

**COUNCIL DECISION (CFSP) 2021/750**  
**of 6 May 2021**  
**on the participation of the United States of America in the PESCO project Military Mobility**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Decision (CFSP) 2017/2315 of 11 December 2017 establishing permanent structured cooperation (PESCO) and determining the list of participating Member States <sup>(1)</sup>, and in particular Article 9(2) thereof,

Having regard to Council Decision (CFSP) 2020/1639 of 5 November 2020 establishing the general conditions under which third States could exceptionally be invited to participate in individual PESCO projects <sup>(2)</sup>, and in particular Article 2(4) thereof,

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

Whereas:

- (1) Article 9(2) of Decision (CFSP) 2017/2315 provides that the Council is to decide in accordance with Article 46(6) of the Treaty whether a third State, which the participating Member States taking part in a project wish to invite to take part in that project, meets the requirements to be established by the Council.
- (2) On 6 March 2018, the Council adopted Decision (CFSP) 2018/340 <sup>(3)</sup>. Article 1 of that Decision provides that a project entitled 'Military Mobility' (the 'PESCO project Military Mobility') is to be developed under PESCO by 24 project members, including the Netherlands as project coordinator.
- (3) On 5 November 2020, the Council adopted Decision (CFSP) 2020/1639, which established the general conditions under which third States could exceptionally be invited to participate in individual PESCO projects. Article 2(4) of that Decision provides that, based on a notification by the coordinator or coordinators of a PESCO project, and following an opinion by the Political and Security Committee (PSC), the Council is to take a decision in accordance with Article 46(6) of the Treaty and Article 9(2) of Decision (CFSP) 2017/2315 as to whether the participation of the third State in that project meets the conditions set out in Article 3 of Decision (CFSP) 2020/1639.
- (4) On 23 February 2021, the United States of America ('the United States') sent to the coordinator of the PESCO project Military Mobility its request for participation in that project, in accordance with Article 2(1) of Decision (CFSP) 2020/1639. The project members then assessed, on the basis of the information provided by the United States, whether it complies with the general conditions, in accordance with Article 2(2) of that Decision.
- (5) On 17 March 2021, the coordinator of the PESCO project Military Mobility notified the Council and the High Representative of the Union for Foreign Affairs and Security Policy, in accordance with Article 2(3) of Decision (CFSP) 2020/1639, that the project members of that project had unanimously agreed on that date that they wish to invite the United States to participate in that project. The project members also unanimously agreed on the scope, form and relevant stages of the United States' participation in that project, and that the United States complies with the general conditions set out in Article 3 of that Decision.

<sup>(1)</sup> OJ L 331, 14.12.2017, p. 57.

<sup>(2)</sup> OJ L 371, 6.11.2020, p. 3.

<sup>(3)</sup> Council Decision (CFSP) 2018/340 of 6 March 2018 establishing the list of projects to be developed under PESCO (OJ L 65, 8.3.2018, p. 24).

