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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL RECOMMENDATION concerning the sequencing of the fulfilment of the more binding commitments undertaken in the framework of permanent structured cooperation (PESCO) and specifying more precise objectives

COUNCIL RECOMMENDATION

of ...

concerning the sequencing of the fulfilment of the more binding commitments undertaken in the framework of permanent structured cooperation (PESCO) and specifying more precise objectives

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 46(6) thereof,

Having regard to Protocol No 10 on permanent structured cooperation established by Article 42 of the Treaty on European Union, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union,

Having regard to Council Decision (CFSP) 2017/2315 of 11 December 2017 establishing permanent structured cooperation (PESCO) and determining the list of participating Member States¹,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

¹ OJ L 331, 14.12.2017, p. 57.

Whereas:

- (1) Point (b) of Article 4(2) of Decision (CFSP) 2017/2315 provides that the Council is to adopt decisions and recommendations on sequencing the fulfilment of the more binding commitments set out in the Annex to that Decision in the course of the two consecutive initial phases (the years 2018–2020 and 2021–2025) and specifying at the beginning of each phase the more precise objectives for the fulfilment of the more binding commitments.
- (2) The Council Recommendation of 6 March 2018 concerning a roadmap for the implementation of PESCO¹ provides that it is appropriate for the Council to adopt a recommendation on the sequencing of the fulfilment of the commitments, which should also define commonly agreed indicators to assist participating Member States in fulfilling the commitments and to assess progress in that regard.
- (3) The PESCO secretariat, provided jointly by the European External Action Service, including the European Union Military Staff (EUMS), and the European Defence Agency (EDA), pursuant to Article 7 of Decision (CFSP) 2017/2315, provided initial feedback by the end of March 2018 with regard to the type, granularity and structure of information provided in the national implementation plans communicated by participating Member States in December 2017, as requested by the Council in its Recommendation of 6 March 2018.

¹ OJ C 88, 8.3.2018, p. 1.

- (4) On 25 June 2018 the Council adopted Decision (CFSP) 2018/909¹, which establishes a common set of governance rules for PESCO projects. On the same date, the Council adopted conclusions stating that it looked forward to the adoption of a Council recommendation on the sequencing of the fulfilment of the more binding commitments undertaken by the Member States participating in PESCO and specifying more precise objectives.
- (5) The Council will be invited to agree in November 2018 on the first full Coordinated Annual Review on Defence (CARD) implementation to be launched in the autumn of 2019.
- (6) The Council should therefore adopt a recommendation concerning the sequencing of the fulfilment of the more binding commitments undertaken in the framework of PESCO and specifying more precise objectives,

HAS ADOPTED THIS RECOMMENDATION:

¹ Council Decision (CFSP) 2018/909 of 25 June 2018 establishing a common set of governance rules for PESCO projects (OJ L 161, 26.6.2018, p. 37).

I. Objective and scope

1. The objective of this Recommendation is to ensure a common approach and to enable the participating Member States to fulfil the more binding commitments set out in the Annex to Decision (CFSP) 2017/2315 and to facilitate the annual assessment process set out in Article 6 of that Decision, based on a complete set of relevant data including roadmaps, where applicable reflecting intermediate objectives and milestones. Those data should be provided annually by the participating Member States in their national implementation plans (NIPs), reviewed and updated in accordance with Article 3 of that Decision. The security rules set out in Council Decision 2013/488/EU¹ should also be applied to the NIPs. The participating Member States should, supported by the PESCO secretariat, ensure transparency and further develop coherence and consistency in relation to the information required and provided in the context of PESCO and other defence-related initiatives, including CARD. Coherence between different defence-related initiatives should be further developed and strengthened, including as regards Member States' reporting, taking into account the lessons identified at the end of the first PESCO phase (2018–2020).

¹ Council Decision 2013/488/EU of 23 September 2013 on the security rules for protecting EU classified information (OJ L 274, 15.10.2013, p. 1).

