



Council of the  
European Union

Brussels, 31 January 2017  
(OR. en)

5820/17

LIMITE

COPS 35  
CSDP/PSDC 50  
POLMIL 6  
EUMC 7

**COVER NOTE**

---

From:	European External Action Service (EEAS)
date of receipt:	31 January 2017
To:	Delegations
Subject:	Food for Thought: Permanent Structured Cooperation

---

Delegations will find attached document EEAS(2017)140.

---

Encl.: EEAS(2017)140

**EEAS(2017)140**  
*Limited*

EUROPEAN EXTERNAL ACTION SERVICE



CMPD

**Working document of the European External Action Service**

**of 31/01/2017**

<b>EEAS Reference</b>	<b>EEAS(2017)140</b>
<b>Distribution marking</b>	<i>Limited</i>
<b>To [and/or GSC distribution acronyms]</b>	<b>Political and Security Committee Delegations</b>
<b>Title / Subject</b>	<b>Food for Thought: Permanent Structured Cooperation</b>
<b>[Ref. prev. doc.]</b>	-

**FOOD FOR THOUGHT**  
**PERMANENT STRUCTURED COOPERATION**

**I. Key principles and added value**

**Key Principles**

Permanent Structured Cooperation (PESCO) is a form of cooperation provided for in CSDP provisions in the Treaty of the European Union (Articles 42.6, 46 and Protocol 10 – see annex) which has never been activated.

To strengthen CSDP, the Council has agreed to explore the potential of an ‘inclusive PESCO’ which would be internally modular, and has invited the HR to provide options and elements for reflection as soon as possible. The European Council in December reinforced this request. Of course, it remains a Member State driven process.

*An inclusive and modular PESCO*

Article 42(6) TEU refers to those Member States whose armed forces fulfil ‘higher criteria’ and which have undertaken ‘more binding commitments to one another with a view to the most demanding missions’. The Article states that PESCO is governed by Article 46 which in turn refers to the criteria and commitments set out in the Protocol.

On the basis of the Protocol, Article 1, PESCO is open to all willing and able Member States: willing to proceed more intensively to develop its defence capacities through national contributions, participation in multinational formations, in European equipment programmes and in EDA activity; and able to provide targeted combat units and/or support elements and thus effectively (parts of) an EU Battlegroup.

Interested Member States are required to express their commitment concretely in each of the five areas mentioned in Article 2 of the Protocol (i.e. investment, capability cooperation, operational enablers, coordinated approach to tackling shortfalls, equipment programmes). Such commitments could thus take the form of cooperative projects/initiatives or ‘modules’ based on individual and measurable Member State contributions. In accordance with Article 42(6) and 46(1) TEU, such

# EEAS(2017)140

## *Limited*

commitments are required up-front to allow Member State membership of PESCO. They could be confirmed through the ‘notifications’ of each Member State on their intention to join PESCO.

Member States could develop a more detailed understanding on the five areas of Article 2, thus effectively defining the ‘entry criteria’ or baseline for PESCO membership, which could be taken up in the Council Decision establishing PESCO, to be adopted by QMV. This would ensure that PESCO is built around common goals and criteria which are effective from the very first moment and applicable to all Member States wishing to develop PESCO. Some of the entry criteria could be scalable, e.g. on expenditures. Having entered into more binding commitments to one another with a view to the most demanding missions, all PESCO members would thus share a perspective of deepening European defence cooperation. The projects to implement those goals and criteria would then be pursued in a modular approach within PESCO itself.

The Protocol allows for some flexibility on the extent to which, and also when, a PESCO Member State undertakes its commitments in each of these areas. In particular, it is possible that one project addresses several of the five criteria of the protocol (see below). This should thus create the necessary flexibility for more Member States to join, in line with the principle of an inclusive approach. At the same time, having potentially several ‘modules’ within each of the five areas of Article 2 of the Protocol (see also further down for example) would allow for different ‘speeds’ within PESCO for groupings of different levels of ambition.

