

# ASIA-PACIFIC MODEL EUROPEAN UNION 2019

(SELF-STUDY MATERIALS)

The **Common Foreign and Security Policy (CFSP)** is the organised, agreed foreign policy of the European Union (EU) for mainly security and defence diplomacy and actions. CFSP deals only with a specific part of the EU's external relations, which domains include mainly Trade and Commercial Policy and other areas such as funding to third countries, etc. Decisions require unanimity among member states in the Council of the European Union, but once agreed, certain aspects can be further decided by qualified majority voting. Foreign policy is chaired and represented by the EU's High Representative, currently Federica Mogherini.

The CFSP sees the North Atlantic Treaty Organisation (NATO) as responsible for the territorial defence of Europe and reconciliation. However, since 1999, the European Union is responsible for implementing missions such as peacekeeping and policing of treaties. A phrase often used to describe the relationship between the EU forces and NATO is "separable, but not separate". The same forces and capabilities form the basis of both EU and NATO efforts, but portions can be allocated to the European Union if necessary.

## **1957–1993**

Co-operation in international trade negotiations, under the EU's Common Commercial Policy, dates back to the establishment of the community in 1957. The CFSP itself has its origins in the formation of European Political Co-operation (EPC) in 1970. European Political Co-operation was an informal consultation process between member states on foreign policy matters, with the aim of creating a common approach to foreign policy issues and promoting both the EC's own interests and those of the international community as a whole. This includes promoting international co-operation, respect for human rights, democracy, and the rule of law.

## **1993–2009: pillar system**

The weaknesses evident in EPC, apparent, for example during the Yugoslav wars, led to a desire to strengthen foreign policy. That was consolidated in the Maastricht Treaty, which entered into force in 1993 and established the European Union. While the previously existing supranational European Economic Community became one of three pillars, two more

pillars were erected. The second CFSP-pillar was based on intergovernmentalism, which meant unanimity between members in the Council of Ministers and little influence by the other institutions.

The Amsterdam Treaty created the office of the High Representative for the Common Foreign and Security Policy (held by Javier Solana until 1 December 2009) to co-ordinate and represent the EU's foreign policy.

### **2009–present: Consolidation**

The Treaty of Lisbon took effect in December 2009 and brought an end to the pillar system. The CFSP's status of being a "pillar" thus ended. Furthermore, in an effort to ensure greater co-ordination and consistency in EU foreign policy, the Treaty of Lisbon created a *High Representative of the Union for Foreign Affairs and Security Policy*, de facto merging the post of High Representative for the Common Foreign and Security Policy and European Commissioner for External Relations and European Neighbourhood Policy. Since December 2011 the High Representative (HR) is in charge of the European External Action Service (EEAS), which was also created by the Treaty of Lisbon. It essentially is intended to be a common Foreign Office or Diplomatic Corps for the European Union.

## **The legal grounds**

(The Treaty of Lisbon 2009)

### *Article 42*

1. The common security and defence policy shall be an integral part of the common foreign and security policy. It shall provide the Union with an operational capacity drawing on civilian and military assets. The Union may use them on missions outside the Union for peace-keeping, conflict prevention and strengthening international security in accordance with the principles of the United Nations Charter. The performance of these tasks shall be undertaken using capabilities provided by the Member States.

2. The common security and defence policy shall include the progressive framing of a common Union defence policy. This will lead to a common defence, when the European Council, acting unanimously, so decides. It shall in that case recommend to the Member States the adoption of such a decision in accordance with their respective constitutional requirements.

The policy of the Union in accordance with this Section shall not prejudice the specific character of the security and defence policy of certain Member States and shall respect the obligations of certain Member States, which see their common defence realised in the North Atlantic Treaty Organisation (NATO), under the North Atlantic Treaty and be compatible with the common security and defence policy established within that framework.

3. Member States shall make civilian and military capabilities available to the Union for the implementation of the common security and defence policy, to contribute to the objectives defined by the Council. Those Member States which together establish multinational forces may also make them available to the common security and defence policy.

Member States shall undertake progressively to improve their military capabilities. The Agency in the field of defence capabilities development, research, acquisition and armaments (hereinafter referred to as ‘the European Defence Agency’) shall identify operational requirements, shall promote measures to satisfy those requirements, shall contribute to identifying and, where appropriate, implementing any measure needed to strengthen the industrial and technological base of the defence sector, shall participate in defining a European capabilities and armaments policy, and shall assist the Council in evaluating the improvement of military capabilities.

4. Decisions relating to the common security and defence policy, including those initiating a mission as referred to in this Article, shall be adopted by the Council acting unanimously on a proposal from the High Representative of the Union for Foreign Affairs and Security Policy or an initiative from a Member State. The High Representative may propose the use of both national resources and Union instruments, together with the Commission where appropriate.

5. The Council may entrust the execution of a task, within the Union framework, to a group of Member States in order to protect the Union's values and serve its interests. The execution of such a task shall be governed by Article 44.

**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.**

7. If a Member State is the victim of armed aggression on its territory, the other Member States shall have towards it an obligation of aid and assistance by all the means in their power,

in accordance with Article 51 of the United Nations Charter. This shall not prejudice the specific character of the security and defence policy of certain Member States.

Commitments and cooperation in this area 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.

#### *Article 43*

1. The tasks referred to in Article 42(1), in the course of which the Union may use civilian and military means, shall include joint disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks, conflict prevention and peace-keeping tasks, tasks of combat forces in crisis management, including peace-making and post-conflict stabilisation. All these tasks may contribute to the fight against terrorism, including by supporting third countries in combating terrorism in their territories.

