

Recommendations on third-country participation in EU funding programmes in the MFF 2021-2027

Fostering global and transatlantic R&D cooperation for a competitive EU

Research in Europe has built an international reputation, bringing together global talent and research skills. That is why our member companies employ European researchers and have been part of the European R&D ecosystem for many years. According to our recent study *The Case for Investing in Europe 2018*¹, in 2016 US industry employment in Europe totalled more than 4.7 million people, with a total R&D investment of € 27.6 billion, representing 58% of total global US affiliate R&D.

The increase in funding proposed by the Multiannual-Financial Framework (MFF) for vital sectors through programmes such as Horizon Europe, European Defence Fund and Digital Europe is a welcome and necessary step to promote innovation and strengthen EU's competitiveness.

However, Europe's ambitions in R&D cannot be achieved by isolating third-country market participants. Unfortunately, throughout the different MFF initiatives, there is a visible trend in restricting third-country participation. The approaches established in Horizon 2020 and its predecessors, where funding and platforms for collaboration between academia and industry across sectors and countries were provided have been greatly appreciated and have provided a bedrock for R&D in the EU.

While participation should certainly be bound to conditions guaranteeing the economic, security and defence interests of the EU and its Member States, it is important to recognise the value of international cooperation and third-country participants in the MFF 2021-2027 funds.

Three funds are especially emblematic of this approach, **Digital Europe, the European Space Programme and the European Defence Fund**. The section below further outline comments and recommendations around third-country participation in these programmes.

Digital Europe

Digital Europe and its objective to build Europe's leadership in technology by promoting investment, education and research in digital is a much welcomed development under the current MFF proposal. Transatlantic and global cooperation on emerging technologies through the Digital Europe programme has the potential to make Europe more competitive and innovative on the international market. For Digital Europe to reach its full potential, these opportunities need to be adequately reflected in the legislation, particularly **articles 10, 11 and 12**. Intentions, such as those found in the ITRE committee, to broaden the grounds for exclusion of third-country involvement, will clearly hamper the impact of the programme.

- The extension of the scope of Article 12 on security requirements to projects falling under Objective 1 (High Performance Computing) and Objective 2 (Artificial Intelligence) (**CA 9 -**

Article 11 paragraph 2) is without rightful justification. While some applications of AI or HPC might be of strategic importance, many more will not. **We support the Commission proposal** and the long established approach in Horizon 2020 and its predecessors already providing adequate protections to make sure that sensitive areas can be restricted to EU entities. A blanket approach could therefore severely prohibit innovation and development in civilian uses of these technologies.

- The intention to broaden the grounds for exclusion of third-country entities participating in all or some actions falling under Objectives 1, 2 and 3 (**CA 10 - Article 12 paragraph 5**) to 'strategic concerns' creates significant legal uncertainty. Many R&D labs invested by third countries with a long-standing presence in Europe would fall under this provision. Their

¹ Available at : <http://www.amchameu.eu/publications/case-investing-europe-2018>

often unique expertise and experience would therefore be unavailable.

European Space Programme

The Space Programme of the Union and the European Union Agency for the Space Programme (European Space Programme) provides vital funding and establishes a critical framework for the development of a robust European space sector.

One of the key objectives of the programme is to maintain reliable and cost-effective access to space. With much of the existing technologies having been created at a global level, legislators should recognise that a formalised framework for third-country participation, that also provides certainty for businesses, will be essential in minimising duplications, having access to existing cutting-edge technologies and keeping the costs down.

While participation of third-country entities to the various space programmes (Galileo, Copernicus etc.) or space capability development projects will be decided on a case-by-case basis, **article 25** and the definition on essential security interests of the Union and its Member States, could ultimately give the Commission the final say in the process.

- Use of language, such as ‘effective control’ in article. 25, without a clear definition will create uncertainty for potential participants and has already proven unworkable before, during the EDIDP negotiations. (**in favour of AM 345 & AM 346**)
- As the European Commission rightfully identifies, the European Space Programme shares similar objectives with other MFF initiatives and therefore foresees cumulative funding. In order to facilitate these opportunities, legislators should ensure coherence in governance across funds and especially on third-country participation (**in favour of AM 344**)

European Defence Fund

The European Defence Fund (EDF) is a critical step towards ensuring the security of the EU and strengthening the European defence sector. EU-based companies with US parentage are an essential part of this sector, making considerable contributions through the creation of high-skilled

jobs, the generation and retention of technological innovations, and substantive investments.

Allowing European companies to partner, under certain security conditions, with third-country entities located in the EU, would reaffirm the guiding principle of attaining the best strategic value for money. This would not only promote healthy competition, but allow Member States to develop interoperable and cost-effective capabilities and/or purchase readily available capabilities that ensure the highest military effect for the EU’s armed forces.

These realities were recognised in the European Defence Industrial Development Programme (EDIDP), where a well-balanced approach was agreed on third-country entity participation. With much of the wording in the EDF reverting back to the EDIDP formulation, legislators are ensuring that essential industrial partners from third countries are able to participate, while not contravening the security and defence interests of the Union and its Member States.

There are however still some issues that could represent significant hurdles for successful third-country participation:

- **Article 10** - Where not done so yet and where necessary, there should be full alignment with the already agreed upon EDIDP text (**against CA 6 – in favour of AM 266 & AM 267**)
- Remaining IP control issues could make participation unworkable. In line with **articles 22 and 25**, participants would need to rescind previous rights in ownership of their existing IPR and/or forego rights from what results from an action. (**against CA 17 – in favour of AM 399**)