ISSUE

CHAILLOT PAPER Nº 142 – November 2017

Permanent Structured Cooperation:
What's in a name?

BY
Daniel Fiott, Antonio Missiroli
and Thierry Tardy

Chaillot Papers

EUISS European Union Institute for Security Studies

EU Institute for Security Studies
100, avenue de Suffren
75015 Paris
http://www.iss.europa.eu

Director: Antonio Missiroli

© EU Institute for Security Studies, 2017.
Reproduction is authorised, provided the source is acknowledged, save where otherwise stated.

Print ISBN 978-92-9198-634-7 ISSN 1017-7566 doi:10.2815/747538 QN-AA-17-003-EN-C
PDF ISBN 978-92-9198-635-4 ISSN 1683-4917 doi:10.2815/996506 QN-AA-17-003-EN-N

Published by the EU Institute for Security Studies
Luxembourg: Publications Office of the European Union, 2017.

European Union
Institute for Security Studies

PERMANENT STRUCTURED COOPERATION: WHAT'S IN A NAME?

Daniel Fiott, Antonio Missiroli and Thierry Tardy

CHAILLOT PAPERS *November 2017*

142

The authors

Antonio Missiroli was the Director of the EUISS from October 2012 to November 2017.

Daniel Fiott is Security and Defence Editor at the EUISS where he works on European defence, CSDP, the EDTIB, defence industries and defence innovation.

Thierry Tardy is a Senior Analyst at the EUISS where he works on the CSDP, military and civilian crisis management, UN peacekeeping, EU-UN relations and security governance in Africa.

Acknowledgments

As part of a truly collaborative endeavour, Antonio Missiroli contributed primarily to the first chapter, Thierry Tardy to the second and Daniel Fiott to the third. The authors would like to thank colleagues at the Council of the EU, European Commission, European Defence Agency and European External Action Service for giving up some of their valuable time for interviews and exchanges, as well as representatives of member states. This paper has also benefited from the input of several EU officials who attended a workshop on PeSCo organised by the EUISS in Brussels on 7 November 2017. Gearóid Cronin should be thanked for his attention to detail in editing this paper, and also Jakob Bund and John-Joseph Wilkins who read over a preliminary draft. Christian Dietrich has, as ever, ensured that the design of this paper is of an extremely high quality.

European Union
Institute for Security Studies
Paris

Director: Antonio Missiroli

© EU Institute for Security Studies, 2017.
Reproduction is authorised, provided the source is acknowledged, save where otherwise stated.

ISBN 978-92-9198-634-7
ISSN 1017-7566
QN-AA-17-003-EN-C
DOI:10.2815/747538

Contents

Foreword **5**
Antonio Missiroli

Introduction **7**

1 **PeSCo: where from and what for?** **11**
The quest for flexibility and differentiation 11
But defence is different – isn't it? 16
Implementing Lisbon: a matter of time(s) 19

2 **PeSCo: the operations** **27**
PeSCo's operational dimension 28
PeSCo's governance 32
PeSCo and CSDP operations 33
What added-value? 38

3 **PeSCo: the capabilities** **41**
Assessing binding commitments 44
Incentivising joint capability development 47
Delivering on defence capability output 49

4 **PeSCo: what next?** **51**

Annex **55**
Notification on Permanent Structured Cooperation (PeSCo) 55
Abbreviations 67

List of boxes

Box 1: Articles 42.6 and 46 TEU **18**
Box 2: Principles of PeSCo (Notification to the Council) **21**
Box 3: The operational dimension in PeSCo documents **29**
Box 4: Binding common commitments (Notification to the Council) - operations **30**
Box 5: Types of possible CSDP civilian missions and military operations derived from the EU level of ambition **35**
Box 6: Relevant passages on capability development in Protocol 10 **42**
Box 7: Binding common commitments (Notification to the Council) - capabilities **43**
Box 8: Coordinated Annual Review on Defence (CARD) **46**
Box 9: European Defence Fund (EDF) **48**

List of figures

Figure 1: The long road to PeSCo **13**
Figure 2: Overlapping Europes **15**
Figure 3: PeSCo: when and how **24**
Figure 4: CSDP military operations **28**
Figure 5: European military groupings **33**

Foreword

'What's in a name? That which we call a rose by any other word would smell as sweet'

It may sound odd to graft a quote from Shakespeare's *Romeo and Juliet* onto a study about EU defence cooperation. But what Juliet meant in the play – that she loves Romeo even if he is a Montague, because the form and substance of things may not always coincide – can easily be applied also to Permanent Structured Cooperation (PeSCo) and, in particular, to its evolution from the original purpose (as initially articulated in the Convention on the Future of Europe) to its actual implementation 15 years later. Explaining and analysing the driving as well as the constraining factors behind its genesis and transformation can hopefully help us better understand the circumstances and conditions under which it is currently being launched and could develop further.

Still barely predictable only a year ago, PeSCo could now indeed become a game changer for European defence cooperation. The flurry of initiatives that have entered the EU stage over the past few months testify to a fresh momentum in which even relatively old concepts and proposals are taking a new shape – and lease of life. The Military Planning and Conduct Capability, the European Defence Fund, the Coordinated Annual Review on Defence and now also PeSCo have all made headway each in its own right, following a strictly functional logic driven by shared interests as well as practical needs, and as much by common sense as by common ground. In order to convey more clearly to EU citizens what they are all for, these building blocks should also find, sooner rather than later, a common roof – be it just a big tent, a mobile home or a dedicated institutional structure. For the time being, the speed and determination with which the EU and its member states have (re)engaged on defence cooperation – well beyond Common Security and Defence Policy proper – prove that Europeans are now becoming well aware of what is at stake in a rapidly mutating security environment.

For someone who has been in this business for 20 years (I started working for the then WEU ISS in December 1997), living through all the ups and downs, twists and turns of EU security and defence policy, all this is no minor source of relief – even rejoicing. This *Chaillot Paper* aims to map out the road travelled so far and its possible ramifications. Our hope is also that the speed and determination we are witnessing today will not abate and will add further substance to European defence cooperation in the months and years to come.

Antonio Missiroli
Paris, November 2017

Introduction

It is with a certain degree of surprise that the EU Institute for Security Studies presents its analysis of Permanent Structured Cooperation (PeSCo). For some time PeSCo had been thought of as the 'sleeping beauty' of EU defence. Indeed, even though heads of state and government met in December 2013 to proclaim – for the first time ever – that 'defence matters', they did not think that PeSCo was yet ready to be awoken from its slumber. As chapter one in this *Chaillot Paper* shows, while PeSCo emerged out of the Lisbon Treaty it in fact, given its development through the Convention on the Future of Europe and the Constitutional Treaty, has a longer pedigree. When it did emerge out of the treaty, however, PeSCo immediately headed into hibernation.

Only now are EU governments seemingly prepared to awake the 'sleeping beauty' of PeSCo, and a number of governments have now joined PeSCo through the signing of a common notification.[1] The reasons why should not be that surprising. Following Russia's seizure of the Crimea in 2014, the countless terrorist attacks on European soil perpetrated by various Islamist groups, the migration crisis, the shifts in US foreign and defence policy and the UK's decision to leave the EU, the EU has found itself confronted with numerous security and political challenges . The response to these challenges began in earnest in the summer of 2016.

The EU Global Strategy was published in June 2016 and it gave way to a process that resulted in a raft of initiatives on EU defence. For example, the EU agreed to establish a Coordinated Annual Review on Defence (CARD) and a Military Planning and Conduct Capability (MPCC) for non-executive Common Security and Defence Policy (CSDP) military operations. The aim of these initiatives is to start a process of greater defence synchronisation and to more rapidly and coherently plan and implement CSDP military operations. A European Defence Fund (EDF) was added to the list of new initiatives – as chapter three shows, for the first time in history the EU will develop a financial instrument to directly fund defence research and capability development.

Yet EU member state governments were also stirred into action with a yearning for a Europe that can credibly protect its citizens. Echoing the EU Global Strategy's emphasis on the 'protection of Europe', in 2017 numerous governments started to

1. Member states signed the common notification to officially signal to the Council of the EU and the HR/VP their intention to participate in PeSCo (see Annex for the full notification).

blow the dust off the Lisbon Treaty and begin to read more intently the Articles and Protocol on PeSCo that they had collectively agreed to in the 2000s. In the eyes of some, PeSCo could be the treaty-based vehicle that is needed to move EU defence cooperation to a higher, more ambitious, level.

As launched in late 2017, PeSCo is an 'ambitious, binding and inclusive' legal framework aimed at incentivising cooperation among member states in the field of defence capability development and operations. Accordingly, member states that join PeSCo accept a number of commitments whereby they would raise defence spending in a concerted manner, develop military capabilities jointly, and make their military assets available for operations. Joining PeSCo is voluntary: the initial condition of being required to meet certain criteria in order to join has not been retained.

The PeSCo framework will include two components: binding commitments and specific projects. Binding commitments are pledges made by member states in the field of defence cooperation: for instance, member states having joined PeSCo commit to regularly increasing their defence budgets, making strategically deployable units available to meet the EU's stated level of ambition, or participating in the development of major joint European equipment programmes within the remit of the European Defence Agency (EDA). In parallel, a number of specific projects will be proposed by PeSCo members.

PeSCo members must accept all binding commitments and participate in at least one specific project. Activities carried out in the framework of PeSCo can have either a capability or an operational dimension. Both commitments and projects will be the object of regular assessments by PeSCo members, the HR/VP, the EDA and the European External Action Service (EEAS), with the participating member states reporting on their level of performance on both commitments and projects.

Compared with previous EU efforts in the defence domain, the alleged added-value of PeSCo comes from the combination of the nature of commitments that member states will make, the accountability that the framework creates for member states and the permanence of the framework. Taken together, these elements are supposed to shape national mindsets and practices, and in the end the form of cooperation, in a way never observed in the past.

Elaborating on the likely form and extent of PeSCo, this *Chaillot Paper* not only sketches out the metamorphosis of PeSCo but it also looks more specifically at how it could change the operational and capability development dynamics of the CSDP. It does not seek to engage in the theological and teleological debates that occasionally tend to characterise analysis of PeSCo. In this paper, the authors are not primarily occupied with questions about its *finalité politique*.

Instead, chapter one concentrates on providing the reader with an account of the historical evolution of PeSCo – where did it come from and why? This chapter also indicates how PeSCo – as conceived and moulded since 2016 – differs from the

original shape it was given in the Lisbon Treaty and before this time. The chapter asks how PeSCo differs from other forms of cooperation ('closer' and 'enhanced') that were developed over successive treaties. It ends with a timeline showing how PeSCo has developed in recent years and months.

Chapter two addresses the operational implications of PeSCo for CSDP. Here, the analysis focuses on how and in what ways PeSCo could make the EU a more effective and responsive crisis management actor. Given that PeSCo is still in its infancy, however, the chapter also questions how the insistence on 'common binding commitments' can translate into greater operational capacity for the EU. The chapter also examines PeSCo governance and how CSDP operations could be affected by PeSCo's implementation.

Chapter three follows a similar logic and structure, albeit with a specific focus on capability development. Here, the paper asks whether PeSCo will realistically be able to break the decades-long taboo that has surrounded joint defence capability development in the EU. Focusing on the strengths of PeSCo's proposed governance model, this chapter asks whether complementary initiatives such as the EDF and CARD are up to the task of ensuring that PeSCo is a success over the longer term.

The 'sleeping beauty' of EU defence is waking up. This *Chaillot Paper* has been conceived as an analytical guide to assist experts and lay readers alike. As PeSCo awakes from its slumber over the coming months and years, this paper can help navigate the major operational and capability issues at stake.

Chapter 1

PeSCo: where from and what for?

The treaty provisions framing the EU's Common Security and Defence Policy (CSDP) have undergone significant changes over the past two decades – especially between 1997 and 2007. In the Maastricht Treaty (known as the Treaty on European Union), all the relevant articles were still quite restrictive, even more restrictive than for the Common Foreign and Security Policy (CFSP) at large. More often than not, in fact, matters and decisions 'having defence or military implications' were the object of exceptions and derogations to the rules and principles of regular policymaking, especially with regard to funding (no EU budget) and voting (no Qualified Majority Voting (QMV)) procedures.

With the Lisbon Treaty, such 'exceptionalism' has evolved from a set of primarily *constraining* to one of essentially *enabling* provisions – including those on Permanent Structured Cooperation (PeSCo) – which are now starting to actually be used. While demonstrating once again the distinctive place occupied by security and especially defence policy in the EU institutional system, these developments also highlight the changing relationship between *text* and *context*, between what the treaties stipulate and what the strategic and political environment – inside and outside the EU – may or may not permit at any given time.

The quest for flexibility and differentiation

Shortly after the entry into force of the Maastricht Treaty (1993), the call to introduce more 'flexibility' into EU policymaking started becoming ever louder.

On the one hand, there was a genuine need to facilitate decision-making in an ever-larger Union, even without moving towards QMV in a policy area where the *acquis* was still minimal and consensus deemed essential. Denmark, with its early 'opt-out' demands, had already showed how specific national situations needed to be accommodated through tailor-made arrangements. Furthermore, recurrent blockages by a single member state – be it the UK over the 'mad cow' crisis or Greece over the former Yugoslav Republic of Macedonia name dispute – only confirmed the need for a revision of the existing rules. On top of that, the accession of three new member states who were not NATO allies – until then Ireland was the only exception – made it necessary to envisage provisions that would help circumvent or overcome other

possible roadblocks. The main result of such pressure, apart from some minor – mostly symbolic – softening of the unanimity rule in CFSP, was the insertion in the Amsterdam Treaty (1997) of the so-called 'constructive abstention' clause [Article 23, now Article 31 TEU]. This allowed a limited number of member states to qualify their abstention on a given decision without blocking it – but also without bearing the costs it would generate. However, this provision has been used only once – on the occasion of the launch of EULEX Kosovo in 2008 – underlining the member states' ultimate preference for consensual decisions on foreign and security policy matters.