2. In accordance with the commitments set out in the Annex to Decision (CFSP) 2017/2315, and without altering them or introducing new commitments, this Recommendation provides guidance on the sequencing of the fulfilment of those commitments for the phases 2018–2020 and 2021–2025, and specifies more precise objectives for each commitment, including the commitments to be fulfilled before 2020. This Recommendation also provides progress indicators to assist participating Member States in planning to fulfil the more binding commitments and to facilitate the assessment of progress in that regard.
3. The more precise objectives referred to in Section II, which also include progress indicators where applicable for specific commitments, will allow participating Member States to plan for the fulfilment of the more binding commitments in a structured and transparent manner and to provide detailed and assessable information on progress achieved on the fulfilment of each commitment in their NIPs.

4. The aim is to obtain first specific deliverables with regard to the fulfilment of the more binding commitments by the end of 2020, and to develop a solid planning process to ensure continuous progress in fulfilling them beyond the first phase. At the end of the first phase, in accordance with point (c) of Article 4(2) of Decision (CFSP) 2017/2315, the Council will update, and enhance if necessary, the more binding commitments set out in that Decision in the light of achievements made through PESCO, in order to reflect the Union's capability and operational needs and its evolving security environment. Such a decision will be based on a strategic review process assessing the fulfilment of the PESCO commitments by the individual participating Member States. In this context, at the beginning of the next phase, the Council should adopt a second set of more precise objectives for the phase 2021–2025, updated and enhanced if necessary, taking into account point (c) of Article 4(2) of Decision (CFSP) 2017/2315.

II. Sequencing of the fulfilment of the commitments by specifying more precise objectives

Commitments 1 to 5

5. Commitment 1: Participating Member States should provide in their NIPs precise financial data on the evolution of total defence expenditure compared to the previous year in real terms¹, including in absolute figures, demonstrating a plan for a regular increase in spending. In this regard, participating Member States should also provide in their NIPs their nationally agreed spending projections for the coming years. Those participating Member States which are also members of NATO and are spending at or above relevant NATO guidelines on defence expenditure should provide an indication on their plan to maintain or change that level of defence spending. On the basis of the information provided in the NIPs, the annual report of the High Representative will also provide a detailed overview of the evolution of the defence spending by participating Member State, in accordance with Article 6(3) of Decision (CFSP) 2017/2315.

¹ In accordance with the European Defence Agency list of definitions of defence data (EDA201807105).

6. Commitment 2: Participating Member States should each provide precise financial data in their NIPs on how they intend to contribute to the collective 20 % benchmark¹ on defence investment. That information should provide the forecast of increase compared to the previous year in real terms, as a percentage of the total defence budget. The figures provided should comprise investments for defence procurement and research and development (R&D). Those participating Member States which are already spending at or above the level of the (collective) benchmark should provide an indication of their plans to maintain or change that level of spending.

¹ In November 2007 the EDA Ministerial Steering Board approved four collective benchmarks for investment: 20 % of total defence spending for equipment procurement (including R&D/R&T); 35 % of total equipment spending for European collaborative equipment procurement; 2 % of total defence spending for defence R&T; 20 % of total defence R&T spending for European collaborative defence R&T.

7. Commitment 3: Participating Member States should provide detailed information in their NIPs on how and by which means they seek to increase the number, size and impact of joint and collaborative strategic defence capability projects, also mentioning budgetary figures and the specific projects which benefit or have benefited from Union financial assistance. In this regard, the participating Member States should each provide precise financial data on how they plan to contribute to achieving in real terms the European collaborative equipment procurement collective benchmark – 35 % of total equipment spending – and the European collaborative defence research and technology (R&T) collective benchmark – 20 % of total defence R&T spending. Those participating Member States which are already spending at those levels should provide an indication of their plans to maintain or change those levels of spending.

8. Commitment 4: Participating Member States should each clearly provide in their NIPs precise financial data on how they will contribute, with a view to nearing the 2 % of total defence spending (collective benchmark) as a share of total defence expenditure for defence R&T, including expenditure forecasts, in order to assist the monitoring of actual year-to-year progress.

