



COMMISSION DES COMMUNAUTÉS EUROPÉENNES

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**AVIS DU COMITE DES EVALUATIONS D'IMPACT**

**PROPOSITION DE DIRECTIVE DU PARLEMENT EUROPÉEN ET DU CONSEIL  
relative à la coordination des procédures de passation des marchés publics de travaux,  
de fournitures et de services dans le domaine de la défense et de la sécurité**

{COM(2007) 766}  
{SEC(2007) 1598}  
{SEC(2007) 1599}





Brussels, 3 July 2007  
D(2007) 6108

## Opinion

**Title**                                    **Impact Assessment on: a proposal for a Directive of the European Parliament and of the Council on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts in the field of defence and sensitive non-military security**

(draft version of 30 May 2007)

**Lead DG**                                    **DG MARKT**

### **1) Impact Assessment Board Opinion**

#### **(A) Context**

There is currently no functioning European Defence Equipment Market (EDEM), partly as a consequence of an ineffective regulatory framework, and particularly ill-suited European Public Procurement rules. This situation has led to the extensive use of exemptions from EC procurement rules by the Member States and fragmentation of the internal market. The objective of the policy options explored in this IA report is therefore to limit the use of the exemption provisions in Article 296 TEC and Article 14 Public procurement directive to really exceptional cases by setting up an effective European Public Procurement framework for defence and sensitive non-military security contracts.

#### **(B) Positive aspects**

Although too long, the impact assessment provides a well structured problem analysis. Good use is made throughout the IA process of the extensive feed back received in the course of the stakeholder consultation. Moreover, appropriate monitoring and evaluation arrangements are envisaged and the IA report foresees a comprehensive assessment of administrative costs on the basis of the EU Standard Cost Model.

#### **(C) Main recommendations for improvements**

*The recommendations below are listed in order of descending importance. Some more technical comments have been transmitted to the author DG.*

**General recommendations: The sections on the problem definition should be shorter and more concise, while the presentation of the options and their impacts should be structured in a more logical way. Also a better explanation of how the defence and**

Commission européenne, B-1049 Bruxelles / Europese Commissie, B-1049 Brussel - Belgium. Telephone: (32-2) 299 11 11. Office: BERL 6/29. Telephone: direct line (32-2) 2981898. Fax: (32-2) 2985980.

E-mail: [impact-assessment-board@ec.europa.eu](mailto:impact-assessment-board@ec.europa.eu)

**the non-military security sectors can be governed by the same procurement rules should be provided.**

**(1) The presentation of the impact analysis of the key options 2 and 3 should be organized in a clearer and more coherent way.** The IA report should appraise options 2 and 3 separately or restructure the options in a more logical way in order to allow a full and balanced comparison of the positive and negative impacts for each option. This should include a clarification whether the possible different technical specifications of these options will lead to significant different economic, social or environmental impacts. Moreover, to avoid unnecessary repetition, the IA report should consolidate overlapping sections. In the meeting, DG MARKT indicated to the Board that it intends to improve the overall presentation of the options and the analysis of their impacts.

**(2) The reasons why the proposed new procurement rules can effectively cover both the defence and the non-military security sectors should be better explained.** In view of the fact that these sectors differ in terms of market supply and demand side conditions as well as Treaty exemption rules the IA report should set out in more detail why and how the envisaged new rules can cope in an effective and efficient manner with the present sectoral and transactional differences.

**(3) The problem definition should be more focused and concise.** While the problem definition provides a lot of information, not all of this is equally important or explicitly carried forward in the remainder of the IA report. This section should therefore be substantially shortened to allow a more proper balance with the other sections of the IA report, particularly the analysis of expected impacts, which is far less developed and would benefit from further elaboration.

**(4) The objectives should be better linked to broader policy agendas.** The IA report should better link the general objective of establishing an open and competitive EDEM with broader Commission policy initiatives such as the Lisbon Strategy, the Single Market Review or the European Security and Defence Policy to allow a better consideration of possible trade offs and synergies.

**(5) The longer-term aspects of the social impact analysis should be reinforced.** The IA report should take more into account that increased competition between EU defence and security equipment suppliers will have also a positive effect on the global competitiveness of EU producers and is likely to generate additional long-term employment effects.

#### **(D) Procedure and presentation**

It appears that all necessary procedural elements have been complied with. With regard to presentations, the IA report should aim to more closely respect the maximum length of 30 pages (excluding annexes).

## 2) IAB scrutiny process

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