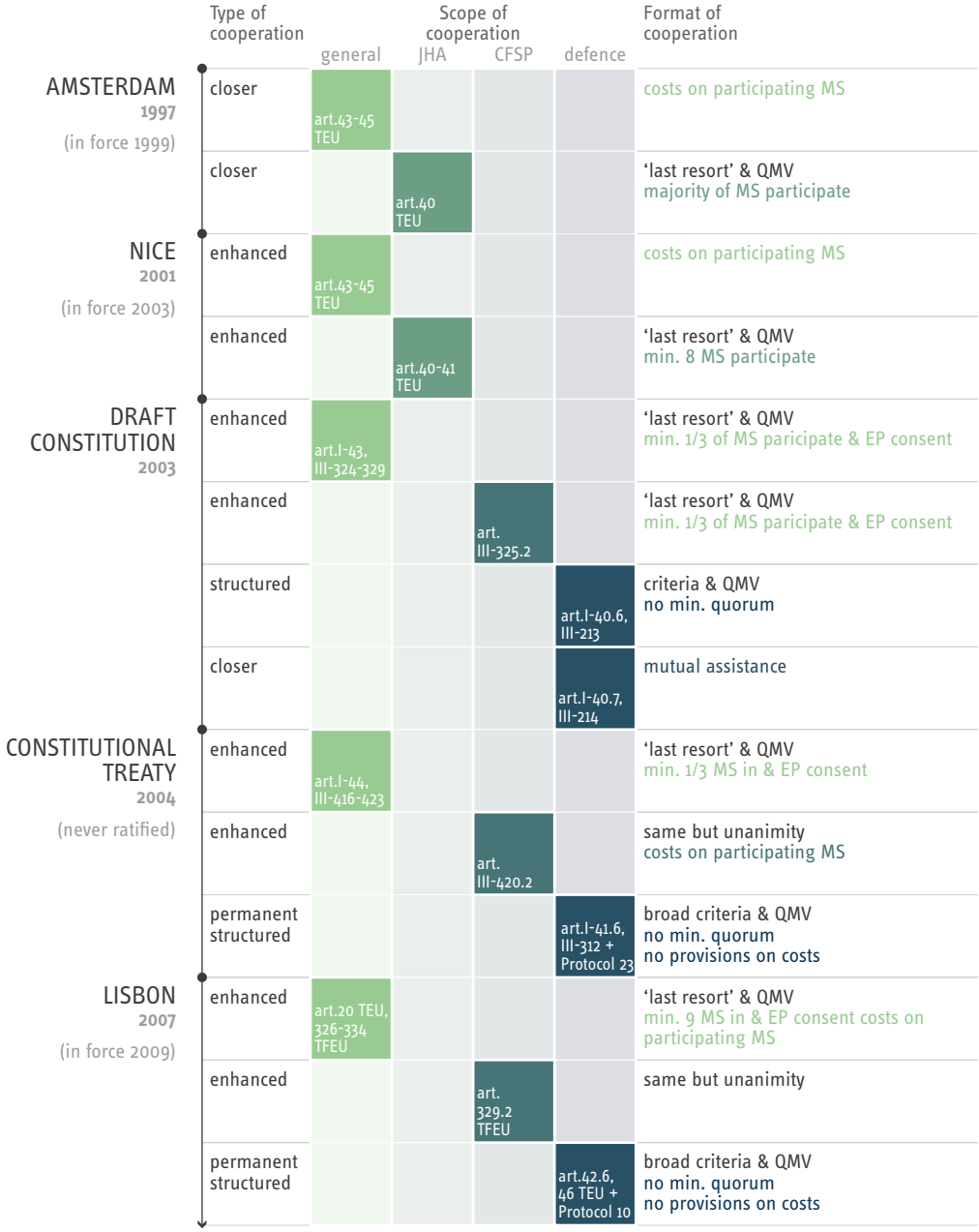
On the other hand, the call for more 'flexibility' also translated into a much more robust debate on how to deal with different levels of ambition within an ever larger and less homogeneous Union. Sparked by a famous policy paper released by the German Christian Democratic Union/Christian Social Union parliamentary group in 1994 – signed by Karl Lamers and Wolfgang Schäuble – the discussion generated an avalanche of new visions and concepts across the continent, many of which are still around more than 20 years later. Europe, it was suggested, should go multi-speed and aim for differentiated integration: it should become two-tier, multi-track, variable in geometry, or *à la carte*; it should be centred on a core (*Kern-Europa*) or 'pioneer' group (*avant garde*) built upon a tightly-knit and exclusive eurozone, and possibly take the form of concentric circles on a pan-continental scale.

While the public debate soon became quite confusing, it was however clear that the implementation of European Economic and Monetary Union (EMU) as laid down in the Maastricht Treaty constituted an important precedent – and a potential model – for any future 'flexible' arrangement of this kind for other policy areas. EMU emphasised policy capability and compliance – as measured against commonly defined and quantified convergence criteria –, political willingness and a detailed timetable marked by formal procedures. All the discussions and negotiations of the following decade would hold up EMU as an explicit or implicit term of reference as the first institutionalised and treaty-based example of deeper integration between *some* member states (i.e. distinct and different from other existing forms of internal differentiation based on opt-outs, abstentions, exceptions and derogations).

This is the background against which terms like 'closer' and especially 'enhanced' cooperation – *coopération(s) renforcée(s)* in French – entered not only the political debate but also the treaty vocabulary and the related negotiations. All Intergovernmental Conferences (IGCs) since Maastricht have indeed dealt with the concept, scope, format and operation of such types of deeper cooperation [see Figure 1].

Initially, the result was still quite restrictive: 'closer' (in Amsterdam) or 'enhanced' (in the 2001 Nice Treaty) cooperation was conceivable only as a 'last resort' and subject to a number of legal and institutional checks – although it could indeed be triggered by QMV; it had to involve 'a majority' (in Amsterdam) or 'at least eight' out of 15 member states (in Nice), while the others would maintain the right to join if and when they want; and the costs of its implementation – apart from the administrative expenditure incurred by the EU institutions – would be borne by the 'participating' countries.

Figure 1: The long road to PeSCo



All these provisions were general in that they were applicable to virtually any policy area with the exception of those falling under the exclusive competence of the Union. Interestingly, however, a special reference was made on both occasions to 'police and judicial cooperation in criminal matters' – the then 'third pillar' of EU policymaking, where integration was advancing quite speedily. Moreover, in the Nice Treaty, Article 27 TEU was marginally amended to make room for enhanced cooperation in the field of CFSP but only for the 'implementation of a joint action or a common position' – where also QMV was formally allowed anyway – and still not for 'matters having military or defence implications'.

Back then, however, all these provisions were never used. Evident fears of exclusion and marginalisation by some member states and widespread concerns about the integrity of the EU's overall 'institutional framework' helped translate the initial drive towards a more permissive and 'flexible' policy framework into another set of constraining norms. Yet the late 1990s and early 2000s were still a time of permanent treaty review and reform: the 2001 Laeken Declaration triggered another stage in the process and laid the foundation for the Convention on the Future of Europe (2002-2003). In parallel, the imminent 'big bang' enlargement convinced many insiders of the need to move swiftly towards a more sustainable, and possibly more ambitious, internal set-up for a Union that was about to integrate ever more – and more diverse – members.

Still, the Convention and the resulting Draft Constitution for Europe – released in July 2003 – did not make groundbreaking progress in this particular domain, and neither did the two IGCs that led to the so-called Constitutional Treaty (2004). 'Enhanced cooperation' remained an option of last resort with a minimum threshold of participants (i.e. one third of the member states), and an obligation to obtain preliminary 'consent' from the European Parliament was added. All references to enhanced cooperation in the field of justice and home affairs (JHA) were scrapped in the treaty, while CFSP was explicitly mentioned as a possible area of application albeit under the principle of unanimity: once again, the diplomats from the EU-25 had clearly ruled out QMV in that domain.

After the failure to ratify the Constitutional Treaty and the ensuing 'period of reflection' (2005-2007), fresh momentum for reform eventually led to the Lisbon Treaty (2007), which incorporated and adapted a large share of the provisions enshrined in the 2004 text by amending – rather than replacing – the existing treaties. The provisions on 'enhanced cooperation', however, remained virtually unchanged: only the minimal quorum of participating member states was eventually set at nine – for a Union of 27+.

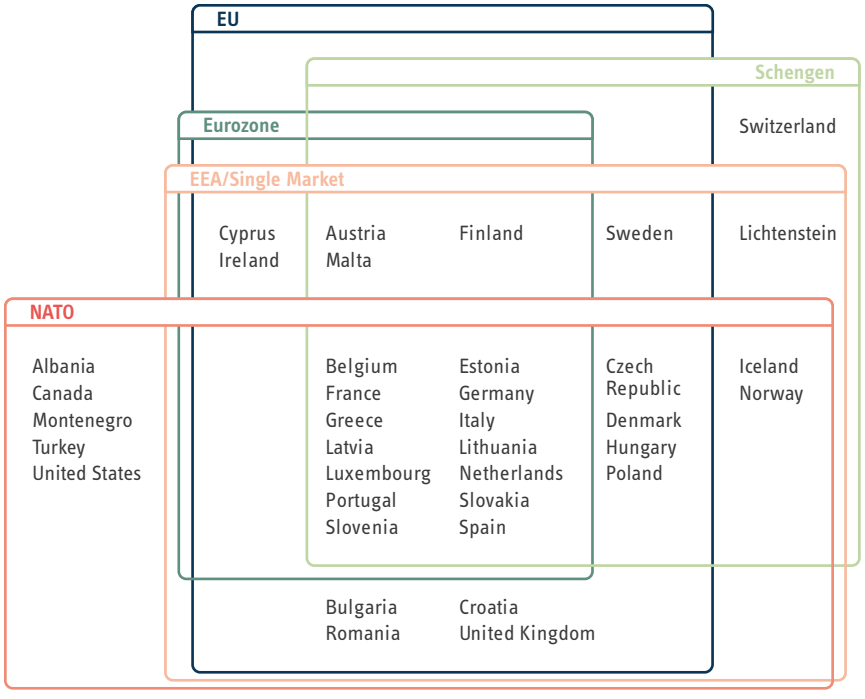
Interestingly, policy developments ever since – especially in the field of JHA – have contributed to making actual use of the *general* provisions on 'enhanced cooperation' in very *specific* cases. To date, in fact, Article 20 TEU and the relevant implementation procedures have been activated on two occasions for patent law and courts (with 26

participating member states) and divorce law for international couples (with 17). There are also a few more cases potentially underway including a financial transaction tax and, most recently, the creation of a European Public Prosecutor's Office. However, this type and format of cooperation has never been seriously considered for CFSP.

In other words, a changed policy environment – a wider Union with ever deeper legal integration – has made it not only possible but also desirable to trigger provisions which, *per se*, are still quite constraining. Still, their application has concerned relatively case-specific areas, rather than enabling large-scale policy differentiation among groups of member states.

In the meantime, Europe has indeed become internally more diverse and differentiated as it encompasses – inside and alongside the EU proper – a narrower eurozone (currently 19 countries), a wider single market (31, including the EEA members), a distinct Schengen space (26, both EU and non-EU) as well as 22 countries which are inside both NATO and the EU. Only 14 EU countries belong in *all* of these configurations, pointing to a Europe of overlapping rectangles rather than concentric circles [see Figure 2].

Figure 2: Overlapping Europes



But defence is different – isn't it?

The domain of security and especially defence policy has traditionally been framed in distinctive terms – separate but not separable, so to speak. At Maastricht [Article J.7 TEU], Amsterdam and even Nice [Article 17], relevant action was essentially devolved to the Western European Union (WEU) – considered 'an integral part of the development of the Union', although it included only ten EU (and NATO) countries – as a sort of implementing agency the EU could indeed 'avail itself' of. Moreover, EU members of NATO would still refer to the Alliance for their 'common defence', and non-allied members to the 'specific character' of their own national provisions. At the same time, 'closer cooperation between two or more member states on a bilateral level, in the framework of the WEU and the Atlantic Alliance', was envisaged – or at least not discouraged.

In practice, the launch of the European Security and Defence Policy (then ESDP, now CSDP) following the Franco-British summit of December 1998 in St Malo made the enabling provisions regarding the WEU somewhat redundant – so much so that a decade later (in 2011) the organisation would even be shut down, with most of its functions transferred to the EU. Yet the underlying issues peculiar to defence policy would not disappear – namely, how to relate to NATO and how to accommodate the interests of European countries with very different levels of military capability and ambition. Flexibility, differentiation and deeper cooperation among member states took on specific features in this domain, however, due both to the much weaker EU legal and institutional framework and to the predominant role of national governments in mobilising the relevant resources.[2]

The Convention on the Future of Europe decided to address such specificities from the start and head-on, *inter alia* by setting up a dedicated working group on defence[3] chaired by then European Commissioner Michel Barnier. Its final report, released in December 2002, insisted on the need to facilitate 'flexibility' in both decision-making (i.e. by resorting more often and systematically to 'constructive abstention') and military action proper. In this respect, it recommended 'closer cooperation' among the best performing member states in operational terms – a 'defence eurozone' in its own right – as well as the launch of a 'European Armaments and Strategic Research Agency'. It also seized on the opportunity to modify the existing provisions on 'enhanced cooperation' in order to lower the threshold for participating member states and speed up activation procedures. As the latter point was more controversial inside the Working Group, the report referred to the discussions and proposals in the other working groups in order to find common ground.[4]

2. For an analysis of the relevant debates of the time see Antonio Missiroli, 'CFSP, Defence and Flexibility', *Chaillot Paper* no. 38, WEU ISS, Paris, February 2000.
3. Working Group VIII was distinct from Working Group VII on 'external action'. There were 11 working groups in total.
4. The EUISS, then just transferred from the WEU to the EU as an autonomous agency of the Council, assisted WG VIII with the organisation of a major outreach and consultation workshop in Brussels in preparation of the final report – which can be consulted in 'From Laeken to Copenhagen - European Defence: Core Documents', (Volume III), *Chaillot Paper* no. 57, EUISS, Paris, February 2003, pp. 249-64.

In the end, broad consensus was achieved inside the Convention on roughly maintaining the existing provisions on 'enhanced cooperation' but it lowered the threshold from eight to one third of the member states (then 15, but soon 25). It also added a slightly confusing provision on 'closer' cooperation [Articles I-40.7 and III-214], which basically laid the foundations for what we now know as the 'mutual assistance' clause [currently Article 42.7 TEU], later invoked by France in the wake of the November 2015 terrorist attacks in Paris. The Convention also deleted any reference to the WEU, advocated the establishment of a 'European Armaments, Research and Military Capabilities Agency' [Article I.40.3] – which would soon translate into the creation of the European Defence Agency (EDA) in 2004 – and stipulated that the EU could 'entrust the execution of a task to a group of member states' [Articles I.40.5 and III-211].

Most importantly, the 2003 Draft Constitution introduced a brand new type of 'structured' cooperation specifically devoted to defence [Articles I-40.6 and III-213], allowing member states fulfilling 'higher military capability criteria' to 'enter into more binding commitments' for 'the most demanding tasks'. The relevant text borrowed from EMU the emphasis on pre-defined functional criteria for participation (with a strong emphasis on the operational dimension) but, unlike EMU, did not quantify them. Interestingly, a dedicated 'Protocol' meant to identify those criteria more specifically – and to list the countries willing to launch it – was mentioned but eventually not released. In addition, the Convention did not set any minimal threshold for participating member states or specify how to cover the format's resulting costs.[5]

The negotiators of the 2004 Constitutional Treaty did not make many changes to the *acquis* of the Convention in this field. They kept the provision whereby 'the execution of a task' could be entrusted to 'a group of member states' [Articles I.41.5 and III-310], which would later become the current Article 44 TEU (still unused to date). They did, however, add the qualification 'permanent' to 'structured' [see Articles I.41.6 and III-312] – perhaps to associate it even more closely to EMU, often referred to then as 'irreversible' – and indeed a dedicated Protocol [no 23], which elaborated on its actual shape. The Protocol reaffirmed that PeSCo would be open to any member state fulfilling operational capability criteria – related in particular to the then fledgling 'Battlegroup' concept, launched at the 2003 Franco-British summit in Le Touquet – by 2007 (if ratified, the treaty was set to enter into force on 1 November 2006). Additional criteria included 'achieving approved objectives concerning the level of investment expenditure on defence equipment' as well as participation 'in the development of major joint or European equipment programmes in the framework of the European Defence Agency.'[6]

5. The relevant sections of the draft Constitution can be consulted in 'From Copenhagen to Brussels – European Defence: Core Documents', (Volume IV), *Chaillot Paper* no. 67, EUISS, Paris, December 2003, pp. 397-442. For an enlightening insider's analysis see Philippe de Schoutheete, 'La cohérence par la défense: une autre lecture de la PESD', *Chaillot Paper* no. 71, EUISS, Paris, October 2004. Philippe de Schoutheete was special advisor to Commissioner Barnier throughout the Convention.