- (6) On 30 March 2021, the PSC agreed on an opinion on the notification regarding the request by the United States to participate in the PESCO project Military Mobility. In particular, the PSC took note of the description of that project as provided in the notification, including its objectives, organisation and decision-making as well as its focus areas of work. The PSC also noted that no EU classified or sensitive information is shared within that project and that the project is not implemented with the support of the European Defence Agency within the meaning of Article 3(g) of Decision (CFSP) 2020/1639. Furthermore, the PSC noted that the PESCO project Military Mobility does not involve armament procurement, research and capability development, or the use and export of arms or capabilities and technology, and that it does not involve entities, investments, funding from PESCO participating Member States or requests for Union funding for project activities.
- (7) In its opinion, the PSC also agreed with the proposed scope, form and extent of the United States' participation in the PESCO project Military Mobility as described in the notification. It acknowledged that the United States had expressed that it fully supports the scope of that project as defined in the notification.
- (8) In the same opinion, the PSC confirmed the view unanimously agreed by the project members of the PESCO project Military Mobility that the United States complies with the general conditions set out in Article 3 of Decision (CFSP) 2020/1639, as follows:
- the United States meets the condition set out in Article 3(a), which requires: sharing of the values on which the Union is founded, as laid down in Article 2 of the Treaty, and the principles referred to in Article 21(1) of the Treaty, as well as the objectives of the Common Foreign and Security Policy (CFSP) in points (a), (b), (c) and (h) of Article 21(2) of the Treaty; not contravening the security and defence interests of the Union and its Member States, including respect for the principle of good neighbourly relations with the Member States; and having a political dialogue with the Union, which should also cover security and defence aspects when participating in the PESCO project Military Mobility;
  - as regards the condition set out in Article 3(b) on the substantial added value of the United States to the PESCO project Military Mobility, the notification provides a detailed outline of the United States' contribution, including on the scope, form and extent of its participation in that project, which substantiates the fulfilment of that condition;
  - as regards the condition set out in Article 3(c), the United States' participation in the PESCO project Military Mobility will contribute to strengthening the Common Security and Defence Policy (CSDP) and the Union level of ambition including in support of CSDP missions and operations, as also specified in the notification;
  - as regards the condition set out in Article 3(d), the PESCO project Military Mobility does not address armament procurement, research and capability development, nor the use and export of arms or capabilities and technology. It does not develop any capability or technology. Consequently, the United States' participation in that project will not lead to dependencies on the United States or to restrictions imposed by it against any Member State;
  - the required consistency, set out in Article 3(e), of the United States' participation with the relevant more binding PESCO commitments, also regarding the deployability and interoperability of forces that this project is helping to fulfil, as specified in the Annex to Decision (CFSP) 2017/2315, is also met, as further detailed in the notification. As the PESCO project Military Mobility is not a capability-orientated project, the condition concerning the contribution of the United States' participation to fulfilling priorities derived from the Capability Development Plan and the Coordinated Annual Review on Defence or having a positive impact on the European Defence Technological Industrial Base is not applicable in this context;
  - the requirement set out in Article 3(f) is fulfilled, as a security of information agreement <sup>(4)</sup> between the Union and the United States has been in force since 30 April 2007;

(4) Agreement between the European Union and the government of the United States of America on the security of classified information (OJ L 115, 3.5.2007, p. 30).

- the condition set out in Article 3(g) is not applicable in this case, as the PESCO project Military Mobility is not implemented with the support of the European Defence Agency and therefore an administrative arrangement which has taken effect with that Agency is not required;
  - as regards the condition set out in Article 3(h), the United States has committed to seeking to conclude a project-specific administrative arrangement and any other necessary project documentation in accordance with Council Decisions (CFSP) 2017/2315 and (CFSP) 2018/909 <sup>(5)</sup>.
- (9) The PSC recommended in its opinion of 30 March 2021 that the Council take a positive decision as to whether the participation of the United States in the PESCO project Military Mobility meets the conditions set out in Article 3 of Decision (CFSP) 2020/1639.
- (10) The Council should therefore decide that the participation of the United States in the PESCO project Military Mobility meets the conditions set out in Article 3 of Decision (CFSP) 2020/1639. Subsequently, the project coordinator is to send an invitation to participate in that project to the United States, on behalf of the project members. The United States is to join that project on the date specified in the administrative arrangement to be entered into by the project members and the United States, in accordance with Article 2(7) of Decision (CFSP) 2020/1639, and is to have the rights and obligations determined in that arrangement, in accordance with Article 4(1) of that Decision. The Council is to exercise its oversight in accordance with Article 5(2) of Decision (CFSP) 2020/1639, and in the event of the circumstances referred to in Article 6(2) or (3) of that Decision the Council may take further decisions,

HAS ADOPTED THIS DECISION:

*Article 1*

The participation of the United States of America in the PESCO project Military Mobility meets the conditions set out in Article 3 of Decision (CFSP) 2020/1639.

*Article 2*

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 6 May 2021.

*For the Council*  
*The President*  
J. BORRELL FONTELLES

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<sup>(5)</sup> 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).