Within each module, two or more participating Member States should be free to pursue the concrete measures to which they agree, in transparency with, but without interference of other PESCO members. The different ‘modules’ should be linked to an overarching and inclusive PESCO governance structure; thus creating the need for two levels (i.e. overall PESCO governance and individual modules i.e. projects/initiatives).

# EEAS(2017)140

## *Limited*

The governance modalities would need to further address the role of the EDA<sup>1</sup> and the EEAS, under the responsibility of the High Representative / Head of Agency, in support of the PESCO Member States. Capabilities developed under PESCO are still owned and operated by the Member States and hence in principle available for other frameworks (e.g. NATO, UN) if so decided by those Member States.

### **Added value**

Output-oriented and performance-based: In light of decreasing levels of cooperation within Europe, despite political promises and commitments in recent years, PESCO could jumpstart European defence cooperation. PESCO modules should enable tangible progress on capability development and the availability of deployable defence capabilities for our operations in support of the agreed level of ambition on security and defence. The perspective of defence integration among Member States should lead to a higher level of military output, strategic cohesion and hence ultimately greater security.

Deeper levels of cooperation: As part of the overall PESCO governance, Member States would agree to more binding commitments to one another, to share the burden in operational engagements or to achieve concrete goals together, in support of the level of ambition agreed by the Council.

EU-level synergies: Compared to multinational groupings, PESCO could provide a flexible but binding framework which should ensure continuity and coordination. It would provide a higher threshold against pull-outs for political or financial reasons. Although a Member State driven process, PESCO is part of the Union's institutional framework and as such creates possibilities for synergies with other EU instruments which are also relevant for the development of the common defence policy or might offer complementarity opportunities. Moreover, PESCO would provide

---

<sup>1</sup> The role of the EDA in the context of PESCO is addressed in the Council Decision on the EDA (CFSP 2015/1835) in Article 4(2)(b) and Article 5(f). Article 4(2): “The Agency shall report regularly to the Council on its activities, and shall in particular ... (b) subject to a Council decision on the establishment of permanent structured cooperation, submit to the Council at least once a year information on the Agency's contribution to the assessment activities in the context of permanent structured cooperation.” Article 5: “The Agency, subject to the authority of the Council, shall: ... (f) subject to a Council Decision on the establishment of PESCO, support that cooperation in particular by (i) facilitating major joint or European capability development initiatives; (ii) contributing to the regular assessment of pMS' contributions with regard to capabilities, in particular contributions made in accordance with the criteria to be established, inter alia, on the basis of Article 2 of Protocol 10, and reporting thereon at least once a year”.

coherence and coordination by focusing on achieving the level of ambition and delivering progress towards those strategic aims.

Funding options: Member States participating in PESCO commit jointly to develop and invest in defence capabilities. Hence the funding of PESCO is first and foremost to be provided by the participating Member States. However, complementary financing from the Union's budget could be provided through the Commission's European Defence Action Plan, notably the Defence Fund which aims to support the joint development and procurement of defence capabilities commonly agreed by Member States. The proposed Defence Fund would consist of two distinct financing structures ('windows'); a 'research window' to fund collaborative defence research projects at the EU level and a 'capability window' to support the joint development of defence capabilities agreed by Member States. The 'windows' will be complemented by a coordination mechanism which could also ensure the link to PESCO; i.e. the Commission could inform PESCO with its funding possibilities under the Defence Fund and the needs in the capability development could in turn be communicated to the Commission in order to achieve a maximum of synergies. By doing so, it would also provide support for a strong and competitive EDTIB. In addition, the administrative support structure could also be financed by the Union's budget<sup>2</sup>.

An additional option would be to take advantage of the provisions of article 22 of the EDA Council Decision in that “Contributions from the general budget of the Union may be made to the ad-hoc budgets established for ad-hoc projects or programmes.

## **II. Structure and Governance**

### ***2.1 Initial phase***

- Pursuant to Article 46(1) TEU, those Member States willing to participate in PESCO, which fulfil the criteria and have made the commitments set out in the Protocol, notify their intention to the Council and to the HR.
  