6. The relevant sections of the Constitutional Treaty can be consulted in 'EU Security and Defence: Core Documents 2004', (Volume V), *Chaillot Paper* no. 75, EUISS, Paris, February 2005, pp. 372 -415.

Finally, the Lisbon Treaty incorporated all these provisions almost *verbatim* [Articles 42.6 and 46], albeit putting operational requirements, fiscal targets – although still not quantified – and multinational industrial cooperation roughly in the same basket and only changing the timeline for compliance mentioned in the relevant Protocol [no 10] to 2010, as the treaty was expected to enter into force in the autumn of 2009 [see Figure 1].

The provisions on PeSCo, in other words, amounted to the most flexible template to date for deeper cooperation among some member states in a(ny) specific policy area – not just defence. As compared to those on enhanced cooperation proper, they were much less prescriptive in terms of participating member states and triggering procedures. As compared to those on CFSP and CSDP, they were much less restrictive in terms of voting and funding procedures. As compared to those on EMU, they were much less detailed in terms of accession criteria because of the resulting pressure – which emerged within the various IGCs – from those countries who feared that they would be automatically excluded on the basis of their past and present performance or bound to meet demanding targets.

Box 1: Articles 42.6 and 46 TEU

Article 42.6

> Those Member States whose military capabilities fulfil higher criteria and which have made more binding commitments to one another in this area with a view to the most demanding missions shall establish permanent structured cooperation within the Union framework. Such cooperation shall be governed by Article 46. It shall not affect the provisions of Article 43.

Article 46

1. Those Member States which wish to participate in the permanent structured cooperation referred to in Article 42(6), which fulfil the criteria and have made the commitments on military capabilities set out in the Protocol on permanent structured cooperation, shall notify their intention to the Council and to the High Representative of the Union for Foreign Affairs and Security Policy.

2. Within three months following the notification referred to in paragraph 1 the Council shall adopt a decision establishing permanent structured cooperation and determining the list of participating Member States. The Council shall act by a qualified majority after consulting the High Representative.

3. Any Member State which, at a later stage, wishes to participate in the permanent structured cooperation shall notify its intention to the Council and to the High Representative.

   The Council shall adopt a decision confirming the participation of the Member State concerned which fulfils the criteria and makes the commitments referred to in Articles 1 and 2 of the Protocol on permanent structured cooperation. The Council shall act by a qualified majority after consulting the High Representative. Only members of the Council representing the participating Member States shall take part in the vote.

   A qualified majority shall be defined in accordance with Article 238(3)(a) of the Treaty on the Functioning of the European Union.

4. If a participating Member State no longer fulfils the criteria or is no longer able to meet the commitments referred to in Articles 1 and 2 of the Protocol on permanent structured cooperation, the Council may adopt a decision suspending the participation of the Member State concerned.

   The Council shall act by a qualified majority. Only members of the Council representing the participating Member States, with the exception of the Member State in question, shall take part in the vote.

   A qualified majority shall be defined in accordance with Article 238(3)(a) of the Treaty on the Functioning of the European Union.

5. Any participating Member State which wishes to withdraw from permanent structured cooperation shall notify its intention to the Council, which shall take note that the Member State in question has ceased to participate.

6. The decisions and recommendations of the Council within the framework of permanent structured cooperation, other than those provided for in paragraphs 2 to 5, shall be adopted by unanimity. For the purposes of this paragraph, unanimity shall be constituted by the votes of the representatives of the participating Member States only.

Implementing Lisbon: a matter of time(s)

Nevertheless, when the new treaty eventually entered into force, it soon became evident that neither the member states nor the EU institutions were in a hurry to launch PeSCo – the few sparse initiatives to open a debate led virtually nowhere. First, the overall political context was completely dominated by the sovereign debt crisis in the eurozone. Second, the overarching priority flowing from the treaty in foreign and security terms was the establishment of the European External Action Service (EEAS), which absorbed most of the energy of all the relevant stakeholders for almost two years. Moreover, no single EU country or group of countries was openly pushing in that direction. The Franco-British impulse had lost its EU focus

and was rather centred on bilateral defence cooperation (e.g. the Lancaster House treaties and the military intervention in Libya within the NATO framework), while the only other major internal initiative on defence issues – launched by the so-called 'Weimar Triangle' in 2011-2012 – was not centred on PeSCo as such.

Last but certainly not least, the whole format was still perceived as potentially divisive, both *among* the member states (i.e. between the 'haves' and the 'have-nots') and *inside* them (e.g. between foreign ministries, generally more inclined to explore its potential, and defence ministries, rather more concerned about protecting their respective national industry). It is indeed telling that the December 2013 conclusions of the special meeting of the European Council devoted to defence issues did not mention PeSCo at all – not even as a possible tool to consolidate the progress made in that domain and to achieve the various policy objectives then envisaged for the years ahead.[7]

The turning point would come shortly thereafter, following the crisis in and over Ukraine – which highlighted *inter alia* the difficulties Europeans would encounter if directly challenged militarily near their borders – and the appointment of a new team at the helm of the EU institutions in Brussels, more inclined to equip the EU and its member states with the vision and the means to (re)act in a deteriorating regional and international environment. The ensuing terrorist attacks on the European homeland, the ongoing conflicts in Syria and Libya (which both fed into the migrant crisis of 2015-2016), the shock of the 'Brexit' referendum in the UK and the surprise election of Donald Trump in the US would all contribute to increasing awareness across the board that Europeans needed to get serious about their own security – and their defence, too.

The EU Global Strategy (EUGS) released by the High Representative of the Union for Foreign and Security Policy/Vice-President of the European Commission (HR/VP), Federica Mogherini, in the immediate aftermath of the 'leave' vote in the UK, in late June 2016, provided a new comprehensive narrative for building a more credible, responsive and joined-up Union. There was a strong emphasis on the need to make defence cooperation among EU countries 'the norm' and even on the possibility of inviting 'a member state or a group of member states' to implement agreed positions. Still, even in the EUGS, the language continued to reflect a residual uncertainty over the feasibility of PeSCo. In fact, when dealing with defence, the strategy stated that '*enhanced* cooperation between member states should be explored in this domain. If successful and repeated over time, this might lead to a more *structured* form of cooperation, making full use of the Lisbon Treaty's potential' [italics added].[8]

Only after a series of meetings of, and non-papers by, EU foreign and defence ministers in the autumn of 2016 – Germany was particularly proactive, in the wake of the release of its White Book on defence – did the idea of testing PeSCo win the day as one of the vehicles to meet the ambitions set in the EUGS, albeit within the wider framework of the various initiatives that were being undertaken in that

7. See *Defence Matters 2013 – EU Key Documents* (Paris: EUISS, 2014), pp. 151-62.

8. See *Strategy Matters 2015-2016 – EU Key Documents* (Paris: EUISS, 2016), pp. 113-114.

domain (illustrated in more detail in Chapter 3).[9] As a result, the conclusions of the December 2016 European Council invited the HR/VP to 'present proposals in the coming months' regarding, *inter alia*, 'elements and options for an *inclusive* Permanent Structured Cooperation based on a *modular* approach and outlining possible projects' [italics added]. The approach was still explorative, flexible and open-ended, and the emphasis was on inclusion (rather than restriction), future commitment (rather than past performance), benchmarks and deliverables (rather than strict criteria).

In other words, text and context seem to be starting to move in sync, with the implementation of the treaty eventually overlapping with the implementation of the strategy. At the same time, just like 'enhanced cooperation', PeSCo is now being implemented in ways that differ significantly from its original rationale – surely more as a means (and a process) than an end in itself, and along a 'hub-and-spoke' rather than 'pioneer group' model.

Box 2: Principles of PeSCo (Notification to the Council)

[...]

'Permanent Structured Cooperation' is provided for in Articles 42 and 46 of the Treaty on European Union and Protocol No 10 to the Treaty. It can only be activated once and is established by a Council decision to be adopted by qualified majority, in order to bring together all willing Member States in the area of defence, 'whose military capabilities fulfil higher criteria' and which have made 'more binding commitments with a view to the most demanding missions' and operations.

PeSCo is an ambitious, binding and inclusive European legal framework for investments in the security and defence of the EU's territory and its citizens. PeSCo also provides a crucial political framework for all Member States to improve their respective military assets and defence capabilities through well-coordinated initiatives and concrete projects based on more binding commitments. Enhanced defence capabilities of EU Member States will also benefit NATO. They will strengthen the European pillar within the Alliance and respond to repeated demands for stronger transatlantic burden sharing.

PeSCo is a crucial step towards strengthening the common defence policy. It could be an element of a possible development towards a common defence should the Council by unanimous vote decide so (as provided for in article 42.2 TEU). A long term vision of PeSCo could be to arrive at a coherent full spectrum force package - in complementarity with NATO, which will continue to be the cornerstone of collective defence for its members.

9. For an overview of the state of play in the EU at the end of 2016 see Antonio Missiroli (ed.) *The EU and the World: Players and Policies Post-Lisbon – A Handbook* (Paris: EUISS, 2016), especially pp. 24-77.

We consider an inclusive PeSCo as the most important instrument to foster common security and defence in an area where more coherence, continuity, coordination and collaboration are needed. European efforts to this end must be united, coordinated, and meaningful and must be based on commonly agreed political guidelines.

PeSCo offers a reliable and binding legal framework within the EU institutional framework. Participating Member States will meet their binding commitments, confirming that the establishment and implementation of Permanent Structured Cooperation will be undertaken in full compliance with the provisions of the TEU and the protocols attached thereto and respecting constitutional provisions of the member States.

The binding nature of PeSCo commitments will be ensured by an annual regular assessment conducted by the High Representative of the Union for Foreign Affairs and Security Policy and supported, in particular, by the European Defence Agency (EDA), for the capability development aspects (notably described in Article 3 of Protocol 10), and EEAS, including EUMS and other CSDP structures, for the operational aspects of PeSCo. Through PeSCo, the Union could work towards a coherent full spectrum force package as PeSCo would add top-down coordination and guidance to existing or future bottom-up structures and lines of efforts.

PeSCo would provide opportunities for Member States to improve defence capabilities through participation in well-coordinated initiatives and concrete common projects, potentially capitalising on existing regional clusters. Participation in PeSCo is voluntary and leaves national sovereignty untouched.

An inclusive PeSCo is as a strong political signal towards our citizens and the outside world: governments of EU Member States are taking common security and defence seriously and pushing it forward. For EU citizens it means more security and a clear sign of willingness of all Member States to foster common security and defence to achieve the goals set by EU Global Strategy.

PeSCo will be output oriented and should enable tangible progress on the level of investment expenditure on defence equipment, collaborative capability development goals and the availability of deployable defence capabilities for combined missions and operations acknowledging the single set of forces principle. The main driver of PeSCo capability development will be the fulfilments of the capability shortfalls related to the EU Level of Ambition and Common Security and Defence Policy objectives and priorities.

The 'inclusive' and 'modular' nature of the PeSCo, as described by the European Council in December 2016, must not lead to cooperation being levelled down. The objective of an 'ambitious' PeSCo underlines the need for all PeSCo participating Member States to comply with a common list of objectives and commitments. As recalled by the June 2017 European Council, PeSCo is 'inclusive and ambitious'.

The following list of commitments must help to reach the level of ambition of the EU as defined in the Council conclusions of 14 November 2016, endorsed by the December 2016 European Council, and thus strengthen the strategic autonomy of both Europeans and the EU.

[...]

Figure 3: PeSCo: when and how

LISBON TREATY
Dec 2009

Entering into force on 1 December 2009, the Lisbon Treaty specifies the framework through which a group of willing and able member states may embark on PeSCo.

THE TRIO PRESIDENCY
Jun 2010

Belgium, Hungary and Poland put forward a non-paper on PeSCo outlining some thoughts on how cooperation can be made inclusive and effective.

ITALY AND SPAIN CALL FOR PESCO
May 2011

Italy and Spain write to HR/VP Catherine Ashton to ask for a debate on PeSCo within the EU's Foreign Affairs Council.

THE DECEMBER COUNCIL
15 Dec 2016

The European Council calls for work on the elements and options for an inclusive PeSCo based on a modular approach and outlining possible projects.

FOOD FOR THOUGHT
31 Jan 2017

Following the December European Council, the EEAS drafts and circulates a Food for Thought paper on PeSCo. The paper outlines key lines of inquiry related to governance and commitments.

EUROPEAN COUNCIL STUDIES PESCO
6 Mar 2017

Reviewing their conclusions after the 15 December 2016 European Council, the Council invites member states, the EEAS and EDA to continue working on a shared understanding of common commitments for PeSCo.

PESCO QUESTIONNAIRE
17 Mar 2017

The EEAS and the EDA draft and circulate a questionnaire on PeSCo among the member states. The questionnaire asks for general comments on PeSCo and a reflection on the governance model, concrete projects and common commitments.

SCOPING PAPER
Jun 2017

Based on the results of the March PeSCo questionnaire, the EEAS identifies key areas of further work including common commitments and governance structures.

EUROPEAN COUNCIL WELCOMES PROGRESS
18 May 2017

In welcoming the progress made on the security and defence aspects of the EU Global Strategy, the European Council reiterates the need for an inclusive and ambitious PeSCo and asks for the work to be taken forward.

FINANCIAL INCENTIVES
7 Jun 2017

In officially launching the European Defence Fund, the European Commission outlines how the fund and PeSCo can complement one another. In its proposal for a European Defence Industrial Development Programme (EDIDP), the Commission states that capability programmes launched through the defence fund, but within PeSCo, will benefit from higher budget contributions from the EU.

THE PRAGUE SPEECH
9 Jun 2017

Speaking at a high-level conference on security and defence organised by the Czech government, the President of the European Commission Jean-Claude Juncker calls for the EU to 'awaken the sleeping beauty' of PeSCo.

EUROPEAN COUNCIL CALLS FOR PESCO
22 Jun 2017

EU leaders agree that PeSCo should be launched. The Council calls for an inclusive and ambitious PeSCo to strengthen Europe's security and defence. Member states have three months to agree on common commitments and concrete capability projects.

THE 4+4 GROUP
21 Jul 2017

France, Germany, Spain and Italy write a letter to the HR/VP setting out proposals on the necessary commitments for an inclusive and ambitious PeSCo. The letter is supported by Belgium, the Czech Republic, Finland and the Netherlands.

FRANCO-GERMAN COUNCIL
13 Jul 2017

Meeting in Paris to launch the Alliance for the Sahel, the Franco-German Council on Security and Defence discuss the necessity of launching PeSCo as a way to strengthen security and defence cooperation. At the meeting, the Council outlines possible common commitments for PeSCo.

CLOSE TO TRIGGERING ARTICLE 46
19 Oct 2017

The European Council welcomes the significant progress made in preparing for a PeSCo notification, especially with regard to a common list of commitments and governance. The Council encourages member states that are in a position to do so to swiftly notify the Council and the HR/VP of their intention to participate in PeSCo.

