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**'I/A' ITEM NOTE**

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From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a COUNCIL REGULATION establishing the Security Action for Europe (SAFE) through the reinforcement of European defence industry instrument: - Adoption - Statements

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Delegations will find enclosed statements by Belgium, Cyprus, Czechia, Estonia, Greece, Hungary, Luxembourg, Malta, Romania, and Sweden on SAFE, which will be recorded in the minutes of Coreper and the Council.

### **Statement by Belgium**

Belgium regrets that the text of the SAFE Regulation as it stands does not forbid more explicitly the common procurement of defence products which are prohibited under the non-proliferation and disarmament instruments and treaties such as the Ottawa Convention or the CCW Guiding Principles on lethal autonomous weapons systems.

### **Statement by Cyprus**

Cyprus supports the adoption of the Regulation establishing the Security Action for Europe (SAFE).

SAFE's primary aim is to strengthen the European defence technological and industrial base, in line with the EUCO Conclusions of 6 March 2025, which stress that Europe must become more sovereign, more responsible for its own defence and better equipped to act and deal autonomously with immediate and future challenges and threats, while reducing its strategic dependencies.

Cyprus' support to the Regulation is given on the understanding that Article 212 TFEU will be used as the legal basis for the bilateral or multilateral agreements which will be concluded with third countries, according to in Article 17 of the Regulation, in order to open the eligibility conditions to third countries. In this regard, it welcomes the Commission's oral statement recorded in the minutes of Coreper.

Cyprus expects the faithful implementation of the Regulation regarding the eligibility criteria as described in Article 16. No procurement involving third countries, or third country entities that contravene the security and defence interests of the Union and its Member States, as established in the framework of the common foreign and security policy pursuant to Title V of the Treaty on European Union, can be eligible under the SAFE instrument, in compliance with the relevant provisions of the Regulation.

SAFE aims to address a specific and urgent crisis situation. As such, neither the broad scope of the cooperation with or participation of third countries -which must necessarily be like-minded-, nor the legal basis used, can be considered a precedence for future legal acts related to supporting investments in the European defence industry.

Cyprus requests this statement to be attached to the minutes of Coreper and the Council.

#### **Statement by Czechia**

Czechia acknowledges the urgency of adopting the SAFE Regulation and its importance for the swift strengthening of European defense capabilities and as such we acknowledge the legal basis of the Regulation. However, we do not acknowledge the legal base for Article 20 dealing with tax matters. Czechia continues to insist that article 113 of the Treaty on the Functioning of the European Union, where unanimity applies, was supposed to be used. It is therefore important for us that no Member State opposed the adopted file.

#### **Statement by Estonia**

In relation to Article 20 and future tax matters, Estonia continues to insist on the proper legal basis (articles 113 and 115 of the Treaty on the Functioning of the European Union) and the requirement of unanimity it prescribes.

### **Statement by Greece**

While welcoming today's agreement on the Council Regulation establishing the Security Action for Europe (SAFE), Greece hopes that SAFE will contribute to increasing defence investment within the Union and to reinforcing the EU's respective capabilities and strategic autonomy, while reducing its dependencies.

In this context, Greece considers that cooperation with those like-minded non-EU countries, which align with our common foreign, security and defence policy, can be mutually beneficial.

On the other hand, we should be extremely cautious when it comes to the participation of third countries and their industries/legal entities (contractors and subcontractors), when those third countries do not align with the objectives of CFSP, do not share the Union's fundamental values and principles and/or contravene the security and defence interests of the EU and all its Member States.

Greece is confident that the Commission and our partners will respect these fundamental principles in all stages of the implementation of SAFE.

Greece considers that article 212 TFEU is the proper legal basis for the conclusion of bilateral or multilateral agreements under Article 17 of the Regulation.

In this respect, it welcomes the commitment undertaken by the Commission to use the aforementioned article as the legal basis of these agreements, as stated in its oral intervention in the minutes of the COREPER meeting of May 18, 2025.

Recognising the exceptional circumstances under which SAFE has been agreed, as well as its temporary nature, Greece considers that provisions referring particularly to this Regulation's chosen legal basis and the eligibility rules on common procurement supporting defence industry investments, including the issues of transparency and traceability, do not affect and/or set a precedent for other existing and future Union defence programmes.

### **Statement by Hungary**

While supporting the objective of strengthening the defence capabilities of the EU member States, Hungary abstains from the adoption of the Regulation. Based on the political declaration of our Parliament, adopted on 18 March 2025, we cannot support the establishment of EU financial instruments financed by issuing joint debt.

The Hungarian delegation also expresses its reservation on the choice of the legal basis for the amendment of Directive 2006/112/EC with this Regulation, as Article 122 of the TFEU cannot be the sole legal basis for the amendment of provisions concerning taxation that should be discussed and adopted accordingly with unanimity.

### **Statement by Luxembourg**

Luxembourg maintains ongoing concerns regarding the legal basis for the proposed VAT exemption under Article 20.

In relation thereto, and with regard to future tax matters, while supporting the overall objective of the SAFE regulation, Luxembourg continues to insist that provisions concerning taxation must be based on the appropriate legal basis under the Treaty on the Functioning of the European Union — namely Articles 113 and 115 TFEU — and, accordingly, be adopted by unanimity.

Thus, Luxembourg's vote in favour of the proposal should therefore not be considered as legally accepting the retained legal basis nor as a precedent for future proposals.

### **Statement by Malta**

While recognising the exceptional set of circumstances that led to the use of the Article 122 TFEU procedure, Malta considers this legal basis to be strictly limited to the present case of exceptional urgency, and the exemption from VAT envisaged in Article 20 does not establish a precedent for future situations. Malta remains fully committed to the decision-making processes applicable to tax matters as provided under the Treaties.

### **Statement by Romania**

Romania fully supports the swift adoption of the Regulation establishing the Security Action for Europe (SAFE) as a foundation for strengthening the European defense industry.

In relation to Article 20 and future tax matters, it is Romania's understanding that the current provisions will be without prejudice to further decisions on fiscal matters, which will continue to be taken in accordance with the relevant provisions of the Treaties.

### **Statement by Sweden**

Sweden has ongoing concerns regarding the legal basis for the proposed VAT exemption and will in relation to future tax matters continue to insist that provisions concerning indirect taxation must be based on Article 113 TFEU and accordingly adopted with unanimity.