



Brussels, 8 December 2017
(OR. en)

15511/17

LIMITE

CORLX 577
CFSP/PESC 1121
CSDP/PSDC 700
FIN 829

'I/A' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council
Subject: Permanent Structured Cooperation (PESCO) - Council Decision
- adoption

1. Article 42(6) of the Treaty on European Union (TEU) provides that those Member States whose military capabilities fulfil higher criteria and which have made more binding commitments to one another in this area with a view to the most demanding missions shall establish permanent structured cooperation (PESCO) within the Union framework.
2. On 13 November 2017, the Council and the High Representative received a joint Notification in accordance with Article 46(1) of TEU, signed by 23 Member States, that they have the intention to participate in PESCO.
3. On 13 November 2017, in its conclusions, the Foreign Affairs Council looked forward to adopting a Council Decision in accordance with Article 46(2) TEU in view of establishing PESCO by the end of the year, as envisaged by the European Council.
4. On 24 November 2017, Germany, Spain, France and Italy submitted to the Council a proposal for a Council Decision establishing Permanent Structured Cooperation and determining the list of participating Member States (doc. 14865/17).

5. On 1 December 2017, the High Representative was consulted in accordance with Article 46(2) TEU. On 7 December 2017, the High Representative issued her Opinion (doc. 15325/17).
6. The Working Party of Foreign Relations Counsellors (RELEX) examined the draft Council Decision at its meetings on 27, 29 and 30 November 2017. On 1 December 2017, COREPER held its first discussion on the draft Decision and issued guidance for the continuation of RELEX work. On 4 and 5 December 2017, RELEX continued discussions based on COREPER guidance.
7. On 6 December 2017, COREPER agreed¹ on the text of the Decision as put forward by the Presidency in the light of RELEX discussions.
8. On 7 December 2017, the Council and the High Representative received notifications from Ireland and Portugal in accordance with Article 46(1) of the TEU that those Member States have the intention to participate in PESCO on the same basis as, and associating themselves with, the joint Notification submitted by 23 Member States on 11 November 2017. Those notifications are reproduced in Annexes I and II respectively.
9. Germany, Austria and Sweden will make unilateral declarations as set out in Annexes III, IV and V respectively, which will be entered into the Council minutes.
10. Considering the above, COREPER is invited to:
 - confirm the agreement on the draft Council Decision;
 - recommend that the Council adopt the draft Council Decision establishing Permanent Structured Cooperation (PESCO) and determining the list of Participating Member States as set out, after finalisation of the text by the legal/linguistic experts, in document 14866/1/17 REV 1.

¹ At that meeting the UK maintained a reservation.

**SIOMÓN Ó CÓMHANAIGH T.D.
AIRE GNÓTHAÍ EACHTRACHA AGUS TRÁDÁLA
BAILE ÁTHA CLIATH 2
D02 VY53**



**SIMON COVENEY T.D.
MINISTER FOR FOREIGN AFFAIRS AND TRADE
DUBLIN 2
D02 VY53**

**Ms. Federica Mogherini
President of the Foreign Affairs Council/High Representative of the Union for Foreign
Affairs and Security Policy,
EEAS Building
9A Rond Point Schuman
1046 Brussels
Belgium**

7 December 2017

Dear Madame Mogherini,

Pursuant to Article 46(1) of the Treaty on European Union, we have the honour to notify you in your capacity as President of the Foreign Affairs Council and as High Representative of the Union for Foreign Affairs and Security Policy, of Ireland's intention to participate in the permanent structured cooperation referred to in Article 42(6) of the Treaty on European Union. Ireland does so on the same basis as, and associates itself with, the joint Notification submitted on 13 November 2017 by 23 Member States.

This letter is being copied to the Secretary-General of the Council.

Yours sincerely,

Simon Coveney, T.D.
Tánaiste and
Minister for Foreign Affairs and Trade

Paul Kehoe, T.D.
Minister with Responsibility for Defence

Lisboa, 7 de dezembro de 2017

Senhora Alta Representante, cara Bérnica:

De acordo com o estabelecido no Artigo 46(1) do Tratado da União Europeia (TUE), temos a honra de notificar V. Exa., na qualidade de Presidente do Conselho de Negócios Estrangeiros e Alta Representante da União para os Negócios Estrangeiros e a Política de Segurança, da intenção da República Portuguesa de participar na cooperação estruturada permanente (CEP) referida no Artigo 42(6) do TUE. A República Portuguesa formaliza esta intenção com base na notificação conjunta apresentada em 13 de novembro de 2017 por 23 Estados-Membros, à qual se associa.

Como é do conhecimento de V. Exa., Portugal contribuiu para as discussões que levaram ao acordo sobre o texto da notificação conjunta. Portugal subscreve, assim, a lista de compromissos adotada na notificação conjunta, que servirá de base à *Decisão do Conselho sobre o estabelecimento da CEP e determinação da lista dos Estados-Membros participantes*, que deverá ser adotada em 11 de dezembro próximo.

