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signed by Mr Jordi AYET PUIGARNAU, Director

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
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Subject: JOINT COMMUNICATION TO THE EUROPEAN PARLIAMENT AND THE
COUNCIL on the Action Plan on Military Mobility

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HIGH REPRESENTATIVE
OF THE UNION FOR
FOREIGN AFFAIRS AND
SECURITY POLICY

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**JOINT COMMUNICATION TO THE EUROPEAN PARLIAMENT AND THE
COUNCIL**

on the Action Plan on Military Mobility

1. INTRODUCTION: IMPROVING MILITARY MOBILITY IN THE EU

In his State of the Union Address of 2017¹, President Juncker stressed the imperative of creating a fully-fledged European Defence Union by 2025. The EU is already taking the necessary steps to build a more effective, responsive and joined-up Union, capable of pursuing EU's shared interests and priorities in promoting peace and guaranteeing the security of its citizens and territory, as also called for in the Global Strategy for the EU Foreign and Security Policy². The European Defence Action Plan and in particular the European Defence Fund show Europe's commitment to take bold action in support of Member States. Improving military mobility in the European Union is one of the practical steps to that end, hence contributing to building a Union that protects, where European solidarity and mutual assistance³ are implemented effectively.

Twenty-five EU Member States have decided to include military mobility among the more binding commitments they have taken under the Permanent Structured Cooperation launched on 11 December 2017⁴. The Council also adopted a Recommendation concerning the roadmap for the implementation of the Permanent Structured Cooperation and a Decision establishing the list of projects to be developed under the Permanent Structured Cooperation on 6 March 2018⁵. In December 2017 military mobility was added to the common set of new proposals⁶ for the implementation of the EU-NATO Joint Declaration of July 2016⁷. The European Council in December 2017⁸ invited the High Representative, the Commission and the EU Member States to bring work forward on military mobility, both in the Permanent Structured Cooperation and in the context of EU-NATO cooperation.

The guiding principles of the EU approach

As a follow-up to the Joint Communication on improving military mobility in the EU of November 2017⁹, and building on the Roadmap by the ad-hoc working group on cross-border military transportation within Europe in the framework of the European Defence Agency, the present Action Plan aims to provide a coherent framework for the ongoing and future programmes, projects, initiatives and activities. This will allow for a more

¹ The State of the Union 2017, 13 September 2017: http://europa.eu/rapid/press-release_SPEECH-17-3165_en.htm

² The Global Strategy for the European Union's Foreign and Security Policy, Foreign Affairs Council Conclusions, 14 November 2016.

³ Article 42.7 TEU

⁴ <http://www.consilium.europa.eu/media/32000/st14866en17.pdf>

⁵ <http://www.consilium.europa.eu/media/33064/council-recommendation.pdf>
<http://data.consilium.europa.eu/doc/document/ST-6393-2018-INIT/en/pdf>

⁶ <http://www.consilium.europa.eu/media/31947/st14802en17.pdf>

⁷ <http://www.consilium.europa.eu/media/21481/nato-eu-declaration-8-july-en-final.pdf>
<http://www.consilium.europa.eu/media/31947/st14802en17.pdf>

⁸ <http://www.consilium.europa.eu/media/32204/14-final-conclusions-rev1-en.pdf>

⁹ https://eeas.europa.eu/sites/eeas/files/joint_communication_to_the_european_parliament_and_the_council_-_improving_military_mobility_in_the_european_union.pdf

coordinated EU approach, strengthening solidarity among Member States and improving the EU's added-value.

A better mobility of forces within and beyond the EU will enhance European security by enabling the EU Member States to act faster, in line with their defence needs and responsibilities, both in the context of Common Security and Defence Policy missions and operations, as well as national and multinational activities (e.g. in the framework of NATO).

Working closely with the EU Member States, including all their relevant actors, is key for the implementation of this Action Plan. This will be done in full respect of the sovereignty of EU Member States over their national territory and national decision-making processes regarding military movements. Further to that, steps to enhance cooperation between the Union institutions, agencies and bodies and the competent national authorities within the EU Member States will be taken in full respect of the different competences of the actors involved. Close coordination between the present Action Plan and the Permanent Structured Cooperation project on military mobility needs to be ensured in order to reach complementarity of results.