2. The Council shall adopt decisions relating to the tasks referred to in paragraph 1, defining their objectives and scope and the general conditions for their implementation. The High Representative of the Union for Foreign Affairs and Security Policy, acting under the authority of the Council and in close and constant contact with the Political and Security Committee, shall ensure coordination of the civilian and military aspects of such tasks.

#### *Article 44*

1. Within the framework of the decisions adopted in accordance with Article 43, the Council may entrust the implementation of a task to a group of Member States which are willing and have the necessary capability for such a task. Those Member States, in association with the High Representative of the Union for Foreign Affairs and Security Policy, shall agree among themselves on the management of the task.

2. Member States participating in the task shall keep the Council regularly informed of its progress on their own initiative or at the request of another Member State. Those States shall inform the Council immediately should the completion of the task entail major consequences or require amendment of the objective, scope and conditions determined for the task in the decisions referred to in paragraph 1. In such cases, the Council shall adopt the necessary decisions.

#### *Article 45*

1. The European Defence Agency referred to in Article 42(3), subject to the authority of the Council, shall have as its task to:

- (a) contribute to identifying the Member States' military capability objectives and evaluating observance of the capability commitments given by the Member States;
- (b) promote harmonisation of operational needs and adoption of effective, compatible procurement methods;
- (c) propose multilateral projects to fulfil the objectives in terms of military capabilities, ensure coordination of the programmes implemented by the Member States and management of specific cooperation programmes;
- (d) support defence technology research, and coordinate and plan joint research activities and the study of technical solutions meeting future operational needs;
- (e) contribute to identifying and, if necessary, implementing any useful measure for strengthening the industrial and technological base of the defence sector and for improving the effectiveness of military expenditure.

2. The European Defence Agency shall be open to all Member States wishing to be part of it. The Council, acting by a qualified majority, shall adopt a decision defining the Agency's statute, seat and operational rules. That decision should take account of the level of effective participation in the Agency's activities. Specific groups shall be set up within the Agency bringing together Member States engaged in joint projects. The Agency shall carry out its tasks in liaison with the Commission where necessary.

#### *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.

## **Permanent Structured Cooperation (PESCO)**

EU member states working more closely together in the area of security and defence

Austria, Belgium, Bulgaria, Czech Republic, Croatia, Cyprus, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, the Netherlands, Poland, Romania, Slovakia, Slovenia, Spain and Sweden. It is possible for other member states to join at a later stage.

The Council now has to adopt a decision establishing PESCO by reinforced qualified majority.

A first list of projects to be undertaken within the PESCO framework should be agreed by the participating member states once PESCO has been established. These could cover areas such as training, capabilities development and operational readiness in the field of defence.

<http://www.consilium.europa.eu/en/press/press-releases/2017/11/13/defence-cooperation-23-member-states-sign-joint-notification-on-pesco/>

On 11 December 2017, the Council adopted a decision establishing PESCO and its list of participants.

A total of 25 Member States have decided to participate in PESCO and agreed on a declaration identifying the first 17 collaborative PESCO projects.

Projects are in the areas of capability development and in the operational dimension, ranging from the establishment of a European Medical Command, an EU Training Mission Competence Centre, Cyber Rapid Response Teams and Mutual Assistance in Cyber Security, to Military Disaster Relief and an upgrade of Maritime Surveillance

<http://www.consilium.europa.eu/media/32079/pesco-overview-of-first-collaborative-of-projects-for-press.pdf>

## **Franco-German treaty of Aachen (22.1.2019)**

Building on the 1963 Elysée Treaty, a mutual Franco-German defence clause.

Call facilitate the creation of European Army

[https://www.diplomatie.gouv.fr/IMG/pdf/traite.aix-la-chapelle.22.01.2019\\_cle8d3c8e.pdf](https://www.diplomatie.gouv.fr/IMG/pdf/traite.aix-la-chapelle.22.01.2019_cle8d3c8e.pdf)

<https://www.gouvernement.fr/en/treaty-of-aachen-a-new-treaty-to-strengthen-franco-german-cooperation-and-facilitate-convergence>

### **Additional resources**

- Foreign & Security Policy (EUROPA EU) - [https://europa.eu/european-union/topics/foreign-security-policy\\_en](https://europa.eu/european-union/topics/foreign-security-policy_en)
- Common Foreign and Security Policy (CFSP) EEAS - [https://eeas.europa.eu/topics/common-foreign-security-policy-cfsp\\_en](https://eeas.europa.eu/topics/common-foreign-security-policy-cfsp_en)
- Common Foreign and Security Policy (CFSP) EUR-Lex - [https://eur-lex.europa.eu/summary/chapter/foreign\\_and\\_security\\_policy.html?root\\_default=SUM\\_1\\_CODED%3D25](https://eur-lex.europa.eu/summary/chapter/foreign_and_security_policy.html?root_default=SUM_1_CODED%3D25)
- High Representative of the Union for Foreign Affairs and Security Policy - [https://ec.europa.eu/commission/commissioners/2014-2019/mogherini\\_en](https://ec.europa.eu/commission/commissioners/2014-2019/mogherini_en)
- European Defense Agency - <http://www.eda.europa.eu/>
- Centre for European Policy Studies - <http://www.ceps.be/>
- Council of the European Union – Security and Defense - [https://eeas.europa.eu/topics/common-security-and-defence-policy-csdp\\_e](https://eeas.europa.eu/topics/common-security-and-defence-policy-csdp_e)
- Merkel joins Macron in calling for EU army to complement NATO - <https://www.politico.eu/article/angela-merkel-emmanuel-macron-eu-army-to-complement-nato/>