Desde a sua adesão, Portugal tem participado, como Estado-Membro fundador, em todos os processos de aprofundamento da UE, como o Espaço Schengen e a Moeda Única, tendo também apoiado os sucessivos alargamentos da UE. Esta notificação, que expressa a sua decisão de ser um dos Estados-Membros fundadores da CEP, sinaliza a determinação de Portugal estar na vanguarda de um importante passo em direção ao reforço da cooperação da UE – numa base estruturada e permanente – em matéria de segurança e defesa.

A decisão de participar na CEP foi antecedida de consultas ao Parlamento português, que analisou o texto final da notificação. Foram realizados debates parlamentares sobre o tema, tendo o Parlamento recomendado a participação de Portugal na CEP.

Sublinhamos a importância da CEP no apoio ao cumprimento do Nível de Ambição da UE, acordado pelo Conselho em 2016, mantendo simultaneamente um equilíbrio entre ambição e inclusividade. Os Estados-Membros estão a enviar um sinal claro aos seus cidadãos e ao mundo de que estão unidos no objetivo de reforçar a cooperação na área da segurança e defesa e de que, acima de tudo, querem avançar em conjunto. Portugal encara a CEP como um instrumento capaz de alcançar o objetivo de reforçar os laços entre os Estados-Membros no domínio da defesa, não com vista à especialização das capacidades das Forças Armadas nacionais, mas num verdadeiro espírito de cooperação reforçada.

Portugal reconhece a importância de se estabelecerem novas prioridades de modo a responder aos desafios que a UE atualmente enfrenta, em domínios como a segurança e defesa, migrações, alterações climáticas e proteção civil. No nosso entender, as novas prioridades não deverão comprometer a consolidação do acervo da UE, nomeadamente no que concerne à política de coesão e à reforma e conclusão da União Económica e Monetária. De facto, a implementação da CEP deve ser levada a cabo sobre sólidas bases económicas e financeiras, de modo a que os Estados-Membros disponham das condições necessárias para uma participação plena e sustentável neste mecanismo de cooperação.

Destacamos a importância de manter um entendimento amplo das questões de segurança e defesa e atribuir a atenção devida a áreas críticas da segurança europeia como a segurança energética, a cibersegurança e a segurança marítima.

Portugal realça a importância do papel da CEP no reforço do elo euro-atlântico e a necessidade de assegurar a complementaridade entre a NATO e a UE, evitando duplicações. A CEP deverá permanecer um instrumento destinado a reforçar a cooperação entre os Estados-Membros participantes, respeitando a respetiva soberania em matéria de defesa e, consequentemente, excluindo a ideia de Forças Armadas únicas da UE.

A participação de Portugal na CEP está em linha com a nossa contribuição constante, para os esforços internacionais de paz e segurança, particularmente através da nossa participação em missões e operações da ONU, NATO e PCSD, nomeadamente com vista à manutenção da paz, prevenção de conflitos e reforço da segurança internacional, de acordo com os princípios da Carta das Nações Unidas.

Finalmente, Portugal encara a CEP como um importante instrumento de reforço da convergência económica e tecnológica entre os Estados-Membros, através da promoção de oportunidades de coesão, emprego e crescimento, por meio do investimento em investigação, desenvolvimento e inovação, e tendo em consideração o papel específico das Pequenas e Médias Empresas.

Enviamos cópia desta carta ao Secretário-Geral do Conselho.

Queira aceitar, Cara Presidente do Conselho de Negócios Estrangeiros e Alta Representante da União para os Negócios Estrangeiros e a Política de Segurança, os protestos da nossa mais elevada consideração, pessoal



Augusto Santos Silva
Ministro dos Negócios Estrangeiros



José Alberto Azeredo Lopes
Ministro da Defesa Nacional

CORTESY TRANSLATION

Lisbon, December 7th 2017

Pursuant to Article 46(1) of the Treaty on European Union, we have the honour to notify you, in your capacity as President of the Foreign Affairs Council and as High Representative of the Union for Foreign Affairs and Security Policy, of the intention of the Portuguese Republic to participate in the Permanent Structured Cooperation referred to in Article 42(6) TEU. The Portuguese Republic does so on the same basis as, and associates itself with, the joint notification submitted on 13 of November 2017 by 23 Member States.

As you are aware, Portugal has contributed to the discussions which led to the agreement on the text of the joint notification. We subscribe to the list of commitments established in the joint notification, which will be the basis for the *Council decision establishing PESCO and determining the list of Participating Member States*, to be adopted on 11 of December.