DEALING WITH THE FINE PRINT
23 Oct 2017

To work on the final preparations for PeSCo, the French, German and Spanish delegations organise a workshop for member states to discuss the assessment of PeSCo projects and the national implementation plans that will be used to assess participating member states' ability to join PeSCo.

PERMANENT STRUCTURED COOPERATION
Dec 2017

A group of willing and able member states adopt a Council decision establishing PeSCo in accordance with Article 46(3) TEU.

OFFICIAL NOTIFICATION
13 Nov 2017

Willing and able EU member states sign the common notification to officially signal their intention to participate in PeSCo. The notification outlines binding commitments and governance structures.

Chapter 2
PeSCo: the operations

The Common Security and Defence Policy (CSDP) of the EU was originally – and primarily – designed as an operational activity. As one component of the broader Common Foreign and Security Policy (CFSP), CSDP was about enabling the EU to exist as a crisis management actor on the international scene. In the context of the Yugoslav wars and the necessity to provide some kind of operational response to those conflicts, CSDP was to take the form of loosely defined crisis management operations.

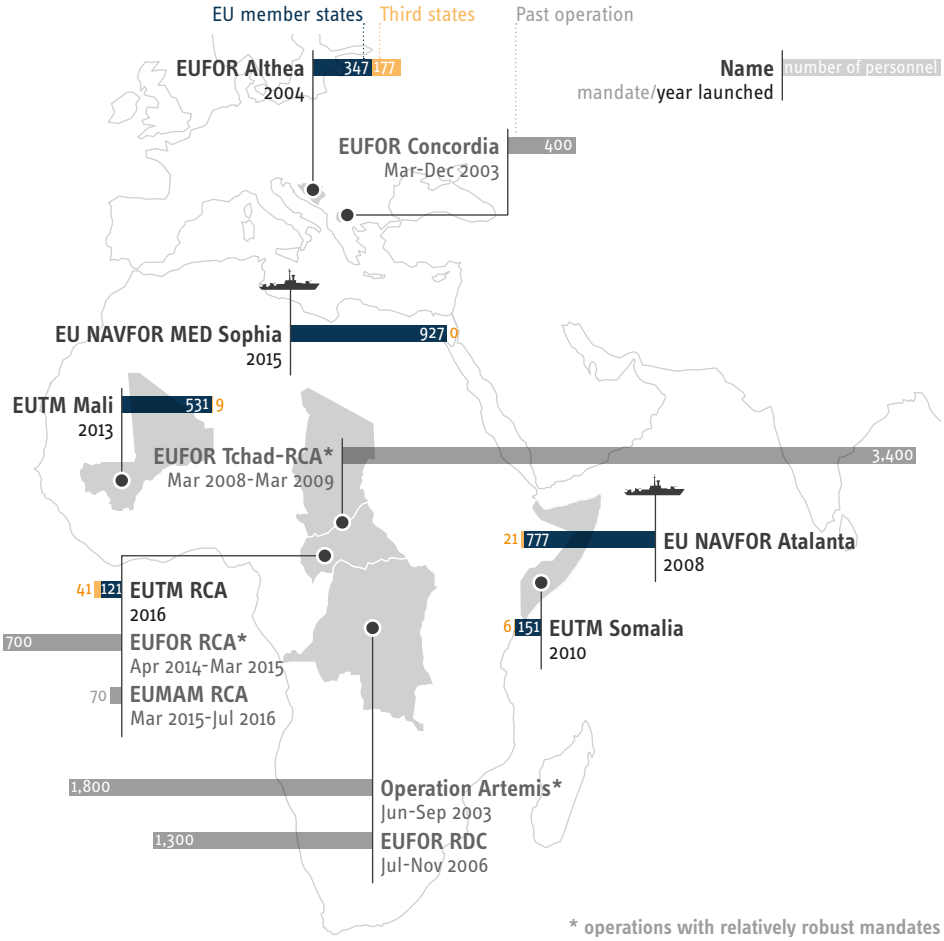
Overall, the way CSDP has developed since has been predominantly operational. To date, the EU has created and run about 35 operations and missions, twelve of which have been of a military nature. Six military operations are ongoing as of November 2017 (and nine civilian missions), for a total of approximately 3,100 personnel deployed. The totality of military capabilities used in these missions are provided by the participating member states as, contrary to NATO, the EU does not own capabilities.

From this it follows that the first 15 years of the CSDP's existence are best described by the operations and missions that the EU has conducted. In the military domain, CSDP operations have been at a relatively low level on the military spectrum in terms of the degree of complexity, intrusiveness and coercion, and they have remained far from the original idea of developing a 'common defence policy', as stated in the 1992 Maastricht Treaty. Furthermore, none of the past or current military operations could be characterised as being the 'most demanding', although the ones in the Democratic Republic of Congo in 2003, in Chad in 2008-2009 and in the Central African Republic in 2014-2015 contained a certain degree of risk.

As crisis management tools, CSDP military operations have also faced a series of political and operational difficulties that in some cases question their very relevance or comparative advantages. In particular, the degree of political support from member states and the consensus on their added-value, as well as on the adaptation of those operations to contemporary threats, have often been challenged. Nonetheless, CSDP operations have shaped the identity of the EU in the security domain – more than any other policy development, they have given CSDP its profile and meaning.

Figure 4: CSDP military operations

Past and present (as of October 2017)



PeSCo's operational dimension

'Capability development' as a component of CSDP was given renewed attention during the process of revitalisation of the EU defence agenda. It is central to the concept of 'strategic autonomy' as defined in the 2016 EU Global Strategy, and both the European Defence Fund and PeSCo have focused on the importance of developing military capabilities.

This being said, there is also an important operational dimension to PeSCo. To begin with, Article 42.6 TEU on PeSCo states that member states will cooperate 'with a view to the most demanding missions', which clearly defines an operational objective for PeSCo. At the political level, debates about the aim and purpose of PeSCo have related

to how operational the project should be (i.e. how much it was ultimately about a few EU states being able to perform at the higher end of military operations). Member states have diverged on the end objective of PeSCo, as reflected in the discussions about ambition vs. inclusivity. But for the proponents of an ambitious PeSCo, its operational dimension was essential. If European states are ultimately not better able to do military operations through PeSCo, then, the argument goes, why bother?

Box 3: The operational dimension in PeSCo documents

Protocol 10 [operational aspects] [italic emphasis added]

Article 1

The permanent structured cooperation referred to in Article 42(6) of the Treaty on European Union shall be open to any Member State which undertakes, from the date of entry into force of the Treaty of Lisbon, to:

(a) proceed more intensively to develop its defence capacities through the *development of its national contributions and participation, where appropriate, in multinational forces*, in the main European equipment programmes, and in the activity of the Agency in the field of defence capabilities development, research, acquisition and armaments (European Defence Agency) [...]

(b) have the capacity to *supply* by 2010 at the latest, either at national level or as a component of multinational force groups, *targeted combat units for the missions planned, structured at a tactical level as a battle group*, with support elements including transport and logistics, capable of carrying out the tasks referred to in Article 43 of the Treaty on EU [...]

Article 2

To achieve the objectives laid down in Article 1, member states participating in permanent structured cooperation shall undertake to:

(c) 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 operational dimension was translated in Protocol 10 on PeSCo in the Lisbon Treaty, as well as in the subsequent list of 'common commitments' to be met by PeSCo members [see Box 4]. Articles 1 and 2 of Protocol 10 – that define what PeSCo members will have to commit – mention the 'participation [...] in multinational forces', the

'supply [of] targeted combat units for the mission planned', and the commitment by states to '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'.

Notions of availability and deployability are further defined in the PeSCo notification to the Council of the EU and the HR/VP (the so-called 'common commitments') that lay out a number of operational commitments such as 'making available strategically deployable formations', 'providing substantial support [...] to CSDP operations (e.g. EUFOR) and missions (e.g. EUTMs)', or 'joining and playing an active role in the main existing structures partaking in European external action in the military field', such as the EUROCORPS or the European Gendarmerie Force.

Box 4: Binding common commitments (Notification to the Council) – operations

[...]

12. With regard to availability and deployability of the forces, the participating member states are committed to:

- making available formations that are strategically deployable for the realisation of the EU Level of Ambition in addition to a potential deployment of an EU BG. This commitment does neither cover a readiness force, a standing force nor a stand-by force.
- developing a solid instrument (e.g. a database) which will only be accessible to participating members states and contributing nations to record available and rapidly deployable capabilities in order to facilitate and accelerate the Force Generation Process;
- aiming for fast-tracked political commitment at national level, including possibly reviewing their national decision-making procedures;
- providing substantial support within means and capabilities to CSDP operations (e.g. EUFOR) and missions (e.g. EU Training Missions) – with personnel, materiel, training, exercise support, infrastructure or otherwise – which have been unanimously decided by the Council, without prejudice to any decision on contributions to CSDP operations and without prejudice to any constitutional constraints;
- substantially contributing to EU BG by confirmation of contributions in principle at least four years in advance, with a stand-by period in line with the EU BG concept, obligation to carry out EU BG exercises for the EU BG force package (framework nation) and/or to participate in these exercises (all EU member states participating in EU BG);

- simplifying and standardising cross-border military transport in Europe for enabling rapid deployment of military materiel and personnel.

13. With regard to interoperability of forces, the participating Member States are committed to:

- developing the interoperability of their forces by:
    - Commitment to agree on common evaluation and validation criteria for the EU BG force package aligned with NATO standards while maintaining national certification;
    - Commitment to agree on common technical and operational standards of forces acknowledging that they need to ensure interoperability with NATO;
- optimising multinational structures: participating members states could commit to joining and playing an active role in the main existing and possible future structures partaking in European external action in the military field (EUROCORPS, EUROMARFOR, EUROGENDFOR, MCCE/ATARES/SEOS).

14. Participating member states will strive for an ambitious approach to common funding of military CSDP operations and missions, beyond what will be defined as common cost according to the Athena council decision.

[...]

In the same vein, the commitments that relate to the constitution of a database of available and rapidly deployable capabilities, the review of national decision-making procedures, the interoperability of forces or a revision of the funding of military operations (via the Athena mechanism), all have an evident operational character.

Those commitments that will apply to all PeSCo members are clearly about incentivising them to do more before and within operations, and thus remedy difficulties that European military endeavours have chronically faced.

Similarly, in parallel with the common commitments, many of the projects that could be developed within PeSCo have a clear operational objective. Of course, all projects can be seen as carrying an operational aim – a capability that would be developed with no intention to be used would have little meaning. Yet, projects that are about putting together a force, training troops or re-energising EUROCORPS-type military groupings are inherently more operational than those that aim at developing drones or establishing a centre for the testing of defence technologies.

PeSCo's governance

PeSCo is a member state-driven process, meaning that the main decisions and activities are the responsibilities of PeSCo members. But as part of the broader CSDP framework, PeSCo will benefit from the support of various EU bodies, primarily the European Defence Agency (EDA) and the European External Action Service (EEAS), under the overall supervision of the HR/VP. While the EDA will play a key role in relation to the capability dimension of the common commitments and to the capability projects, the EEAS will support the operational dimension of the common commitments as well as operational projects.

PeSCo will be the object of a regular assessment of its implementation through two parallel processes: one will annually evaluate the extent to which the commitments are being fulfilled by member states; the other will focus on projects. In both cases, alongside the EDA, within the EEAS it will be the EU Military Staff (EUMS) – together with the Crisis Management and Planning Directorate (CMPD) – that will have the lead on assessing progress from an operational point of view. Issues of availability, interoperability, flexibility and deployability of forces will be particularly scrutinised, in reference to each of the 'binding common commitments'.

As an example, each PeSCo member will be annually assessed on its record in the field of, *inter alia*:

- making available strategically deployable formations for the realisation of the EU Level of Ambition in addition to a potential deployment of an EU Battlegroup;
- developing a fast-tracked political commitment mechanism;
- providing personnel, materiel, training or exercise support to existing CSDP operations;
- contributing to the EU Battlegroups by confirming its participation through stand-by forces and other means;
- joining formations such as EUROCORPS or EUROGENDFOR.

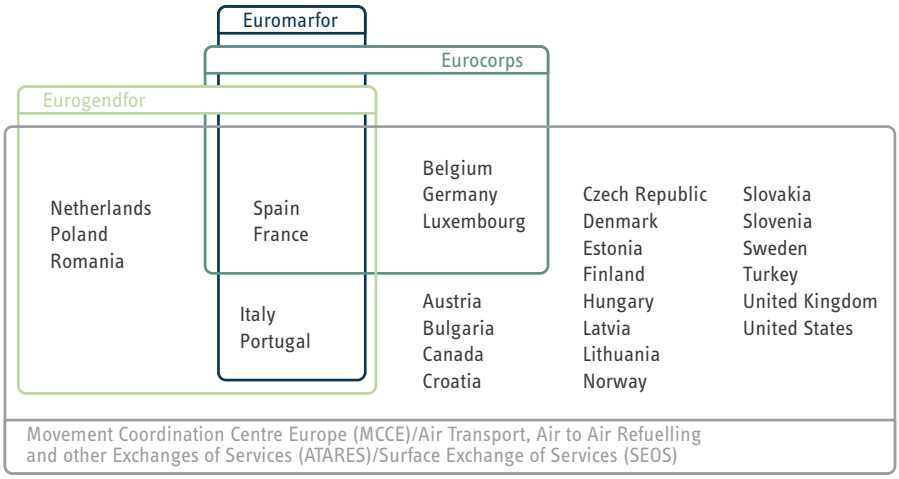
Evaluation will also draw on the type of commitments made by member states individually,[10] and which can offer a different pace of progress from one area to the other. Although politically difficult, in theory, PeSCo members can decide, on the basis of the evaluation done by the HR/VP, to suspend a state that would not fulfil the operational commitments. This would be decided by PeSCo members by a qualified majority [Article 46.4 TEU].

10. This is done by member states in a document called the 'National Implementation Plan'.

In parallel, each operational project will have its own governance mechanism, established by its contributing members. This will be supported by a PeSCo secretariat, emanating from the EDA for capability projects and the EUMS for operational projects.

With the exceptions of decisions on the participation of a new member state or on the suspension of a member state (taken by a qualified majority), decisions within the framework of PeSCo are taken by unanimity.

Figure 5: European military groupings



PeSCo and CSDP operations

Scenarios of operations

PeSCo is intimately linked to CSDP but shall not be conflated with it; the former is an instrument in support of the latter, which is a policy. PeSCo is an instrument or a process by which member states will develop capabilities and improve the deployability of their forces so as to strengthen the security and defence of the Union. More specifically, with references to EUFOR-type operations or the Battlegroups, the common commitments that have an operational orientation clearly speak of CSDP operations. This said, if capabilities or forces developed in the framework of PeSCo primarily aim at supporting CSDP, they can also be used in a non-CSDP context (i.e. in operations led by coalitions or by other organisations such as NATO or the UN).

There are at least seven scenarios under which a 'PeSCo capability' or 'force' can be used in an operation:

- a traditional CSDP operation – EUFOR or EUTM – with participation from EU member states that are PeSCo members as well as non-PeSCo members;
- a traditional CSDP operation with participation from PeSCo members only;
- a CSDP operation with participation from PeSCo members only, established under Article 44 of the Lisbon Treaty;[11]
- a non-EU operation (in a coalition) with participation from PeSCo members only;
- a NATO-led operation with participation from PeSCo members only, or from PeSCo members and other European and non-European NATO members;
- a UN-led operation with participation from PeSCo members only, or from PeSCo members and other European states;
- an internal security (home defence) operation.