9. Commitment 5: Each year participating Member States are encouraged to use their NIPs to share their experience in terms of planning and contributing to the fulfilment of the commitments 1 to 4 in light of the more precise objectives set out above. At the end of 2020, a review of those commitments will be conducted, based on the spending data provided in the NIPs, with a view to adapting the indicators and objectives for those commitments as necessary, for endorsement by the Council.

Commitments 6 to 11

10. Commitment 6: By 2020, participating Member States will have increased the use of, and participation in, the Union's capability development tools, such as the Capability Development Plan (CDP) and the Coordinated Annual Review on Defence (CARD) to inform national decision-making and defence planning, as well as the development of collaborative defence capability activities within the Union. To that effect, participating Member States should indicate in their NIPs how they implement the Union's capability development priorities derived from the CDP, including through national priority-setting, and outline their plans and objectives on the respective priorities to be achieved in the coming years.

11. Commitment 7: By 2020, each participating Member State should have made the best use of available tools and processes to provide all relevant information requested under CARD, including through bilateral dialogues. The participating Member States should have taken into account the lessons identified on the CARD trial run and should indicate in their NIPs information on their support for the CARD trial run and, to the extent possible, the first full CARD cycle in 2019–2020, including the use of recommendations provided in the CARD reporting as a reference in national and multinational settings to take relevant decisions.

12. Commitment 8: By the end of 2020, participating Member States will make the best use of – and ensure follow-up to – the results of both the preparatory action on defence research (2017–2019) and the European Defence Industrial Development Programme (EDIDP) (2019–2020) for collaborative projects with an identified EU added value. In their NIPs, with a view to supporting capability priorities derived from the CDP and also taking into account CARD, participating Member States should indicate in which collaborative capability development projects they take part and/or are planning to take part for which co-funding with Union financial assistance is received or foreseen. They should also indicate to the extent possible the share of national defence investment they committed or plan to commit to those collaborative projects.

13. Commitment 9: Participating Member States should list the relevant ongoing collaborative capability development projects in line with the CDP in PESCO, as well as in other frameworks, and indicate the planned start and completion of the harmonisation of requirements. The foreseen start of harmonising capability requirements should also be indicated for the planned and intended projects. This should be done for the coming years, in particular focusing on closing capability gaps identified through the CDP and taking into account CARD.
14. Commitment 10: Participating Member States should map in their NIPs those capabilities and facilities that have been made available and are provided to be used jointly by other participating Member States, with specific examples such as training and exercises, military bases and logistic support, including in the case of operations, and also with a view to promoting the use of the Collaborative Database (CODABA) to support participating Member States in sharing information on their defence plans and programmes in capability development. Participating Member States could also map in their NIPs which capabilities, including infrastructure offered by other participating Member States, could provide a basis for cooperation. The NIPs should indicate how such cooperation could optimise available resources and improve their overall effectiveness, including by providing, when available, information on potential savings and the planned financial scope in absolute figures for the coming years.

15. Commitment 11: Participating Member States should indicate in their NIPs how they are going to increase cooperation on cyber defence, including through existing initiatives or new collaborative activities, including by indicating the level of participation in multinational cyber exercises. By 2020, each participating Member State should have indicated their intention to participate in a PESCO project on cyber defence and provided support to other participating Member States on cyber threats, for example through information sharing. By 2020, each participating Member State should also map its resources made available for cooperation, in the framework of either the EDA or a new cyber defence platform within the European Security and Defence College, and used to increase the level of cyber defence.