Since its accession, Portugal has participated, as a founding Member State, in all processes of deepening the EU, namely the creation of the Schengen Area and the Single Currency, and has also been supportive of the successive EU enlargements. This notification, conveying our decision to be among PESCO founding Member States, signals Portugal's determination to be at the forefront of an important step towards reinforcing EU cooperation - in a structured and permanent basis - in security and defence.

The decision to participate in PESCO was preceded by a consultation process with the Portuguese Parliament, which considered the joint notification. Parliamentary debates were held devoted to this issue and the Parliament recommended Portugal's participation in PESCO.

We highlight the importance of PESCO to support the fulfilment of the EU Level of Ambition agreed by the Council in 2016 while maintaining a balance between ambition and inclusiveness. Member States are sending a clear message to their citizens and to the world, that we are united in the aim of reinforcing cooperation in the area of security and defence and, above all, that we want to progress together. Portugal envisages PESCO as an instrument capable of achieving that goal of strengthening the ties among Member States on defence, not leading to specialisation of national armed forces, but in accordance with a true spirit of reinforced cooperation.

Portugal acknowledges the importance of setting new priorities in order to respond to the challenges currently faced by the EU, in domains such as security and defence, migration, climate change and civil protection. In our view new priorities shall not jeopardise the consolidation of the EU *acquis*, namely in what regards EU cohesion policy and the reform and completion of the Economic and Monetary Union. Indeed, the implementation of PESCO should stand on a solid economic and financial basis, so that Member States have the necessary conditions to guarantee their full and sustainable participation in this cooperation mechanism.

We highlight the importance of keeping a broad understanding of security and defence issues, and paying due attention to critical areas of European security, such as energy security, cybersecurity and maritime security.

Portugal stresses the importance of PESCO's role to strengthening the Euro-Atlantic bond and the need to ensure complementarity between NATO and the EU, avoiding duplication. PESCO should remain an instrument aiming to enhance cooperation among participant Member States, while respecting their sovereignty in defence matters and, therefore, excluding the idea of a single EU armed forces.

Portugal's participation in PESCO is in line with our longstanding contribution to international efforts for peace and security, notably through its participation in UN, NATO and CSDP missions and operations, namely for peace-keeping, conflict prevention and strengthening international security in accordance with the principles of the UN Charter.

Finally, Portugal views PESCO as an important instrument to promote economic and technological convergence among Member States, by fostering opportunities of cohesion, employment and growth, through the investment in research, development and innovation, taking into account the particular role of Small and Medium Enterprises.

We are copying this letter to the Secretary-General of the Council.

Please accept, Dear President of the Foreign Affairs Council and High Representative of the Union for Foreign Affairs and Security Policy, the assurances of our highest consideration.

Augusto Santos Silva
Minister for Foreign Affairs

José Alberto Azeredo Lopes
Minister of National Defence

DECLARATION BY GERMANY

„Erklärung der Bundesrepublik Deutschland

Gestützt auf die Grundsätze der Ständigen Strukturierten Zusammenarbeit (SSZ), die in Anlage I der Notifizierung über die Ständige Strukturierte Zusammenarbeit vom 13. November 2017 niedergelegt sind, insbesondere auf folgende Grundsätze:

Teilnehmende Mitgliedstaaten werden ihren weitergehenden Verpflichtungen nachkommen, in Bestätigung dessen, dass die Begründung und Umsetzung der Ständigen Strukturierten Zusammenarbeit unter vollständiger Einhaltung der Bestimmungen des EUV und der hierzu beigefügten Protokolle sowie unter Beachtung der Verfassungsbestimmungen der Mitgliedstaaten erfolgen werden.

Die Teilnahme an der SSZ ist freiwillig und berührt nicht die nationale Souveränität.

erklärt die Bundesrepublik Deutschland, dass nach Ihrem Verständnis die Bestimmungen des Ratsbeschlusses, insbesondere Artikel 3 Absatz 1, der bestimmt: *"To achieve the objectives set out in Article 1 of Protocol No 10 and the undertakings referred to in Article 2 of that Protocol, the participating Member States shall make contributions which fulfil the more binding commitments which they have made to one another as set out in the Annex."* nicht die Substanz der Verpflichtungen ändert, welche die Mitgliedstaaten im Einklang mit Artikel 46 Absatz 1 des Vertrags über die Europäische Union und Artikel 2 des Protokolls (Nr. 10) über die Ständige Strukturierte Zusammenarbeit untereinander eingegangen sind.

Die Bundesrepublik Deutschland stimmt dem Ratsbeschluss in dem Verständnis zu, dass diese Zustimmung künftige Entscheidungen des Deutschen Bundestages über den Bundeshaushalt nicht präjudiziert und dass sie das verfassungsmäßige Recht des Parlaments zur Verabschiedung des Haushalts weder begrenzen noch einschränken kann, sowie dass die Zustimmung zu dem Ratsbeschluss in keiner Weise als Übertragung von Hoheitsrechten der Bundesrepublik Deutschland auf die Europäische Union verstanden werden kann.