Further cooperation with NATO on military mobility, in the framework of the implementation of the Joint Declaration, is also important. In line with the Council conclusions of December 2017, cooperation and consultation with NATO is taking place at staff level, through regular meetings, on issues of military mobility in all domains (land, maritime, air). The intention is to ensure a coherent approach and synergies between the EU and NATO aiming to effectively address existing barriers, including legal, infrastructure and procedural, in order to facilitate and expedite movement and border crossing of military personnel and material, in full respect of sovereign national decisions. This cooperation will be taken forward in full openness and transparency, respect of the decision-making autonomy and procedures of both organisations, inclusiveness and reciprocity without prejudice to the specific character of the security and defence policy of any EU Member State. Interaction with all relevant stakeholders will aim to optimise coordination and effectiveness so as to grasp all synergies.

Results of the Ad Hoc Working Group on Cross-Border Military Transportation

The present Action Plan builds upon the Roadmap on Military Mobility developed by the Ad Hoc Working Group set up in the framework of the European Defence Agency by decision of its Steering Board in September 2017. The Ad Hoc Working Group Roadmap identified tasks, responsibilities and ambitious timelines for improving military mobility with regards to the following four aspects: legal aspects; customs; military requirements, including infrastructure-related military standards; and cross-border movement permissions, including diplomatic clearances. The European Defence Agency's Steering Board welcomed the Roadmap on 9 February 2018 and tasked the European Defence Agency to pursue further work on improving military mobility, also in the framework of

the implementation of this Action Plan, and to report to them on an annual basis on the progress made.

In addition, the EU Member States are engaged in a number of cooperation projects and initiatives facilitated by the European Defence Agency: the Project Team Movement and Transport¹⁰, the EU Multimodal Transport Hub¹¹ and the Diplomatic Clearances Technical Arrangement¹².

2. IDENTIFIED ACTIONS

2.1 Military requirements

The identification and agreement of the military requirements, reflecting the needs of the EU and its Member States, will be the starting point for an effective approach across the EU, encompassing all other actions defined in the following sections. These requirements should include also the definition of the infrastructure needed for military mobility. It requires the EU Member States to follow a whole-of-government approach and involve the competent national authorities beyond the Ministries of Defence.

Key actions at EU level:

- The European External Action Service/EU Military Staff will develop, in close cooperation with the EU Member States, the Commission and relevant Union agencies and bodies (including the European Defence Agency), and in consultation with NATO as appropriate, the military requirements
- By mid-2018, the Council is invited to consider and validate the military requirements, involving the relevant preparatory bodies, including the EU Military Committee.

2.2 Transport infrastructure

Transport infrastructure policy offers a clear opportunity to increase synergies between defence needs and existing Union policies, and in particular the trans-European transport

¹⁰ The PT M&T brings together experts from the EU Member States with the aim to identify potential fields of cooperation, assess the feasibility of cooperative activities and increase the consistency of military needs. The PT M&T is a platform where the EU Member States exchange information about all ongoing activities on Movement and Transport with the aim to benefit from ongoing initiatives while avoiding the risk of duplicating work.

¹¹ <https://www.eda.europa.eu/what-we-do/activities/activities-search/eu-multimodal-transport-hubs>

¹² <https://www.eda.europa.eu/docs/default-source/documents/dic-ip.pdf>

network (TEN-T)¹³. In this context there is scope for demonstrating the EU's added value, and ensuring a more efficient use of public money.

Pilot exercise

As a feasibility check for an EU-wide approach, the Estonian Presidency initiated in 2017 a pilot analysis for the countries of the North Sea-Baltic Corridor of the trans-European transport network¹⁴, involving their defence and transport representatives. The aim of the analysis is to initiate the steps described below in order to identify preliminary elements which may be useful for a full-scale analysis.