If capabilities or forces developed in the framework of PeSCo are used in a CSDP operation (i.e. the first three cases), then the decision-making process and the governance of CSDP operations apply regardless of which member states participate in the operation. This means *inter alia* that those operations are established by the Council of the EU acting unanimously and that they are placed under the political control and strategic direction of the Political and Security Committee (PSC). Interestingly, these scenarios are sufficiently flexible to allow for a *de facto avant garde* to emerge and move forward, in the framework of Article 44 TEU for example.

As for non-EU operations, PeSCo members can decide, in accordance with their own decision-making process, to deploy a given capability or force as they wish, in a coalition or within a NATO or UN operation. This is in line with the idea of a 'single set of forces' and capabilities that cannot be earmarked for a given institution, as well as with the fact that capabilities developed in PeSCo remain national and are not put under any kind of permanent and common command. The more important question is then that of the compatibility between commitments made under PeSCo and those made in other frameworks (NATO more specifically). Expectedly, some member states have been concerned about ensuring such compatibility, notably by insisting on the fact that PeSCo would also be in support of NATO.

Looking at scenarios of operations leads to the two related issues of the participation of third states and of how CSDP operations can help 'protect the Union and its citizens'. Third states can be associated with PeSCo through their participation in a CSDP operation that is in some way supported by a PeSCo project – be it capability or operational based –, in which case their contribution is not different from current practice in relation to third states' participation. The more difficult

11. Article 44 of the Lisbon Treaty allows the Council to 'entrust the implementation of a [CSDP] task to a group of Member States which are willing and have the necessary capability for such a task'.

question is whether third states can contribute to PeSCo directly, through projects in particular. One could conceive of third states participating in a specific capability or operational project, or even being associated with PeSCo as a whole. The EDA model of association of third states could be interesting here. This question has a particular resonance in the context of 'Brexit' and the degree of future association of the UK to CSDP activities, but it also has implications beyond the British case.

Apart from the political sensitivity of the issue, there is also the question of the extent to which non-PeSCo members – be they EU member states or third states – can be associated to CSDP operations. By its very nature, any process of differentiated integration carries the risk of marginalising the ones that are not part of the *avant garde*. EU states that are non-PeSCo members will be confronted with this risk. But this also relates to the role of third states, as a third state that would be associated to PeSCo could then potentially be more involved in CSDP operations than an EU member state that is not a PeSCo member.

Finally, PeSCo is at the heart of the debate on the internal-external security nexus and on how CSDP can contribute to the EU Global Strategy's priority of 'protecting the Union and its citizens'. In accordance with Article 42.1 TEU, CSDP operations are to take place 'outside the Union'. Yet, there will be PeSCo projects that will have an obvious internal security dimension. Of course, the caesura between internal and external security is never completely clear. There is, furthermore, an internal security dimension to CSDP – in the fields of counter-terrorism, cybersecurity or the fight against arms trafficking and organised crime for example. Yet it is possible that some of the capabilities developed in the framework of PeSCo will never be intended to be used in CSDP operations *per se* (i.e. outside of the EU). Most importantly, the internal security dimension of PeSCo may well be of interest for the EU member states that are unsure about the virtues of 'external' CSDP military operations.

Box 5: Types of possible CSDP civilian missions and military operations derived from the EU level of ambition*

To be able to undertake rapid and decisive action in support of the level of ambition and its three strategic priorities, across the whole spectrum of crisis management tasks covered by Article 43 of the TEU, CSDP needs to be backed up by credible, deployable, interoperable, sustainable and multifunctional civilian and military capabilities. As a security provider, the EU should have wide reach, while focusing on its surrounding regions. It will act with partners wherever possible and always in compliance with international law. Based on previously agreed goals and commitments, the EU should thus be capable to undertake the following types of CSDP civilian missions and military operations outside the Union, a number of which may be executed concurrently, in different scenarios, including in situations of higher security risk and underdeveloped local infrastructure:

- Joint crisis management operations in situations of high security risk in the regions surrounding the EU;
- Joint stabilisation operations, including air and special operations;
- Civilian and military rapid response, including military rapid response operations *inter alia* using the EU Battlegroups as a whole or within a mission-tailored force package;
- Substitution/executive civilian missions;
- Air security operations including close air support and air surveillance;
- Maritime security or surveillance operations, including longer term in the vicinity of Europe;
- Civilian capacity building and security sector reform missions (monitoring, mentoring and advising, training) *inter alia* on police, rule of law, border management, counter-terrorism, resilience, response to hybrid threats, and civil administration as well as civilian monitoring missions;
- Military capacity building through advisory, training, and mentoring missions, including robust force protection if necessary, as well as military monitoring/observation missions.

  This non-exhaustive list provides input for the follow-on work to derive requirements based on a review of the Illustrative Scenarios, in line with agreed procedures under the Capability Development Mechanism, under the control of the Political and Security Committee.

* Council conclusions on implementing the EU Global Strategy in the area of Security and Defence, doc. 14149/16, Brussels, 14 November 2016.

The 'most demanding missions'

As stated earlier, one declared objective of PeSCo is the ability of the EU member states to conduct the 'most demanding missions' [Article 42.6 TEU]. Such terminology conveys the initial ambition of PeSCo as it allegedly implies that operations will potentially be at the upper level of the military spectrum.

However, what these missions are about is not precisely defined in PeSCo-related policy documents, and it appears that clarification was not particularly sought by member states during the debates on PeSCo. Yet having an idea of what is meant by 'the most demanding missions' is essential as it relates to the 'what for?' question, and therefore to the ultimate purpose of PeSCo: what kind of operations are EU member states developing capabilities and forces together for?

If PeSCo is about enabling the EU to fulfil the level of ambition as defined in the EU Global Strategy, then what military operations can possibly help do that and how demanding, robust, coercive or risky can they be? In the context of the release of the Global Strategy and the subsequent Security and Defence Implementation Plan (SDIP), the identification of the three strategic priorities for the EU was accompanied by a typology of operations (annexed to the November 2016 Council Conclusions – see Box 5). These scenarios are more detailed than the five illustrative scenarios produced by the EUMS in the context of the Capability Development Plan (CDP) and complement the ones defined in Article 43.1 TEU.

Some of these missions – such as 'joint stabilisation operations, including air and special operations' or 'military rapid response operations *inter alia* using the EU Battlegroups' – can be quite demanding and take the EU into unknown territory. Drawing on this, how far are EU members ready to go in the military domain? Does the notion of a 'demanding mission' imply that states using PeSCo-acquired capabilities or forces will fight a war against an identified enemy? Is the idea to be able to conduct an operation similar to the 2011 NATO-led military intervention in Libya through PeSCo? Or to run *Operation Barkhane* in the Sahel?

There is no clear answer to these questions and responses would vary from one state to the other, depending on their respective conceptions of PeSCo and, more broadly, CSDP. But as it is, there is little in the way the PeSCo framework has been built that suggests that the EU will be preparing for some form of kinetic operations. It seems that the most warlike operation that is envisaged is rather a kind of robust peacekeeping. This does not mean that such missions would not be 'demanding' – they would. But the referent point is still more the Balkans or some stabilisation missions in sub-Saharan Africa (e.g. like *Operation Sangaris* in the Central African Republic, for example) than *Barkhane*-type operations. It follows that PeSCo would be unlikely to be the tool through which the EU ventures much beyond traditional crisis management activities, no matter how robust it might become.

This notwithstanding, will PeSCo then establish the framework that connects the development of capabilities with their use in the most demanding situations? While this is uncertain (see below), what the PeSCo framework can do is induce its members to have a debate on the 'use of the tool'. In particular, operational projects can hardly lead to anything concrete if the countries involved do not address the type of scenarios that those forces can serve. The question about 'what kind of operations is PeSCo preparing for?' will be hard to avoid. It is difficult at this stage to predict how this will unfold, but there are instruments that are put in place that have the potential to move CSDP towards a more operational posture.

The capability and the will

The member states for whom the operational dimension of PeSCo is essential will measure the success of PeSCo against the ability of the EU to run complex military operations. They see PeSCo as a means to this end. For those states, there is an

assumption that developing military capabilities or joint forces and upgrading their deployability will ultimately lead to a higher probability that these forces or capabilities will indeed be used in operations. In other words, there exists a correlation between having a tool and using it. The 'psychology of weakness' theorised 15 years ago by American scholar Robert Kagan, whereby it is the incapacity to respond to threats that leads to tolerance or denial of those threats, would be attenuated by the acquisition of capabilities, as well as through some convergence of strategic cultures.

In this context, the operational dimension of PeSCo is also aimed at incentivising states to participate in complex military operations. This is what commitments on 'concrete measures to enhance the availability, interoperability, flexibility and deployability' of forces, on 'making available strategically deployable formations', or on 'providing substantial support [...] to CSDP operations' are about.

All PeSCo members will have to demonstrate progress on all these issues, regardless of the type of PeSCo projects in which they participate. Of course, there shall be no guarantee that PeSCo members would automatically deploy the capabilities or forces they have developed together whenever a situation necessitates it. PeSCo will not be legally binding. What is 'necessary' will always be a question of interpretation, and the general prudence of member states *vis-à-vis* the use of force will not be easily overcome.

However, regular commitments to deploy, accompanied by the definition of concrete and verifiable measures on the reality of the commitment, as well as annual assessments of the degree of implementation of the commitments, are expected to create an environment that will shape the mindset of decision-makers in a way that will make the idea of deploying the acquired capabilities or forces more acceptable, or the refusal to deploy them more difficult.

There is a 'rational choice' dimension to PeSCo by which the combination of commitments made and peer pressure will incentivise decision-makers to contribute to operations and simultaneously raise the cost of defection. Although not legally binding, the established framework will create constraints over participating states that will make any free-riding more visible and therefore less easy. For example, one could think that once an operation is created (by unanimity in the Council), the generation of the force will be facilitated by previous engagements in the framework of PeSCo. In other words, peer pressure and commitments will eventually be higher in the PeSCo framework than they were in any other structure in the past.

What added-value?

PeSCo aims at enabling the EU member states to be better able to ensure the defence and security of the EU and its citizens. Practically, this implies the possible deployment of operations that are facilitated – in political and operational terms – by the PeSCo framework, the common commitments it defines and the projects it initiates.

PeSCo will arguably not be what its original drafters had in mind. Both the ideas of an *avant garde* and of the 'most demanding missions' have been somewhat diluted. Furthermore, no enforcement mechanism has been established: states' sovereign decisions remain the norm. The extent to which all of these efforts will lead to a more operational role for the EU remains therefore to be demonstrated. In particular, issues of diverging strategic cultures and risk-averse national postures, different threat assessments, weak funding mechanisms for operations, or the uncertain link between CSDP and the broader foreign policy objectives are there to stay.

Nonetheless, the hope lies in the merits of a structured and long-term *rapprochement* of defence policies that commit participating member states in an unprecedented way. Hopefully this will make cooperation and collective action part of an emerging European strategic culture which in turn may lead to more ambitious and effective military operations.

Chapter 3
PeSCo: the capabilities

Defence capabilities are seen as an integral element of – and reason for – closer European cooperation in defence. The logic is quite simple. If Europe is to play a more effective international role in crisis management and to secure the protection of European citizens, then EU governments will require a full range of defence capabilities. At the EU-level, governments – with the exception of Denmark, which has an opt-out from the Common Security and Defence Policy (CSDP) – have enshrined their intention to 'undertake progressively to improve their military capabilities' in the EU treaties [Article 42.3 Treaty on European Union]. With a view to improving the conditions for joint capability development, EU governments established the European Defence Agency (EDA) in 2004 and adopted a legislative package to liberalise the European defence market in 2009. In contrast to non-EU forms of joint defence capability development, the EU offers its members an institutional framework that connects defence to other areas of EU law, policy and resources.

Filling capability shortfalls and developing future defence technologies has always been important for CSDP and European defence more broadly. In the current climate, however, defence capability development takes on even more salience in the context of a changing transatlantic relationship and a lack of clarity over the future relationship between the EU and the UK. Furthermore, the drive towards PeSCo emerges at a time when the confluence of hybrid threats and tactics and new technologies is challenging the EU's traditional operational assumptions about crisis management. The advent of unmanned technologies, artificial intelligence and cyber defence concerns give reason to think more creatively about what defence capabilities should be prioritised by Europe – and eventually within PeSCo – and for what operational purposes. New technologies and capabilities that find their way into the hands of state and non-state actors change not only the politico-strategic understanding of operational theatres but also capability needs.

However, despite years of cooperation through the EDA, EU defence capability development – much like EU defence cooperation more broadly – remains *voluntary* in nature. On this basis, expectations have not always been met. In the 2001 European Capability Action Plan (ECAP), EU governments pledged to fill capability gaps in key areas such as intelligence, communications, the protection of forces in the field and strategic transportation. Despite some progress, however, EU governments have had to perennially re-affirm their commitment to capability development goals. For example, in December 2013 – more than a decade after the original ECAP was adopted – the European Council yet again felt obliged to address capability shortfalls.

At this Council unmanned aerial vehicles, cyber defence, satellite communications and air-to-air refuelling were identified as key strategic capability gaps. Successive revisions of the EDA's Capability Development Plan (CDP),[12] which is designed to identify the types of defence capabilities EU governments may need to acquire for future strategic contingencies, have also failed to result in a radical break with voluntarism.

Box 6: Relevant passages on capability development in Protocol 10

RECOGNISING that the strengthening of the security and defence policy will require efforts by Member States in the area of capabilities [...]

Article 1

The permanent structured cooperation referred to in Article 42(6) of the Treaty on European Union shall be open to any Member State which undertakes, from the date of entry into force of the Treaty of Lisbon, to:

(a) *proceed more intensively to develop its defence capacities* through the development of its national contributions and participation, where appropriate, in multinational forces, *in the main European equipment programmes*, and in the activity of the Agency in the field of defence capabilities development, research, acquisition and armaments (European Defence Agency) [...]

Article 2

(a) cooperate [...] with a view to achieving approved objectives concerning the level of investment expenditure on defence equipment [...]

(b) 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 [...]

(d) 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";

(e) take part, where appropriate, in the development of major joint or European equipment programmes in the framework of the European Defence Agency [...]

As defined in the TEU, PeSCo is designed to overcome the dominance of voluntarism

12. First published in 2008 with a revision in 2014, and a further revision scheduled in 2018.

by providing a permanent framework and structured process for closer EU defence capability development between *willing* and *able* governments. Beyond mere statements and proclamations about the importance of EU defence cooperation, PeSCo is designed to ensure that participating governments put their deeds and money where their mouths are – permanently and irreversibly. More specifically, PeSCo makes clear that governments recognise the need to pool and share existing capabilities and to jointly develop capabilities where necessary. In the relevant protocol and articles in the TEU, it is stated that the baseline commitments for entry into PeSCo include: *spending more* on defence equipment and research; *aligning* defence planning frameworks; *making available* defence capabilities when needed; *working together* to reduce capability shortfalls and gaps; and, finally, *participating* in major joint European equipment programmes.