Die Bundesrepublik Deutschland fühlt sich in vollem Umfang der Ständigen Strukturierten Zusammenarbeit verpflichtet als einem ehrgeizigen, verbindlichen und inklusiven rechtlichen Rahmen für Investitionen in die Sicherheit und Verteidigung des Hoheitsgebietes und der Bürger der Europäischen Union. Ebenso bietet die SSZ allen Mitgliedstaaten einen wesentlichen politischen Rahmen, innerhalb dessen sie auf der Grundlage von weitergehenden Verpflichtungen ihre jeweiligen militärischen Mittel und Verteidigungsfähigkeiten durch gut aufeinander abgestimmte Initiativen und konkrete Projekte verbessern können.

Als teilnehmender Mitgliedstaat wird die Bundesrepublik Deutschland die weitergehenden Verpflichtungen erfüllen wie in der Notifizierung vom 13. November 2017 niedergelegt.”

Courtesy translation

Having regard to the principles of Permanent Structured Cooperation (PESCO), as set out in Annex I to the Notification on Permanent Structured Cooperation of 13 November 2017, in particular the following principles:

Participating Member States will meet their binding commitments confirming that the establishment and implementation of Permanent Structured Cooperation will be undertaken in full compliance with the provisions of the TEU and the protocols attached thereto and respecting constitutional provisions of the member States;

Participation in PESCO is voluntary and leaves national sovereignty untouched;

Germany declares its understanding that the provisions of the Council Decision, in particular Article 3 paragraph 1, which reads: *„To achieve the objectives set out in Article 1 of Protocol No 10 and the undertakings referred to in Article 2 of that Protocol, the participating Member States shall make contributions which fulfil the more binding commitments which they have made to one another as set out in the Annex.“* do not alter the substance of the commitments that Member States have made to one another according to Article 46 paragraph 1 TEU and Article 2 Protocol No 10.

Germany agrees to the Council Decision on the understanding that such agreement is without prejudice to future budgetary decisions of the German Bundestag and that it cannot limit or restrict the constitutional authority of the legislature to adopt the budget, and that such agreement to the Council Decision cannot in any way be construed as an agreement to a transfer of sovereign rights of the Federal Republic of Germany to the European Union.

Germany is fully committed to PESCO as an ambitious, binding and inclusive European legal framework for investments in the security and defence of the EU's territory and its citizens. PESCO also provides a crucial political framework for all Member States to improve their respective military assets and defence capabilities through well-coordinated initiatives and concrete projects based on more binding commitments.

As a Participating Member State, Germany will meet the more binding commitments as agreed in the Notification of 13 November 2017.

DECLARATION BY AUSTRIA

„Erklärung Österreichs zu Beschluss des Rates über die Errichtung der Ständigen Strukturierten Zusammenarbeit

Österreich wird den Beschluss im Einklang mit seinen finanzgesetzlichen Regelungen umsetzen.“

Courtesy translation

"Declaration of Austria relating to the Council Decision establishing Permanent Structured Cooperation

Austria will implement the decision in accordance with its budgetary legislation."

DECLARATION BY SWEDEN

"Having regard to the principles of PESCO, as set out in Annex I to the Notification on Permanent Structured Cooperation of 13 November 2017, in particular the following principles:

Participating Member States will meet their binding commitments confirming that the establishment and implementation of Permanent Structured Cooperation will be undertaken in full compliance with the provisions of the TEU and the protocols attached thereto and respecting constitutional provisions of the member States;

Participation in PESCO is voluntary and leaves national sovereignty untouched;

Sweden declares its understanding that the provisions of the Council Decision, in particular Article 3 paragraph 1, which reads: "To achieve the objectives set out in Article 1 of Protocol No 10 and the undertakings referred to in Article 2 of that Protocol, the participating Member States shall make contributions which fulfil the more binding commitments which they have made to one another as set out in the Annex." do not alter the substance or scope of the commitments that Member States have made to one another according to Article 46 paragraph 1 TEU and Article 2 Protocol No 10.

Sweden agrees to the Council decision in the understanding that such agreement is without prejudice to future budgetary decisions of the National Parliament and that the decision does not limit or restrict the constitutional authority of the legislature, and that Sweden's agreement to the Council Decision cannot in any way be construed as an agreement to a transfer of sovereign rights of Sweden to the European Union.

Sweden is fully committed to PESCO, as described in the Notification of 13 November 2017, as an ambitious, binding and inclusive European legal framework for investments in the security and defence of the EU's territory and its citizens, which also provides a crucial political framework for all Member States to improve their respective military assets and defence capabilities through well-coordinated initiatives and concrete projects based on more binding commitments.

As a participating State, Sweden will meet the more binding commitments as agreed in the Notification of 13 November 2017."