- The criteria and commitments referred to in Article 46(1) TEU are to be found in Articles 1 and 2 of the Protocol.

---

<sup>2</sup> See Article 41 (1) TEU.

# EEAS(2017)140

## *Limited*

- Each Member State willing to participate in PESCO has to send to the Council and the HR an individual notification in written form, providing relevant information on how it fulfils the said criteria and commitments.
- Such information should identify the projects, measures and undertakings through which the said criteria and commitments are being fulfilled, and that the concerned Member State is committing to pursue in the framework of PESCO, once established.
- Each project, measure or undertaking may allow one Member State to fulfil more than one criteria or commitment.
- Initial commitments made by a Member State at the time it notifies its intention to participate in PESCO may be supplemented afterwards, when PESCO is established and as PESCO activities evolve and may be eventually enlarged to other Member States (see below).

Thus, during such an initial phase, Member States could work in a transparent manner on the kind of projects, measures and undertakings they would be willing to pursue under PESCO in order to find possible areas of cooperation through 'modules' foreseeing the participation of at least two Member States. This will determine the content contours and eventual membership of PESCO, and it will do so ensuring transparent discussion amongst all Member States. This would need to be done within a timeframe to be determined. This phase would end with Member States notifying the Council and the High Representative of their intention to join PESCO including which projects, measures and undertakings they are subscribing to. Afterwards, of course, the process would need to continue as part of the implementation.

- Pursuant to Article 3 of the Protocol, the EDA shall contribute to the regular assessment of participating Member States' contributions with regard to capabilities. Also once the Member States willing to participate in PESCO have each notified individually to the Council and the HR their intention to participate, the Member States may request the EDA to provide already then an assessment of the contributions referred to in the notification in order to assess whether the requirements set forth in Article 46(1) TEU and hence also the Protocol are actually met through those notifications.

## ***2.2 Council Decision establishing PESCO***

- Pursuant to Article 46(2) TEU, “within three months following the notification” by the Member States willing to participate in PESCO, the Council adopts by QMV (after consulting the HR) a decision:

- determining the list of participating Member States, and;
- establishing permanent structured cooperation.

- In particular, this Council Decision will define PESCO’s two levels, i.e. the overarching structure and the individual modules, and any common goals/criteria. As part of the governance, the overarching level should ensure transparency regarding the individual modules, which can be self-regulated but should not become ‘closed systems’. Participating Member States are free to decide in which module(s) they would join (opt-in) and under which conditions.

- The definition of the list of modules and their participants would take place within the PESCO framework itself, thus only with PESCO members but on the basis of unanimity (pursuant to Article 46(6) TEU). Such a Council Decision in the PESCO framework should be adopted as soon as possible after the adoption of the Council Decision establishing PESCO, in order to avoid a gap between the formal establishment of PESCO and the agreement on the concrete projects.

## ***2.3 Decision-making process in the context of PESCO***

- Pursuant to Article 46(6) TEU, the Council may adopt unanimously (with the votes of the participating Member States only) decisions and recommendations within the framework of PESCO. Such decisions and recommendations may for instance concern:

- the overall military objectives which PESCO would pursue within the EU level of ambition;
- determining the individual modules which are needed to meet those ambitions (as referred to above).

- Each individual module being self-regulated, the participating Member States associated to an individual module may agree among themselves the modalities and scope of their cooperation.

#### ***2.4 New participating Member States***

Pursuant to Article 46(3) TEU, the Council adopts by QMV a decision on the participation of a new Member State in PESCO. Such decision is taken after consultation with the HR. The European Defence Agency may contribute to the assessment of the contributions of that Member State with regard to capabilities, in order to ascertain that it actually fulfils the relevant criteria and has made the necessary commitments.

#### ***2.5 Non-compliance with the criteria***

Pursuant to Article 46(4) TEU, if a Member State no longer fulfils the criteria or is no longer able to meet its commitments, the Council may adopt (by QMV with only PESCO member states voting, with the exception of the Member State in question) a decision suspending the participation of the Member State concerned. The EDA may contribute to the assessment of the contributions of that Member State.