Box 7: Binding common commitments (Notification to the Council) – capabilities

[...]

1. Regularly increasing defence budgets in real terms, in order to reach agreed objectives.

2. Successive medium-term increase in defence investment expenditure to 20% of total defence spending (collective benchmark) in order to fill strategic capability gaps by participating in defence capabilities projects in accordance with CDP and Coordinated Annual Review (CARD).

3. Increasing joint and "collaborative" strategic defence capabilities projects. Such joint and collaborative projects should be supported through the European Defence Fund if required and as appropriate.

4. Increasing the share of expenditure allocated to defence research and technology with a view to nearing the 2% of total defence spending (collective benchmark).

5. Establishment of a regular review of these commitments (with the aim of endorsement by the Council)

6. Playing a substantial role in capability development within the EU, including within the framework of CARD, in order to ensure the availability of the necessary capabilities for achieving the level of ambition in Europe.

7. Commitment to support the CARD to the maximum extent possible acknowledging the voluntary nature of the review and individual constraints of participating Member States.

8. Commitment to the intensive involvement of a future European Defence Fund in multinational procurement with identified EU added value.

9. Commitment to drawing up harmonised requirements for all capability development projects agreed by participating Member States.

10. Commitment to considering the joint use of existing capabilities in order to optimize the available resources and improve their overall effectiveness.

11. Commitment to ensure increasing efforts in the cooperation on cyber defence, such as information sharing, training and operational support.

[...]

15. Help to overcome capability shortcomings identified under the Capability Development Plan (CDP) and CARD. These capability projects shall increase Europe's strategic autonomy and strengthen the European Defence Technological and Industrial Base (EDTIB).

16. Consider as a priority a European collaborative approach in order to fill capability shortcomings identified at national level and, as a general rule, only use an exclusively national approach if such an examination has been already carried out.

17. Take part in at least one project under the PeSCo which develops or provides capabilities identified as strategically relevant by Member States.

18. Commitment to the use of EDA as the European forum for joint capability development and consider the OCCAR as the preferred collaborative program managing organization.

19. Ensure that all projects with regard to capabilities led by participating Member States make the European defence industry more competitive via an appropriate industrial policy which avoids unnecessary overlap.

20. Ensure that the cooperation programmes - which must only benefit entities which demonstrably provide added value on EU territory - and the acquisition strategies adopted by the participating Member States will have a positive impact on the EDTIB.

[...]

Assessing binding commitments

Such commitments are clearly ambitious but they also lead to mounting expectations. The track record of EU governments living up to higher investment in joint capability development, however, has not always been positive. In fact, in 2007 ministers within the EDA agreed to four collective benchmarks designed to improve EU

capability development, including: (i) to invest 20% of total defence spending in equipment procurement; (ii) to allocate 35% of this equipment investment to European collaborative programmes; (iii) to invest 2% of total defence spending into defence research and technology; and (iv) to allocate 20% of this defence research and technology investment to European collaborative research. These four benchmarks were not assessed on a nation-by-nation basis but rather collectively, so there is little political pressure directed at any one EU government for not living up to its commitments. It should also be noted that these collective benchmarks are strictly *voluntary* in nature and there is no strict timeline attached to achieving them. By the EDA's own admission, the benchmarks have rarely been met with any consistency.

In contrast to the experiences of the collective benchmarks, however, PeSCo is designed to move beyond the existing mode of voluntary-based commitment in two main ways. First, before a government can form part of PeSCo they need to fulfil higher and more credible commitments to one another than has been the case in the past. As the PeSCo notification states, the aim under PeSCo is to regularly increase defence budgets in real terms and to invest 20% of these increased budgets into joint defence capability projects and 2% into joint research and technology. In addition to greater investment in defence, however, PeSCo also invites willing member states to more intensely 'Europeanise' their capability development – not just to spend more, but to spend more in an EU context. As a minimum requirement, this implies that governments should use the EDA as the primary forum for capability development projects. As the experience of the EDA's collective benchmarks shows, however, targets are not enough if EU governments are to show more enthusiasm for developing capabilities in unison.

Interestingly, one of the latest developments in EU defence policy that may assist with greater adherence to PeSCo's common binding commitments was entrusted to the EDA in 2016. The Coordinated Annual Review on Defence (CARD) – technically separate from, albeit complementary to, PeSCo – is designed to encourage EU governments to align their defence budgets and capability plans and to concomitantly jointly identify common capability needs over the medium to longer-term. In simple terms, CARD encourages all EU governments to open up their respective defence planning books at the EDA to allow the Agency to identify opportunities for EU cooperation and to avoid capability development duplication. Outside of PeSCo, CARD is designed to be a *voluntary* initiative, but one step could be to ensure that CARD translates into a more mandatory process within PeSCo. While still undergoing its trial phase in 2017, CARD could eventually be an assessment process to ensure that EU governments are adhering to their binding commitments to one another on capability development.

The second way that PeSCo could move beyond a voluntarist approach to defence capability development is through the regular review of the common binding commitments made at the onset of PeSCo. Such a review will likely be spearheaded at the highest political level within the EU institutional system as a way to guarantee that EU governments are regularly living up to their pledges to one another. Up until now, commitments on joint capability development have been made mainly through the EDA. While the Agency has made some progress in delivering on

capability areas such as air-to-air refuelling, governmental satellite communications and cyber defence, more ambitious commitments have been difficult to encourage and monitor because of the essentially intergovernmental nature of the Agency's governance structure. After all, the EDA's executive arm does not have the sanctioning powers to enforce joint capability development – as an intergovernmental body, the Agency is dependent on the willingness of governments to voluntarily embark on joint capability projects.

While the EDA will be an important actor within PeSCo, ultimately it will be up to the HR/VP – and, incidentally, head of the Agency – to conduct an annual review of the binding commitments made by governments seeking to embark on Permanent Structured Cooperation. Before agreeing to a Council decision on PeSCo, interested EU governments will be required to complete individual National Implementation Plans (NIPs) to display the ways in which they are able and willing to meet the common binding commitments listed in the common notification. The NIPs will not only be a way to ascertain whether member states are ready to join PeSCo, but they will also serve as a binding document through which the HR/VP will be able to review individual national commitments to PeSCo. The NIPs are the mechanism through which the HR/VP can hold EU governments to their word. Once the initial pledges in the NIPs are compared to the concurrent status of PeSCo commitments, the HR/VP is required to report the results back to PeSCo-relevant ambassadors in the Political and Security Committee (PSC), and, eventually, to PeSCo-relevant ministers that sit in the Foreign Affairs Council (FAC). The HR/VP will be assisted by the EDA, the EEAS and in some cases the European Commission in this annual review.

Box 8: Coordinated Annual Review on Defence (CARD)

One of the challenges identified by the EU Global Strategy in 2016 was the lack of defence coordination between governments. The Strategy therefore called for the 'gradual synchronisation and mutual adaptation of national defence planning cycles and capability development practices'. Following this assertion and endorsement of the idea by the Council of the EU on 14 November 2016, the EDA set to work (as the secretariat for the initiative) on developing an annual review process.

The CARD will be piloted at the end of 2017, and the Agency is expected to report to EU defence ministers on a biennial basis on the results. As the Council conclusions of 6 March 2017 make clear, the defence review will provide 'a better overview at EU level of issues such as defence spending and national investment as well as defence research efforts'. It will not, however, be a sanctioning tool nor will it take control of national defence investment plans.

To ensure that the defence review is successful, the Agency has proposed that for the trial run it will use existing databases that detail national defence plans; it will then engage in bilateral dialogue with individual governments; and it will only then produce its overall review ready to be submitted to the Council of the EU in time for the first proper review in 2019.

Incentivising joint capability development

Regular assessment of the common binding commitments that PeSCo members make to one another is important. However, from a specific capability development perspective, financial incentives that ensure that governments continuously invest in capabilities and defence research through PeSCo are equally vital. To this end, the recently unveiled European Defence Fund (EDF) could provide a greater reason for EU governments to jointly develop capabilities together. In fact, membership of PeSCo could require active participation in the EDF as a prerequisite. The European Commission has already indicated that it is prepared to increase the 20% contribution it will make to joint EU capability projects under the EDF by an additional 10% if these projects are placed within PeSCo. This is a financial incentive that many EU governments may find hard to resist. Although the European Commission has no legal basis in the treaties for the identification of defence capabilities, the Commission has therefore recently emerged as an important actor as far as potentially incentivising joint capability development is concerned.

The European Commission's hope is that in exchange for financial support under the EDF, participating EU governments in PeSCo will be incentivised to agree to early harmonisation and interoperability requirements for common defence capability programmes. As the European Commission asserts: 'member states are not cooperating enough, with more than 80% of procurement and more than 90% of Research and Technology run on a national basis'.[13] Although some European countries cooperate with one another to develop capabilities outside of the EU framework, such cooperation has been bedevilled by the continued desire to maintain national sovereignty in defence. Such sovereignty is defined as a state's perceived need to maintain security of supply for defence systems and components *and* the need to protect jobs in the defence sector within national borders. Here, the stakes are high as the European Commission estimates that in 2015 the turnover of the European defence sector was approximately €102 billion and the sector directly employed an estimated 430,000 employees.[14]

Cooperative capability programmes that have been developed outside of the EU framework have not always reduced the costs of defence or improved interoperability. For example, while a number of EU governments have developed armoured vehicles

13. European Commission, 'Launching the European Defence Fund', COM(2017) 295 final, Brussels, 7 June 2017.

14. European Commission, 'Proposal for a Regulation establishing the European Defence Industrial Development Programme', Staff Working Document, SWD(2017) 228 final, Brussels, 7 June 2017.

(e.g. the Boxer programme) and frigates (e.g. the FREMM) together through the Organisation for Joint Armament Cooperation (OCCAR), it is widely acknowledged that such programmes still suffer from interoperability issues. To put it simply, common capabilities that are used by multiple governments may look the same from the outside, but the technical specifications related to communications systems, propulsion, etc. that are found under the shell are different. Collaborative programmes tend to suffer from escalating costs when governments pull out of a project, decrease the number of units they initially intended to buy or when their militaries cannot agree on capability requirements. The hope is that a combination of PeSCo and the EDF will negate such issues by providing for a politically binding framework through which financial incentives can be used to harmonise military requirements and manage cost inflation.

Yet, clearly there will be challenges associated with using financial incentives to promote PeSCo capability projects, including: (i) guaranteeing strategic and industrial coherence between PeSCo and non-PeSCo capability projects that could be financed under the EDF (especially given that the EDF is open to all EU member states); (ii) ensuring that EDF-funded programmes reflect some degree of geographical and industrial balance across the EU, despite the clear preference for PeSCo-based programmes; and (iii) maintaining a focus on capability output in order to meet the identified strategic needs and shortfalls under the CSDP rather than to provide industry with subsidisation. These points are all the more important given that only a handful of EU member states have been able to develop cutting-edge defence capabilities, including France, Germany, Italy, the Netherlands, Spain, Sweden and the UK. In particular, the need to ensure a coherence of capability output is vital if PeSCo is to deliver on its ambitious goal.

Box 9: European Defence Fund (EDF)

Officially launched in June 2017, the European Commission believes that the European Defence Fund could change the nature of EU defence cooperation. The fund will use financial incentives to encourage EU governments to jointly develop defence capabilities. The European Commission wants to use a portion of the EU budget to support joint defence research and capability development.

As far as defence research is concerned, the Commission is investing €90 million until the end of 2019 during a preparatory phase, but this could be increased to €500 million per year after 2020. The EU budget would cover 100% of the costs related to defence research under the fund.

In relation to capability development, the Commission plans to invest €500 million in joint capability programmes from 2019-2020. After 2020, the plan is to invest €1 billion per year into common projects. In addition to this amount, member state governments are expected to also invest in capability projects under the fund. The combined amount could lead to a total of €5 billion per year. The EU budget would cover up to 20% of the costs related to joint capability development under the fund and up to 30% within PeSCo.

Delivering on defence capability output

Properly calibrating defence capability projects within PeSCo will be vital to ensuring that PeSCo delivers. Much will depend upon *how* capability projects within PeSCo are modulated and *what* capability programmes are launched. Capability programmes that have been launched outside of the EU framework display a chequered and sometimes cautious past. On the more ambitious side of the capability development spectrum lie implemented projects focused on platforms, such as European-built aircraft (e.g. A400M or Eurofighter). Somewhere in the middle rests the intention to generate capabilities (e.g. the Franco-British plan to jointly develop an unmanned future combat system). Elsewhere on the spectrum, minilateral defence groupings such as Nordic Defence Cooperation, the Weimar Triangle and the Visegrad Group have generated political dialogue without necessarily resulting in joint capability programmes. If PeSCo and the EDF are to meet the expectations set by governments and institutions alike, there is a need to reflect on the balance between ambitious defence capability programmes and their added value for CSDP missions. A danger could be that governments put forth projects under PeSCo because they see extra EDF funding as a way to subsidise ongoing (multi)national projects, rather than to develop capabilities that are actually required for the EU's strategic autonomy.

Accordingly, it may take some time before PeSCo is completely geared to avoiding the pitfalls experienced during past joint European capability programmes. Ensuring that CARD and the EDF work effectively under the umbrella of PeSCo is also clearly a necessity. Coherent governance of PeSCo will, therefore, be vital. Governance will mainly be in the hands of PeSCo foreign and defence ministers, and the relevant Council bodies (the PSC, the EU Military Committee and the Politico-Military Group) will regularly meet in 'PeSCo format'. However, a special role will be conferred on the HR/VP to ensure transparency and coordination. A 'PeSCo secretariat' will be established that will bring together the EEAS (in particular the EU Military Staff) and the EDA, and it will work in close coordination with the Deputy Secretary General for the CSDP in the EEAS. Within the secretariat, the EDA will support the HR/VP on *all* aspects of capability development [therefore in line with Article 3 of Protocol 10].

All of this is not to say that PeSCo governments will become subject to EU supranational bodies for their defence planning and capability development ventures. In fact, PeSCo governments will be chiefly responsible for maintaining their political commitments

to each other. PeSCo is *not* about placing defence capabilities under the control of EU supranational bodies. PeSCo is not about excluding non-PeSCo members, either; a possible governance structure may likely include non-PeSCo members around the decision-making table too (albeit without a vote on PeSCo projects). PeSCo would also be beneficial to NATO as it is designed to lead to a European *avant garde* on defence capability development. Here, NATO allies that are participants of PeSCo will also want to ensure coherence between what they develop under PeSCo and what they have agreed to under the 2016 EU-NATO Joint Declaration and the related 42 action points (of which defence capabilities and industry and research are crucial elements). In particular, CARD could ensure that capability prioritisation reflects national and multinational defence planning.

One of the first tasks of the PeSCo secretariat will be to work with participating member states on a phased transition to PeSCo working practices. It will not be the case that PeSCo members will be able to deliver on their respective commitments as soon as the notification of PeSCo participation is lodged at the Council of the EU. Instead, making good on commitments under PeSCo will take member governments some time. As a first step after the PeSCo notification, the 2018 CDP revision will be key to prioritising capabilities based on the strategic interests of Europe, as defined in the EUGS and SDIP. National systems will require time to adjust to PeSCo, especially as the commitments relate to higher levels of defence investment (in many ways, increased defence spending will need to be approved by parliaments). Additionally, launching any capability programmes within PeSCo – especially where they seek EDF support – will need to fit within the phased rolling out of initiatives such as CARD (the first full review is planned for 2019) and the EDF (i.e. to be fully phased in with the next multiannual financial framework in 2021). Therefore, PeSCo defence capability projects may not take off until at least 2025 and joint capability development projects – depending on the *type* and *scale* of these projects – would only bear fruit after this timeframe.