This pilot exercise has indeed proved useful. The participating Member States in the pilot exercise have already identified weak points in their transport networks for military purposes, which need to be upgraded, and have established a related list of priorities.

To give two concrete examples, the analysis showed that in several EU Member States' road networks, the maximum height clearance of road bridges, as well as the weight tolerance of certain bridges, is not sufficient for oversized or over-weighted military vehicles; equally, as regards transport by rail, in certain cases there is insufficient loading capacity to move oversized military equipment.

The pilot exercise identified that there are major opportunities for dual-use civilian-military infrastructure, amongst others in multimodal platforms allowing to quickly shift assets from ports and airports to rail and road, in improving the capacity of inland terminals and in adequate loading gauges on freight rail lines. All this is to be further refined following the actions laid down in this Action Plan, but the pilot exercise confirmed that the methodology applied, which is reflected in the box below, works.

Making use of EU transport infrastructure for dual civilian-military purposes

As identified in the Ad Hoc Working Group Roadmap, the intention is to extend and deepen the pilot exercise to evaluate to what extent the existing transport infrastructure prioritised by the trans-European transport network Regulation across all modes of transport and its technical requirements are relevant and sufficient for military transport of personnel and assets and, to the extent that they are not, to investigate and develop additional infrastructure sections and elements and upgrade the requirements.

¹³ Regulation (EU) No 1315/2013 of the European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network and repealing Decision No 661/2010/EU, OJ L 348, 20.12.2013, p. 1.

¹⁴ The Netherlands, Belgium, Germany, Poland, Lithuania, Latvia, Estonia and Finland

Key actions at EU level:

- By end of 2018, the Commission will identify, in cooperation with EU Member States, the European External Action Service/EU Military Staff and the European Defence Agency, the gaps between the current technical requirements applicable to the trans-European transport network on the one hand, and what would be adequate for military transport on the other. In addition, the gaps related to the geographical scope will also be identified.
 - By 2019, the Commission services will identify the parts of the trans-European transport network suitable for military transport, including necessary upgrades of existing infrastructure. Dual-use projects will be specifically identified and their cost quantified. On the basis of the findings made, a list of priority projects will be identified. In addition an estimation of the total volume of investments for military needs on the trans-European transport network will be carried out.
 - By 2020, the Commission will assess the need to adapt the trans-European transport network Regulation to include upgraded technical requirements – possibly also covering military requirements.
 - By end of 2019, the Commission will determine, in cooperation with the relevant parties, the feasibility of interlinking the military and civilian (TENtec) databases and the possible scope of any such action. On that basis the Commission will identify any further adaptations to the TENtec functionalities that would be required for these purposes and determine a procedure to keep the databases updated.
- Ongoing: The Commission will continue to seek and foster synergies between the trans-European transport network and its relevant space programmes (e.g. EGNOS/Galileo).

EU Member States are invited to:

- Establish as soon as possible, a single point of contact for information on access to transport infrastructure for military purposes.
- Consistently take military requirements into account when building transport infrastructure.

2.3 Regulatory and procedural issues

2.3.1 Dangerous goods

Land transport of dangerous goods is an area where the EU Member States and the Commission are actively involved in the negotiation of a complex set of international conventions and United Nations recommendations. These are however valid only for civilian use, while the EU Member States apply national rules when requested to grant freedom of movement to military transport including dangerous goods. This divergence from civilian rules requires ad hoc authorisations and creates delays.

The alignment of rules applicable to military forces with existing EU legislation could increase safety and provide synergies and coherence for the transport of dangerous goods in the military domain, without weakening civilian standards.

Key actions at EU level:

- By spring 2019, the European Defence Agency will carry out, in close cooperation with the European External Action Service/EU Military Staff and all other authorities involved, a survey covering a number of items: national provisions, a definition of needs, suitability of existing civilian harmonised rules and possible need for additional provisions or adjustments. EU Member States are invited to provide active support in this process.
- Ongoing: The Commission services will continue to facilitate, in close cooperation with the European External Action Service/EU Military Staff and supported by the European Defence Agency, the exchange of knowledge between civilian and military experts on the transport of dangerous goods.
- By 2020, the Commission services will assess the feasibility and need for further action at EU level, in close cooperation with the European External Action Service/EU Military Staff and the European Defence Agency.
- By summer 2019, the European Defence Agency will also investigate, in close cooperation with the Member States and the European External Action Service/EU Military Staff, the feasibility to improve the consistency of rules and procedures as regards military transport for the air domain (transport and handling) in the territory of Member States.