Commitments 12 to 14

16. Commitment 12: by 2020, participating Member States should:

- (a) in accordance with the EU Military Rapid Response Concept, complete the Rapid Response Database to enable it as a useful military planning tool to contribute to the fulfilment of the EU level of ambition. In contributing to the Rapid Response Database, and without prejudice to any national constitutional requirements with regard to deployment decisions, participating Member States will signal their potential contribution of rapidly deployable formations, capabilities and relevant supporting infrastructure which could be rapidly deployed or utilised in a military common security and defence policy (CSDP) mission or operation in support of the EU level of ambition. To this end, each participating Member State should update the database during the annual Military Rapid Response Coordination Conference with a list of its military available formations and capabilities. That established process comprises the completion of land, maritime and air databases and includes an indication of the level of readiness for capabilities and forces, where applicable. Without prejudice to classification requirements, this part of the Rapid Response Database should be accessible to participating Member States so as to support the ability to make an initial assessment regarding the possibility to launch a military CSDP mission or operation. Participating Member States should reflect their contributions to this database in their NIPs.

- (b) have assessed the feasibility of a fast-tracked political commitment at national level, whilst respecting their constitutional requirements, including through a possible review, if not done so already, of their national decision-making procedure with a view to making improvements. If applicable, the exercising of decision-making procedures in rapid-response scenarios through POLEX-type exercises, and relevant findings, should be reflected in the NIPs as well.
- (c) have provided substantial support within their means and capabilities to CSDP military operations and missions aiming to entirely fill the statements of requirement (SORs) and thus provide a fair share to the respective force generation, and report this in their NIPs.
- (d) confirm their substantial and recurring contributions to the EU Battlegroups (EU BGs) in principle at least four years in advance and prepare and train their contributing forces and capabilities in accordance with the EU BG Concept and the EU BG Preparation Guide. To this end, each participating Member State should reflect the biannual updates to the EU BG Roster in their NIPs.

- (e) have made a tangible contribution towards the implementation of the EU Action Plan on military mobility and the PESCO projects in that area, subject to national sovereignty, decision-making, laws and regulations, including by taking forward the four measures at national level as agreed in the Council conclusions on security and defence of 25 June 2018, in particular in paragraph 18 of those conclusions, as soon as possible but no later than 2024. They should also aim at achieving the mentioned first measures by the end of 2019, including developing a national plan for military mobility implementation. Those national contributions should be detailed in the NIPs.

17. Commitment 13. In the area of interoperability of forces, participating Member States should:

- (a) use the EU BG Preparation Guide, including the common evaluation and validation criteria for the EU BG force package, which are aligned with NATO standards, while maintaining national certification. In their NIPs, participating Member States should state how they train and certify their forces, for example, by developing an EU BG exercise programme for the preparation phase and by executing a final live exercise (LIVEX) as part of the BG certification package;

- (b) specify in their NIPs how they intend to agree on common technical and operational standards to be utilised by forces of all the participating Member States, while acknowledging the need to ensure interoperability and coherence between the EU and NATO and ensuring that appropriate prerequisites for maximum interoperability need to be in place to enable all participating Member States to fulfil their commitments;
 - (c) indicate in their NIPs the current participation and the intention to enhance, where possible, their participation and contribution to the relevant European multinational structures, in particular those available to the Union.
18. Commitment 14: Participating Member States should engage in the development of an ambitious approach to common funding of military CSDP operations and missions, presenting options and possibilities, beyond what will be defined as common cost in accordance with Council Decision (CFSP) 2015/528¹, currently under review. Participating Member States are invited to present proposals in this regard before the end of 2018. By early 2020, participating Member States should have examined such proposals in order to facilitate decision-making by the Council where appropriate.

¹ Council Decision (CFSP) 2015/528 of 27 March 2015 establishing a mechanism to administer the financing of the common costs of European Union operations having military or defence implications (Athena) and repealing Decision 2011/871/CFSP (OJ L 84, 28.3.2015, p. 39).

Commitments 15 to 17

19. Commitment 15: By 2020, participating Member States should have increased the number and volume of their capability development projects, which contribute to filling those capability gaps identified in the CDP and described in the Union's capability development priorities, including in the related strategic context cases (SCCs) and by using CARD. The Union's capability development priorities derived from the CDP review also take into account the prioritised capability shortfalls and high-impact capability goals. Participating Member States should provide their respective plans for the coming years by describing the number and estimated volume of their collaborative projects in financial terms and will provide information about their national projects which help to overcome capability shortcoming identified under the CDP. Participating Member States should also share their assessment on the importance of those projects for an improved Europe's strategic autonomy and a strengthened European Defence Technological and Industrial Base (EDTIB). For those activities which have an industrial or technology dimension, participating Member States should state which type of European industrial sector or technology is planned to be strengthened.