Chapter 4
PeSCo: what next?

And so, on 13 November 2017 several member states decided to formally launch PeSCo through a common notification detailing the purpose of PeSCo, 20 common binding commitments and the overall governance structure. The aim of this *Chaillot Paper* has been to explain and analyse the driving and constraining factors behind the genesis and transformation of PeSCo over the last 15 years, and to make sense of its eventual launch. PeSCo has been in hibernation for some time, but the changing strategic context has stirred EU institutions and member states alike into eventually shaking this hitherto unused treaty provision out of its dormant state. Now awake, PeSCo not only represents a potential game changer for European defence cooperation but it also raises expectations. At a time when governments and citizens expect more from the EU on security and defence, PeSCo has been activated as a way to display the EU's commitment to the protection of Europe, its values and its interests.

This whole process began in June 2016 with the publication of the EU Global Strategy, and it has taken a little over a year since then to take a number of decisive steps forward – first with the Security and Defence Implementation Plan, then with the European Defence Fund and now with PeSCo. All of this shows that the EU is moving from vision to action on security and defence. Yet, with each step forward come questions and the need for further reflection on the possible ramifications of these various initiatives – as stand-alone and complementary policy actions. Because PeSCo was defined in less restrictive and detailed terms when compared to enhanced cooperation or EMU, the work over the past few months has relied on close and flexible cooperation between EU member state governments and various EU bodies (principally the PSC, EEAS and EDA).

Following the common notification on PeSCo, future work centres on the need, first, to ensure that the respective National Implementation Plans are prepared as a way to cement the 20 commitments made in the notification and to provide a basis for the annual PeSCo assessment; and second, to move on to the identification of concrete projects in the areas of operations (i.e. the availability, deployability and interoperability of forces) and capabilities (i.e. the development, effectiveness and interoperability of defence assets). Based on a structured approach and methodology that is being developed by the EDA and the EEAS (in particular the EU Military Staff), the immediate aim is to flesh out some concrete projects.

In the end, the success of PeSCo will depend on participating member states adhering to the common binding commitments made to each other through the common

notification and, eventually, the Council decision establishing PeSCo. Yet a number of questions are likely to continue to inform the evolution of PeSCo from here on in. As each of the chapters in this paper have highlighted, these points of reflection are likely to be of a general and technical nature.

Text and context: even if PeSCo has emerged out of a gradual synchronisation of the EU's treaty provisions with the EU Global Strategy, it will be interesting to see how PeSCo is used by EU governments to respond to evolving regional and international events in the future. The momentum for PeSCo has been driven by necessity and a deteriorating strategic landscape in and around Europe, but this same landscape is likely to colour how far PeSCo members adhere to the 20 binding commitments made to one another over the coming years and decades.

Project coherence: the degree to which PeSCo could lead to a two-tier or multi-speed Europe in security and defence no longer appears to be the central preoccupation of EU member states. Initial debates surrounding PeSCo over the 2016-2017 period gravitated around the relationship between *ambition* vs. *inclusiveness*. Today's PeSCo appears to have squared this circle in political terms, but the projects that are yet to be launched within PeSCo between smaller groupings of participating member states might require careful management (especially given the need to ensure coherence between the operations and capability development projects).

Operational effectiveness: some degree of uncertainty surrounds the EU's definition of 'the most demanding missions' and the types of operations the EU envisages deploying under PeSCo. The EU's military level of ambition is still subject to debate and this is likely to require further deliberation as PeSCo's operational projects are given form (especially in the context of a desire to ensure compatibility between the EU and NATO's operational efforts). In this respect, the types of operational projects launched under PeSCo may give us an indication of the balance PeSCo member states seek to strike between internal and external security. This balance is likely to inform the types of projects launched under PeSCo too.

Capability development: given the known challenges associated with capability development outside of the EU framework, there is a need to ensure that PeSCo does not fall prey to the same pitfalls. Clearly, PeSCo capability projects should meet the objectives of CSDP and European defence more broadly, but there is a need to ensure that capability programmes are sufficiently ambitious to stimulate the buy-in of ministries of defence and industry (even if PeSCo and the EDF are not designed to subsidise ongoing capability development projects). Capability development is a long-term process spanning multiple years and decades, and so success through PeSCo has to be measured with this factor in mind. Achieving a mutually reinforcing relationship between PeSCo and the EDF and CARD is still a work in progress.

Furthermore, several broader questions remain unanswered for the time being. First, how *permanent* will PeSCo be? Even EMU was labelled as 'irreversible' at the outset but went through a truly existential crisis over the past few years. PeSCo marks a crucial shift from a predominantly *voluntary* to an essentially *contractual* approach

to EU security and defence but it is still unclear how 'binding' its commitment may turn out to be in the years to come, especially if a change in government in a signatory country prompts a reversal of policy. Also, how will lack of compliance with the agreed commitments be dealt with, in light also of the fact that unanimity is the rule?

Second, how *structured* will PeSCo be? Its initial governance setup does not foresee a dedicated Council formation (e.g. comparable to the Eurogroup for EMU), although only PeSCo members are allowed to vote on PeSCo matters in the Council: at some stage, the call for a more 'exclusive' forum may emerge. Similarly, especially in the event of a truly inclusive PeSCo encompassing almost all EU member states, old tensions over smaller 'clubs' within the 'club' may resurface – while PeSCo would become, paradoxically, another vehicle for opt-outs and exemptions for the few member states not signing up to it.

Third, how *cooperative* will PeSCo be? Its fledgling architecture will surely be tested over the next few months, depending also on which projects will be approved, how they will be implemented, and under whose scrutiny. What is clear at this stage is that both the 'hub' (the Council) and the 'spokes' (the operations and the capabilities) will have to develop a *modus operandi* sufficiently flexible to manage diversity but also sufficiently solid to generate tangible collective gains.

Last but not least, how will PeSCo relate to CSDP? It is too early to tell, of course. PeSCo is about *more* than CSDP as we know it, as it is also about industrial projects as well as the protection of EU citizens. Yet it is also about *less* than CSDP, which includes a substantial civilian component. To some extent, PeSCo and CSDP are separate but not separable, overlapping and yet distinct – and their future interaction will probably reflect also the evolving strategic landscape in which the EU is set to operate and the policy priorities stemming from it.

Finally, measured against the magnitude of the security challenges Europe is confronted with now, PeSCo may still appear as a small step – and one that is likely to need time to bring lasting results: there are no low-hanging fruits in this domain. But measured against the difficulties European security and defence has experienced over the past decade, PeSCo also looks – especially to insiders – as a giant leap forward for the EU, and one that can generate common public goods also well beyond Europe. PeSCo may not be an easy achievement to explain to ordinary citizens – due to both its inherent complexity and its time horizon – but it marks a major turning point in terms of policy development. Ultimately, however, PeSCo will be judged a success if it leads to the creation of a more effective, capable and joined-up Union in security and defence.

Annex

FR-DE-ES-IT proposal: Notification on Permanent Structured Cooperation (PeSCo)

Preamble

The participating Member States,

Recalling that the Union is pursuing a common foreign and security policy based on the achievement of "an ever-increasing degree of convergence of Member States' actions" (Art. 24 (2) TEU) and that the common security and defence policy (CSDP) is an integral part of the common foreign and security policy;

Considering that the common security and defence policy provides the Union with operational capacity drawing on civil and military assets and that the strengthening of the security and defence policy will require efforts by Member States in the area of capabilities;

Recalling also the commitment of the European Union and its Member States to the promotion of a rules-based global order with multilateralism as its key principle and the United Nations at its core;

Recalling Article 42 (6) of the Treaty on European Union (TEU) according to which those "Member States whose military capabilities fulfil higher criteria and which have made more binding commitments to one another in this area with a "view to the most demanding missions" shall establish permanent structured cooperation (PeSCo) within the Union framework";

Considering that PeSCo could significantly contribute to fulfilling the EU's Level of Ambition including with a view to the most demanding missions and operations and that it could facilitate the development of Member States' defence capabilities through an intensive involvement in multinational procurement projects and with appropriate industrial entities including small and medium sized enterprises, and strengthen European defence cooperation, while making full use of the Treaties;

Taking into account the objectives of permanent structured cooperation and Member States' undertakings to achieve them as laid out in Protocol No. 10 on Permanent Structured Cooperation and referred to in Article 46 of the TEU;

Noting that the European Council held on 15 December 2016 concluded that Europeans must take greater responsibility for their security and that, in order to strengthen Europe's security and defence in a challenging geopolitical environment and to better protect its citizens, confirming previous commitments in this respect, the European Council stressed the need to do more, including by committing sufficient additional resources, while taking into account national circumstances, legal commitments, and for Member States which are also members of NATO, relevant NATO guidelines on defence expenditure;

Recalling further that the European Council also called for reinforcing cooperation in the development of required capabilities as well as committing to making such capabilities available when necessary, and that it maintained that the European Union and its Member States must be able to contribute decisively to collective efforts, as well as to act autonomously when and where necessary and with partners wherever possible;

Considering that the European Council of June 2017 called for the joint development of capability projects commonly agreed by Member States to fill the existing major shortfalls and develop the technologies of the future is crucial to fulfil the level of ambition of the EU approved by the European Council in December 2016; welcomed the Commission's communication on a European Defence Fund, composed of a research window and a capability window; and called on Member States to identify suitable capability projects for the European Defence Fund and for the European Defence Industrial Development Programme;

Recalling in particular that the European Council asked the High Representative to present proposals as regards elements and options for an inclusive Permanent Structured Cooperation based on a modular approach and outlining possible projects;

Recalling that the Foreign Affairs Council on 6 March 2017 agreed on the need to continue work on an inclusive Permanent Structured Cooperation based on a modular approach, which should be open to all Member States who are willing to make the necessary binding commitments and meet the criteria, based on articles 42 (6) and 46 and Protocol 10 of the Treaty;

Determined to reach a new level in the progressive framing of a common Union defence policy as called for in Article 42 (2) of the TEU through the establishment of permanent structured cooperation within the Union framework; while taking into consideration the specific character of the security and defence policy of all Member States;

Recalling the obligation under Article 42 (7) TEU of mutual aid and assistance.

Recalling that in line with Article 42 (7) of the Treaty on European Union commitments and cooperation in the area of Common Security and Defence Policy "shall be consistent with commitments under the North Atlantic Treaty Organisation, which, for those States which are members of it, remains the foundation of their collective defence and the forum for its implementation."

Emphasising that the European Council on 22/23 June 2017 agreed on the "need to launch an inclusive and ambitious Permanent Structured Cooperation (PeSCo)" and responding to the European Council's mandate to draw up within three months "a common list of criteria and binding commitments fully in line with Articles 42(6) and 46 TEU and Protocol 10 to the Treaty - including with a view to the most demanding missions [...], with a precise timetable and specific assessment mechanisms, in order to enable Member States which are in a position to do so to notify their intentions to participate without delay";

HEREBY NOTIFY the Council and the High Representative of the European Union for Foreign Affairs and Security Policy of their intention to participate in Permanent Structured Cooperation;

CALL UPON the Council to adopt a decision establishing permanent structured cooperation, in accordance with the relevant provisions of the Treaty on European Union and Protocol 10 to the Treaty, and on the basis of the principles specified in Annex I, the common more binding commitments contained in Annex II as well as the proposals for governance contained in Annex III;

SHALL SUBMIT, before the adoption by the Council of the decision establishing PeSCo, a national implementation plan demonstrating their ability how to meet the more binding commitments contained in Annex II.

Annex I – Principles of PeSCo

"Permanent Structured Cooperation" is provided for in Articles 42 and 46 of the Treaty on European Union and Protocol No 10 to the Treaty. It can only be activated once and is established by a Council decision to be adopted by qualified majority, in order to bring together all willing Member States in the area of defence, "whose military capabilities fulfil higher criteria" and which have made "more binding commitments with a view to the most demanding missions" and operations.

PeSCo is an ambitious, binding and inclusive European legal framework for investments in the security and defence of the EU's territory and its citizens. PeSCo also provides a crucial political framework for all Member States to improve their respective military assets and defence capabilities through well-coordinated initiatives and concrete projects based on more binding commitments. Enhanced defence capabilities of EU Member States will also benefit NATO. They will strengthen the European pillar within the Alliance and respond to repeated demands for stronger transatlantic burden sharing.

PeSCo is a crucial step towards strengthening the common defence policy. It could be an element of a possible development towards a common defence should the Council by unanimous vote decide so (as provided for in article 42.2 TEU). A long term vision of PeSCo could be to arrive at a coherent full spectrum force package - in complementarity with NATO, which will continue to be the cornerstone of collective defence for its members.

We consider an inclusive PeSCo as the most important instrument to foster common security and defence in an area where more coherence, continuity, coordination and collaboration are needed. European efforts to this end must be united, coordinated, and meaningful and must be based on commonly agreed political guidelines.

PeSCo offers a reliable and binding legal framework within the EU institutional framework. Participating Member States will meet their binding commitments, confirming that the establishment and implementation of Permanent Structured Cooperation will be undertaken in full compliance with the provisions of the TEU and the protocols attached thereto and respecting constitutional provisions of the member States.

The binding nature of PeSCo commitments will be ensured by an annual regular assessment conducted by the High Representative of the Union for Foreign Affairs and Security Policy and supported, in particular, by the European Defence Agency (EDA), for the capability development aspects (notably described in Article 3 of Protocol 10), and EEAS, including EUMS and other CSDP structures, for the operational aspects of PeSCo. Through PeSCo, the Union could work towards a coherent full spectrum force package as PeSCo would add top-down coordination and guidance to existing or future bottom-up structures and lines of efforts.

PeSCo would provide opportunities for Member States to improve defence capabilities through participation in well-coordinated initiatives and concrete common projects, potentially capitalising on existing regional clusters. Participation in PeSCo is voluntary and leaves national sovereignty untouched.

An inclusive PeSCo is as a strong political signal towards our citizens and the outside world: governments of EU Member States are taking common security and defence seriously and pushing it forward. For EU citizens it means more security and a clear sign of willingness of all Member States to foster common security and defence to achieve the goals set by EU Global Strategy.

PeSCo will be output-oriented and should enable tangible progress on the level of investment expenditure on defence equipment, collaborative capability development goals and the availability of deployable defence capabilities for combined missions and operations acknowledging the single set of forces principle. The main driver of PeSCo capability development will be the fulfilments of the capability shortfalls related to the EU Level of Ambition and Common Security and Defence Policy objectives and priorities.

The "inclusive" and "modular" nature of the PeSCo, as described by the European Council in December 2016, must not lead to cooperation being levelled down. The objective of an "ambitious" PeSCo underlines the need for all PeSCo participating Member States to comply with a common list of objectives and commitments. As recalled by the June 2017 European Council, PeSCo is "inclusive and ambitious".