2.3.2 Customs and Value Added Tax

During the work of the Ad Hoc Working Group, some EU Member States have reported operational difficulties resulting from a lack of clarity as regards the use of form 302 for temporary export and re-import of military goods by or on behalf of the armed forces of the EU Member States.

Key customs actions at EU level:

- By end of 2018, the Commission services will carry out, with the EU Member States, the European External Action Service/ EU Military Staff and the European Defence Agency, a mapping of the customs related activities to be covered with form 302. In addition, the Commission services will assess, in close cooperation with the European Defence Agency, the need to develop an EU template of form 302 when the existing form 302 cannot be used. This assessment will include the potential impact on the current customs legislation.

- By end of 2018, the Commission will explore possible options for streamlining and simplifying customs formalities related to the customs related activities for military operations. It will also ensure the uniform application and implementation of the related customs provisions.
- By end of 2018, the Commission will identify the acts to be amended, if any. If needed and on that basis, the Commission will initiate amendments to the Customs regulatory framework and notably the Union Customs Code-related Commission Acts¹⁵ with a view to clarifying the use of form 302 for the identified customs related activities.
- The Commission will develop, with the involvement of the European External Action Service/EU Military Staff and European Defence Agency, guidelines to ensure the correct and uniform implementation of customs legislation on matters related to military activities. The timeline for this will depend on the adoption of the amendments referred to above.
- By summer 2018, the European Defence Agency will prepare a Category A project on Customs, subject to the Steering Board decision, with a permanent coordination with the European External Action Service/EU Military Staff and the Commission services and Member States' military and customs expertise, without prejudice to the Commission's Union Customs legislation initiative.

- **EU Member States are invited to** assess by end of 2020, the need to develop electronic systems, using also EU space technologies, for the management of customs related activities by military forces and customs authorities.

Facilitating military mobility also concerns the current Value Added Tax rules. Defence efforts and military mobility in particular necessitate a number of supplies such as training, exercise materials, accommodation, provision of food/canteen services, fuel etc. These supplies are in principle subject to Value Added Tax. In the framework of the Ad Hoc Working Group on Military Mobility, Member States identified the need to ensure defence efforts being treated equally, in order to reduce the administrative burden, thus avoiding delays and costs of military mobility, and providing Member States with an incentive to cooperate.

¹⁵ Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code – OJ L 343,29.12.2015,p. 1 and Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code – OJ L 343, 29.12.2015,p. 558

Key Value Added Tax actions at EU level:

- By end of 2018, the Commission will assess options, in consultation with EU Member States and in close cooperation with relevant Union actors, to reduce administrative burden, and the feasibility of aligning the Value Added Tax treatment of defence efforts undertaken within the EU framework and the NATO umbrella.

2.3.3 Cross Border Movement permission

As proposed in the Ad Hoc Working Group Roadmap, the cross border movement permission (including diplomatic clearance) is an area where the EU Member States can work together to increase the consistency and/or the effectiveness of their procedures. Cross Border Movement Permission concerns the procedures to acquire permission to cross borders. The diplomatic clearance in force reduces the administrative burden and the time to allow military mobility. The existing Diplomatic Clearance Technical Arrangement proved its value in a specific part of air transport, but also with clear restrictions such as exclusion of airspace regions, aerodromes or denial of certain missions, as individually imposed by the signatories. Annually issued Diplomatic Clearance Numbers from/by the contributing EU Member States as well as the caveats and on/off hour contacts are managed and displayed on a dedicated web portal.

