interoperability barriers and overhead cost due to multiplicity of standards. An initiative is needed to coordinate with NATO and Member States to avoid duplication.

- Certification

Industry believes further progress is needed in the area of certification, notably by achieving much more convergence between military and applicable civil certification requirements. EASA can play a pivotal role thanks to its experience and could be entrusted - when manufacturers and Member States so decide - to certify certain military products. This of course will require additional resources (budgetary and human), as EASA is already under-budgeted and under-staffed for the core missions it needs to perform today.

- Research

The industry strongly welcomes the Commission’s proposal for a Preparatory Action on CSDP-related research. The inclusion of this instrument is in itself an overdue recognition of the importance of the defence and security research. It will be crucial for the Commission to ensure that the Preparatory Action is launched in time to prepare the ground for a possible inclusion of defence research in the next EU Financial Framework. Furthermore a number of challenges are foreseen in terms of governance (articulation with Member States, IPR terms adapted to the defence sector, participation of third parties, level of self-funding ...). These challenges will need to be addressed swiftly if this instrument is to have a significant positive effect. The industry is happy to contribute to the Preparatory Action definition, scope and rules of participation in view of the anticipated larger R&T programme post-2020.

It should also be very clear that EU funding for defence research cannot replace national R&D funding. Unless substantive near term action is taken, key defence industrial capabilities will disappear from Europe before the next Framework Programme is even launched. The result will be an inevitable weakening of the European defence operational autonomy and sovereignty.

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• SMEs, clusters & regions
A strong supply chain (comprising large, medium and small companies) is the lifeline of the European DTIB and ASD welcomes the Commission's approach and support to these. However, industry believes that access to European Structural and Investment Funds (ESIF) should not be limited to SMEs in the defence sector. Lead System Integrators' access to this type of innovative funding spreads throughout the supply chain, thereby indirectly benefiting and strengthening European defence related SMEs. Risks of generating undue duplications of initiatives and proliferations of structures due to regional funds should be attentively looked at.

3 - Strengthening the international dimension

We understand from the implementation Roadmap that the Commission:
  o wants to support the European defence industry on third markets,
  o proposes to assess the application of offsets in third markets,
  o will review the dual use export control policy with more coordination at EU level and closer international cooperation.

Export is a critical part of the European companies' business model at a time of shrinking budgets and more international competition. We appreciate the Commission's proposal for a dialogue on these issues, but caution against unrealistic expectations.

• Offsets
The envisaged assessment of offset requirements in third country should not disadvantage European industry in any way. The Commission should in particular not seek to control/restrict the use of offset in bids by EU companies to third countries. This would be a disaster for European technology and employment. Instead, this assessment should only help the Commission better understand the massive support provided to competitors from third countries.

• Defence exports
In the absence of an effective EU foreign policy, export policy is guided by national considerations. Indeed national defence export policy is intrinsically linked to a country's foreign policy and security interests and typically involves wider bilateral ties, security accords/commitments, military training and exercises etc. EU action cannot replace national promotion campaigns, but at best complement individual Member States' efforts. In any case, the Commission should abstain from anything which could undermine supporting actions by Member States.

• Dual use export controls
The Dual use export control section of the Roadmap refers to "mapping the direction for EU strategic export controls". Industry seeks clarification on the full objectives of this initiative and asks to be consulted on any new regulatory initiatives, particularly where these could impact existing export control systems and/or affect its ability to compete effectively in global export markets.

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