20. Commitment 16: By 2020, participating Member States should reflect in their NIPs appropriate decisions and steps taken at the national level in order to consider as a priority a European collaborative approach for future projects to close capability gaps identified at national level. Active use of CODABA could facilitate the fulfilment of that commitment. For the years 2019 and 2020, participating Member States should list in their NIPs collaborative projects and multinational activities which they envisage will close shortcomings identified at national level and share plans on how they intend to increase the use of the collaborative approaches in this respect.
21. Commitment 17: As all participating Member States are contributing to one or more PESCO projects, the NIPs should detail the overall contribution in resources and expertise they make or intend to make and how that contribution is planned to deliver a strategic impact.

Commitments 18 to 20:

22. Commitment 18: By 2020, participating Member States should ensure making the best use of the EDA as the European forum for joint capability development. To that end, the participating Member States should indicate in their NIPs which projects they participate in and the associated financial volume channelled through the EDA, taking the figures of 2018 as a baseline and listing the intended activities for 2019 and 2020, including the capability domains and type of activity planned. Member States are invited to indicate in their NIPs how and in what situations they consider the Organisation for Joint Armament Cooperation (OCCAR) to be the preferred collaborative programme managing organisation and to provide information on the decisions taken for the selection of a multinational programme managing organisation in which OCCAR has been considered an option. This does not prejudice the application of Directive 2009/81/EC of the European Parliament and of the Council¹.

¹ Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC (OJ L 216, 20.8.2009, p. 76).

23. Commitment 19: By 2020, participating Member States should demonstrate that their collaborative capability projects, including PESCO capability projects, contribute to fostering the competitiveness, efficiency and innovation of the defence industry throughout the Union.

(a) The NIPs should specify how an appropriate industrial policy, if in place, guides the development of collaborative capability development projects to avoid unnecessary overlap, with indications on the industrial areas strengthened and those areas in which overlaps were prevented.

(b) Participating Member States will report on their cooperative programmes benefitting from Union co-funding under the EDIDP in accordance with commitment 8.

24. Commitment 20:

(a) By 2020, participating Member States should demonstrate that their cooperation programmes benefit entities which provide added value on EU territory (e.g. aspects related to generated results and intellectual property rights, technological improvements, creation of market opportunities).

The NIPs should provide indications, as appropriate, on the relevant entities benefitting from cooperative programmes and the related impact on the EDTIB.

- (b) Participating Member States will demonstrate that the acquisition strategies they have implemented from 2018 to 2020 have a positive impact on the EDTIB. This could be indicated by listing the absolute volume of the defence investment and the relative share which is allocated to solutions developed and produced within the Union. In particular, NIPs should provide information on capability and technology areas as agreed in the CDP, and acquisition strategy in relation to capability projects that have an industrial dimension.

III. Way forward

25. Following the adoption of this Recommendation, participating Member States will review and update their NIPs accordingly, and communicate them to the PESCO secretariat by 10 January 2019, in accordance with Article 3(2) of Decision (CFSP) 2017/2315, in view of the assessment process set out in Article 6(3) thereof. In accordance with paragraph 14 of the roadmap of 6 March 2018 for the implementation of PESCO, and in light of this Recommendation, the PESCO secretariat will update the template used for the NIPs.

26. The High Representative should take this Recommendation into account in the annual report on PESCO, which will support the assessment of the fulfilment of the more binding commitments by each participating Member State, to be submitted in accordance with paragraphs 14 to 16 of the roadmap for the implementation of PESCO.
27. This Recommendation will be reviewed and updated as necessary at the beginning of the next phase in 2021.

Done at ...,

For the Council
The President