The following list of commitments must help to reach the level of ambition of the EU as defined in the Council conclusions of 14 November 2016, endorsed by the December 2016 European Council, and thus strengthen the strategic autonomy of both Europeans and the EU.

Annex II – List of ambitious and more binding common commitments in the five areas set out by Article 2 of Protocol No 10

> "(a) cooperate, as from the entry into force of the Treaty of Lisbon, 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."

Based on the collective benchmarks identified in 2007, participating Member States subscribe to the following commitments:

1. Regularly increasing defence budgets in real terms, in order to reach agreed objectives.

2. Successive medium-term increase in defence investment expenditure to 20% of total defence spending (collective benchmark) in order to fill strategic capability gaps by participating in defence capabilities projects in accordance with CDP and Coordinated Annual Review (CARD).

3. Increasing joint and "collaborative" strategic defence capabilities projects. Such joint and collaborative projects should be supported through the European Defence Fund if required and as appropriate.

4. Increasing the share of expenditure allocated to defence research and technology with a view to nearing the 2% of total defence spending (collective benchmark).

5. Establishment of a regular review of these commitments (with the aim of endorsement by the Council)

"(b) 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."

6. Playing a substantial role in capability development within the EU, including within the framework of CARD, in order to ensure the availability of the necessary capabilities for achieving the level of ambition in Europe.

7. Commitment to support the CARD to the maximum extent possible acknowledging the voluntary nature of the review and individual constraints of participating Member States.

8. Commitment to the intensive involvement of a future European Defence Fund in multinational procurement with identified EU added value.

9. Commitment to drawing up harmonised requirements for all capability development projects agreed by participating Member States.

10. Commitment to considering the joint use of existing capabilities in order to optimize the available resources and improve their overall effectiveness.

11. Commitment to ensure increasing efforts in the cooperation on cyber defence, such as information sharing, training and operational support.

"(c) 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."

12. With regard to availability and deployability of the forces, the participating Member States are committed to:

- Making available formations, that are strategically deployable, for the realization of the EU LoA, in addition to a potential deployment of an EUBG. This commitment does neither cover a readiness force, a standing force nor a stand by force.

- Developing a solid instrument (e.g. a data base) which will only be accessible to participating Member States and contributing nations to record available and rapidly deployable capabilities in order to facilitate and accelerate the Force Generation Process.

- Aiming for fast-tracked political commitment at national level, including possibly reviewing their national decision-making procedures.

- Providing substantial support within means and capabilities to CSDP operations (e.g. EUFOR) and missions (e.g. EU Training Missions) - with personnel, materiel, training, exercise support, infrastructure or otherwise - which have been unanimously decided by the Council, without prejudice to any decision on contributions to CSDP operations and without prejudice to any constitutional constraints,

- Substantially contributing to EU BG by confirmation of contributions in principle at least four years in advance, with a stand-by period in line with the EU BG concept, obligation to carry out EU BG exercises for the EU BG force package (framework nation) and/or to participate in these exercises (all EU Member States participating in EU BG).

- Simplifying and standardising cross border military transport in Europe for enabling rapid deployment of military materiel and personnel.

13. With regard to interoperability of forces, the participating Member States are committed to:

- Developing the interoperability of their forces by:

    - Commitment to agree on common evaluation and validation criteria for the EU BG force package aligned with NATO standards while maintaining national certification.

    - Commitment to agree on common technical and operational standards of forces acknowledging that they need to ensure interoperability with NATO.

14. Optimising multinational structures: participating Member States could commit to joining and playing an active role in the main existing and possible future structures partaking in European external action in the military field (EUROCORPS, EUROMARFOR, EUROGENDFOR, MCCE/ATARES/SEOS).

Participating Member States will strive for an ambitious approach to common funding of military CSDP operations and missions, beyond what will be defined as common cost according to the Athena council decision.

"(d) 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.'"

15. Help to overcome capability shortcomings identified under the Capability Development Plan (CDP) and CARD. These capability projects shall increase Europe's strategic autonomy and strengthen the European Defence Technological and Industrial Base (EDTIB).

16. Consider as a priority a European collaborative approach in order to fill capability shortcomings identified at national level and, as a general rule, only use an exclusively national approach if such an examination has been already carried out.

17. Take part in at least one project under the PeSCo which develops or provides capabilities identified as strategically relevant by Member States.

> "(e) take part, where appropriate, in the development of major joint or European equipment programmes in the framework of the European Defence Agency."

18. Commitment to the use of EDA as the European forum for joint capability development and consider the OCCAR as the preferred collaborative program managing organization.

19. Ensure that all projects with regard to capabilities led by participating Member States make the European defence industry more competitive via an appropriate industrial policy which avoids unnecessary overlap.

20. Ensure that the cooperation programmes - which must only benefit entities which demonstrably provide added value on EU territory - and the acquisition strategies adopted by the participating Member States will have a positive impact on the EDTIB.

Annex III – Governance

1. **Participating Member States remain at the center of the decision making process while coordinating with the High Representative**

PeSCo is a framework driven by participating Member States and remains primarily within their remit. Transparency is ensured for non-participating EU Member States.

To ensure a proper coordination of PeSCo with the overall common security and defence policy (CSDP), of which it is an integral part, the High Representative of the Union for Foreign Affairs and Security Policy will be fully involved in proceedings relating to PeSCo. The High Representative will be in charge of managing the annual assessment called for by the European Council and laid out in part 4 below. The EEAS, including the EU Military Staff (EUMS), and the EDA will ensure the Secretariat of the PeSCo in close coordination with the European External Action Service (EEAS) Deputy Secretary General on CSDP and Crisis Response.

In accordance with the TEU, Article 3 of Protocol 10 and the Council Decision establishing the European Defence Agency, the EDA will support the High representative as regards the capability development aspects of PeSCo. The EEAS will support the High Representative, in particular on the operational aspects of PeSCo, including through the EU Military Staff and other CSDP structures.

It is noted that according to Art 41 (1) of the TEU the "administrative expenditure to which the implementation of this Chapter gives rise for the institutions shall be charged to the Union budget".

2. **The governance comprises of two levels of governance with an overarching level in charge of maintaining the coherence and the ambition of the PeSCo, complemented by specific governance procedures for PeSCo projects**

2.1. The overarching level will be in charge of the coherence and credible implementation of the PeSCo.

It will be based on existing structures. When the EU Foreign and Defence ministers are gathering in a joint Foreign Affairs Council /Defence meeting (usually twice per year), they could deal with PeSCo issues. When the Council convenes to deal with PeSCo issues, voting rights are reserved to the representatives of the participating Member States. On this occasion, participating Member States might adopt new projects by unanimity (in accordance with Article 46 (6) TEU), receive assessments of participating Member States efforts, in particular those detailed in part 3 of this Annex, and could confirm the participation of another Member State by qualified majority after consulting the High Representative, in accordance with Article 46 (3) TEU.

As a last resort, the Council may suspend the participation of a Member State who no longer fulfils the criteria, given beforehand a clearly defined timeframe for individual consultation and reaction measures, or is no longer able or willing to meet the PeSCo commitments and obligations, in accordance with Article 46 (4) TEU.

Relevant existing Council preparatory bodies will gather in "PeSCo format", that is with all EU Member States present, but with arrangement reflecting that only participating Member States have voting rights in the Council.. PSC meetings in "PeSCo format" could be convened to address common matters of interest among the participating Member States, to plan and discuss projects, or to discuss new memberships in PeSCo. Its work will be supported by PMG meetings in PeSCo format. The EU Military Committee will also be convened in PeSCo format and in particular asked for military advice. In addition informal meetings can take place with the participating Member States only

2.2. The governance of projects

2.2.1. *PeSCo project scrutiny will be based on an assessment by the High Representative, relying on EEAS, including EUMS, and EDA, projects selection will require a council decision*

Participating Member States are free to submit any project they deem useful for the purposes of PeSCo. They will publicize their intention in order to gather support and collectively submit projects to the PeSCo Secretariat, and share them simultaneously with all participating Member States.

Projects should help to fulfill the commitments referred to in Annex II of the notification, many of which are calling for the development, or provision, of capabilities

identified by Member States as strategically relevant and with commonly agreed EU added value as well as asking for providing substantial support within means and capabilities to CSDP operations (EUFOR) and missions (e.g. EU Training missions) in accordance with Article 42.6 TEU.

To ensure coherence and consistency of diverse PeSCo projects we suggest a limited number of specifically mission and operation focused projects in line with the EU level of ambition. Other projects would support these projects by playing a facilitating and enabling role. The projects should be grouped accordingly.

The PeSCo Secretariat will coordinate the assessment of projects proposals. With regard to capability development projects, the EDA will ensure that there is no duplication with existing initiatives also in other institutional contexts. For the operation and mission focused projects, the EUMS will assess compliance with and contribution to the operational needs of the EU and its Member States. On this basis, the High Representative will provide a recommendation identifying those projects' proposals that are the most ambitious, contribute to the EU LoA and are best suited to further Europe's strategic autonomy. The project portfolio shall reflect an appropriate balance between projects which are more in the area of capability development and those who are more in the area of operations and missions.

The High Representative recommendation will provide inputs for the Council to decide on the list of PeSCo projects within the PeSCo framework following a military advice by the EUMC in PeSCo format and through PSC in PeSCo format. The Council shall decide by unanimity, as constituted by the votes of the representatives of the participating Member States, according to Article 46 (6) TEU.

Non-participating EU Member States can always indicate their intention to participate in projects by pledging to the commitments and joining PeSCo.

Third States may exceptionally be invited by project participants, in accordance with general arrangements to be decided in due time by the Council in accordance with Article 46 (6) TEU. They would need to provide substantial added value to the project, contribute to strengthening PeSCo and the CSDP and meet more demanding commitments. This will not grant decision powers to such Third States in the governance of PeSCo. Moreover, the Council in PeSCo format will decide if the conditions set out in the general arrangements are met by each Third State invited by the respective project participants.

2.2.2. Project governance lies first with the participating Member States

When deciding on the list of PeSCo projects by the Council a list of the participating Member States associated to a project must be attached. Those Member States participating in a project will have collectively submitted the project in beforehand.

Participating Member States associated to a project will agree among themselves, by unanimity, the modalities and the scope of their cooperation, including the necessary

contribution needed to join the project. They will establish the governance rules of the project and will decide on the admission of further participating Member States during the project cycle, with participating or observer status. However a common set of governance rules should be developed which could be adapted within individual projects. This would ensure a form of standardization in the governance across all projects and ease their initiation. For capability development projects in particular, project management (specifications, acquisition strategy, choice of the executive agency, selection of the industrial companies, etc.) will remain the exclusive responsibility of the participating Member States associated to the project.

Participating Member States shall inform non-participating Member States about projects as appropriate.

3. **A precise phased approach with realistic and binding objectives for each phase**

The commitments undertaken by the participating Member States will be fulfilled through national efforts, and concrete projects.

A realistic phased approach is key to preserve the participation of a vanguard of Member States in PeSCo and thus, to preserve the principles of ambition and inclusiveness. While participating Member States will work towards achieving all of their commitments as soon as PeSCo is officially launched, some commitments can be fulfilled sooner than others. To that end, a phased approach has to be agreed by the participating Member States.

The phases will take into account other existing calendar items (such as the implementation of the EDAP, the launch of the next Multiannual Financial Framework in 2021, and commitments already undertaken by Member States in other frameworks). Two respective phases (2018-2021 and 2021-2025) will allow for the sequencing of commitments. After 2025, a review process will take place. To that end participating Member States will assess the fulfillment of all PeSCo commitments and decide on new commitments, with a view to embark on a new stage towards European security and defence integration.

4. **The Governance of PeSCo requires a well-designed and ambitious assessment mechanism based on national Implementation plans**

All participating Member States stand guarantor and the High Representative will report on the fulfillment of the commitments, in line with the principle of regular assessment set by the Protocol 10 (Article 3). The binding nature and the credibility of the commitments agreed upon will be ensured through a two layer assessment mechanism:

4.1. The "National Implementation Plan"

To demonstrate the capability and willingness of each participating Member State to fulfill agreed commitments, they commit to submit before the adoption of the Council decision establishing PeSCo, a national Implementation Plan outlining their ability how to meet the binding commitments. As a matter of transparency, access to those Implementation Plans will be granted to all participating Member States.

Assessment of the provision of participating Member States to fulfill the agreed commitments will be conducted on an annual basis based on the national Implementation Plans, through the PeSCo Secretariat under the High Representative's authority (supported by the EDA as regards the defense investments and capability development and by the EEAS, including the EUMS, as regards the operational aspects). Under the responsibility of the council, this assessment shall be sent to the PSC (in PeSCo format) as well as to the EUMC (in PeSCo format) for its advice.

The assessors will focus on the credibility of PeSCo commitments by screening Member States National Implementation Plans, factual provisions and contributions to projects.

After PeSCo has been launched, the participating Member States will update their national Implementation Plans as appropriate based on the phased approach requirement.

At the beginning of every phase, commitments will be detailed through more precise objectives set among participating Member States in order to facilitate the assessment process.

4.2. An annual and a Strategic Review at the end of every phase

At least once per year, the joint FAC/Defence will receive a report from the High Representative, based on the contributions of EDA (in accordance with Article 3 of Protocol 10) and the EEAS, including the EUMS. This report will detail the status of PeSCo implementation, including the respect, by each participating Member State, of its commitments, in coherence with its National Implementation Plan. This report, after an EUMC advice, will serve as a basis for Council recommendations and decisions adopted in accordance with Article 46 of the TEU.

At the end of every phase (2021; 2025) a Strategic Review exercise will be conducted assessing the respect of the commitments foreseen to have been fulfilled during that phase, deciding on the launching of the next phase and updating, if needed, the commitments for the next phase.

Abbreviations

CARD	Coordinated Annual Review on Defence
CDP	Capability Development Plan
CFSP	Common Foreign and Security Policy
CMPD	Crisis Management and Planning Directorate
CSDP	Common Security and Defence Policy
ECAP	European Capability Action Plan
EDA	European Defence Agency
EDF	European Defence Fund
EDIDP	European Defence Industrial Development Programme
EEA	European Economic Area
EEAS	European External Action Service
EMU	Economic and Monetary Union
ESDP	European Security and Defence Policy
EU BG	European Union Battlegroup
EUFOR	European Union Force
EUGS	European Union Global Strategy
EULEX	European Union Rule of Law Mission
EUMC	European Union Military Committee
EUMS	European Union Military Staff
EUROCORPS	European Corps
EUROGENDFOR	European Gendarmerie Force
EUTM	European Union Military Training Mission
FAC	Foreign Affairs Council
HR/VP	High Representative of the Union for Foreign and Security Policy/Vice-President of the European Commission
IGC	Intergovernmental Conference
JHA	Justice and Home Affairs
MPCC	Military Planning and Conduct Capability
NATO	North Atlantic Treaty Organisation
NIP	National Implementation Plan
OCCAR	Organisation for Joint Armament Cooperation
PeSCo	Permanent Structured Cooperation
PMG	Politico-Military Group
PSC	Political and Security Committee
RPAS	Remotely Piloted Aircraft Systems

SDIP	Security and Defence Implementation Plan
QMV	Qualified Majority Voting
TEU	Treaty on European Union
WEU	Western European Union

European Union Institute for Security Studies
100, avenue de Suffren | 75015 Paris | France | www.iss.europa.eu