#### ***2.6 Administrative structure***

The costs concerning the administrative structure which is needed to implement PESCO in particular with respect to its overall governance could be charged to the Union's (CFSP) budget (see Article 41 (1) TEU).

The EDA will provide administrative and technical support to the running of PESCO, in cooperation with the EEAS<sup>3</sup>. A role for the Commission could be foreseen in PESCO in particular in order to ensure maximum synergies with the financing possibilities under the European Defence Fund. Synergies between PESCO capability development / equipment programmes more specifically and the financing under the European Defence Fund could also be explored through EDA (cf. Art. 22 EDA Council Decision).

---

<sup>3</sup> The role of the EDA in the context of PESCO is addressed in the Council Decision on the EDA (CFSP 2015/1835) in Article 4(2)(b) and Article 5(f). See footnote 1.

### **III. Options for PESCO Commitments**

As set out in Protocol 10, PESCO is focused on five criteria or areas of action, broadly speaking: investment, capability cooperation, operational enablers, coordination and joint equipment programmes. As set out above, PESCO members should commit or contribute *one way or the other* in each of these areas.

Moreover, some actions or commitments could actually address more than one criterion simultaneously. In theory, one project could start as part of the capability cooperation ('harmonising of military needs'), become an equipment programme (procurement), ultimately leading to capabilities available for EU-led operations.

The following elements might help Member State reflections on the specifics of Article 2 of the Protocol.

- a) **Investment**: "*Cooperate (...) with a view to achieving approved objectives concerning the level of investment expenditure on defence equipment, and regularly review these objectives, in the light of the security environment and of the Union's international responsibilities*": This clearly refers to benchmarking of defence spending, focusing on collaborative or equipment spending, such as exist within the EDA framework. The language offers certain flexibility, both for those Member States who are more and those who are less ambitious in this area. Each participating Member State may contribute to such objectives at its own speed, in accordance with modalities defined by the Participating Member States.
  
- b) **Capability cooperation**: "*Bring their defence apparatus into line with each other as far as possible, particularly by harmonising the identification of their military needs, by pooling and, where appropriate, specialising their defence means and capabilities, and by encouraging cooperation in the fields of training and logistics*": Here modules could be envisaged to develop specific capabilities together, by harmonising requirements leading to arrangements to pool capabilities, even for task specialisation (e.g. based on binding mutual commitments). For example, a European drone project leading also to a pooling of their use under a single command. Or a European medical command. It could also involve pooling of existing capabilities.

**EEAS(2017)140**  
***Limited***

- c) Operational enablers: *“Take concrete measures to enhance the availability, interoperability, flexibility and deployability of their forces, in particular by identifying common objectives regarding the commitment of forces, including possibly reviewing their national decision-making procedures”*: This refers to operational enablers and arrangements for the use of forces in operations (EU or otherwise). Here one could think of closer coordination on the EU Battlegroups in terms of roster, common capabilities, or even common funding. Or perhaps other types of coherent ‘force packages’ for different types of missions and operations. Member States could also go a step further in agreeing, for those willing to do so, to share more common costs between them in EU operations.
- d) Coordinated approach to tackling shortfalls: *“Work together to ensure that they take the necessary measures to make good, including through multinational approaches, and without prejudice to undertakings in this regard within the North Atlantic Treaty Organisation, the shortfalls perceived in the framework of the ‘Capability Development Mechanism”*: This refers to the logic underlying also the proposal for a Coordinated Annual Review on Defence, i.e. a more structured and transparent way of delivering on agreed capability priorities. As part of PESCO, Member States could agree to contribute more intensively to the CARD in the EDA context, e.g. in specific capability areas (maritime, air, space...) or on the basis of regional/bilateral clusters. Thus PESCO could provide ‘glue’ for the different clusters of cooperation within the EU.
- e) Equipment programmes: *“Take part, where appropriate, in the development of major joint or European equipment programmes in the framework of the European Defence Agency”*: This puts the emphasis on participation in EDA projects leading to procurement, which could be the outcome of the work on capability cooperation, the operational enablers and the coordination.
-