An arrangement on cross border movement permission focussing on surface movement would be an opportunity to enhance military mobility for road, rail and inland waterways. Administrative procedures could be partially laid out in an arrangement to ensure common rules and procedures, in particular for Common Security and Defence Policy missions and operations, as well as activities in other frameworks, exercises and for daily movements.

With regard to air movements, those conducted under rules for general air traffic must comply with the regulatory framework established under the Single European Sky. For those flights operated under national Operational Air Traffic rules, Member States need to rely on bilateral arrangements or Diplomatic Clearance Technical Arrangement for cross-border operations. A timely and accurate reporting of safety information at European level would help when it comes to verifying that all safety requirements are met. Furthermore, the availability of certain facilities and services would contribute to ensuring both the safety, regularity and efficiency of the global aviation system and compliance with the requirements of military air operations. This could be reached by promoting a common understanding of key principles, sharing best practices and monitoring their practical implementation.

Key actions at EU level:

- By summer 2018, the European Defence Agency will prepare a Category A project on Cross Border Movement permission, subject to the European Defence Agency Steering Board's decision, to support the EU Member States in developing arrangements on cross-border permissions.
- The European Defence Agency will, through the Project Team Movement and Transport, provide a platform for the exchange of views between the EU Member States and the European External Action Service/EU Military Staff and NATO, on lead times for surface movement.

EU Member States are invited to:

- Map the current landscape of national regulations affecting the allowance of other-than-own military assets to operate in the EU Member States, notably with respect to restrictions.
- Contribute to the definition of the domain-specific operational requirements of asset movement, in the context of the military requirements.
- Identify national regulatory restrictions and their underlying political reasoning.
- Develop solutions by using existing work strands and products and balancing operational requirements with rational political restrictions, thus achieving the granting of (diplomatic) clearances with the minimum national caveats necessary.
- Determine the need to adapt national regulations where an improvement in military mobility can be achieved on the basis of these modified regulations, while preserving essential non-military motivated restrictions only where necessary.
- Sign domain-specific arrangements that harmonise procedures and allow pre-authorisation of cross border movement permission for military movement and transportation needs to be pre-authorised.

2.3.4 Other issues

Additional non-exhaustive lines of action related to regulatory and procedural issues, including legal aspects, are also laid down in the Ad Hoc Working Group Roadmap. This includes further clarification of the possible impact of the EU Status Of Forces Agreement on military mobility, once it is in force.

Furthermore improving military mobility in the EU needs to take account of threats that are of hybrid nature. Consideration should therefore be given to the military mobility dimension when implementing the relevant actions under the Joint Framework on countering hybrid threats.¹⁶

¹⁶ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52016JC0018>

Key actions at EU level:

- By spring 2019, the European Defence Agency will conduct a survey on these other issues, involving the competent Member States authorities as well as the Commission services and the European External Action Service/EU Military Staff as appropriate in order to identify possible additional lines of action.
- Ongoing: In the implementation of the Joint Framework on countering hybrid threats, specific attention will be put on the military mobility dimension, especially as regards intelligence analysis capacity (hybrid fusion cell), decision making in case of threats and resilience of critical infrastructure.

- **EU Member States are invited to** consider the EU Status Of Forces Agreement and its implementation in relation to military mobility, once it enters into force.

3. BUDGETARY IMPACT

This Action Plan does not have any impact on the EU budget except the possible funding in the future of dual-use infrastructure, as outlined under chapter 2.2 above. In this context, the possible additional financial support from the EU for the implementation of the dual-use projects will be taken into account in the Commission's upcoming proposal for the multiannual financial framework.

4. WAY FORWARD

The Action Plan on Military Mobility is submitted by the High Representative and the Commission to the EU Member States for consideration and endorsement, which will allow for its implementation in a timely and coordinated manner. It should be considered a living plan, subject to possible subsequent revisions, as appropriate.

Periodic progress reports on the implementation of this Action Plan will be presented to the EU Member States by the High Representative and the Commission as appropriate with the first to be submitted by summer 2019, in addition to, and in complementarity with the annual reporting of the European Defence Agency to the Member States' Defence Ministers.