

COUNCIL DECISION (CFSP) 2023/385**of 20 February 2023****on the participation of Canada in the PESCO project Network of Logistic Hubs in Europe and Support to Operations**

THE COUNCIL OF THE EUROPEAN UNION,

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

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

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

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

Whereas:

- (1) Article 9(2) of Decision (CFSP) 2017/2315 provides that the Council is to decide in accordance with Article 46(6) TEU whether a third State, which the participating Member States taking part in a permanent structured cooperation (PESCO) project wish to invite to take part in that project, meets the requirements to be established by the Council.
- (2) On 6 March 2018, the Council adopted Decision (CFSP) 2018/340 ⁽³⁾, which establishes the list of projects to be developed under PESCO. Article 1 of that Decision provides that a project entitled Network of Logistic Hubs in Europe and Support to Operations (NetLogHubs) is to be developed within the framework of that list by 13 project members, including Germany as project coordinator.
- (3) On 5 November 2020, the Council adopted Decision (CFSP) 2020/1639 establishing the general conditions under which third States could exceptionally be invited to participate in individual PESCO projects. Article 2(4) of that Decision provides that, based on a notification by the coordinator or coordinators of a PESCO project, and following an opinion by the Political and Security Committee (PSC), the Council is to take a decision in accordance with Article 46(6) TEU and Article 9(2) of Decision (CFSP) 2017/2315 as to whether the participation of the third State in that project meets the general conditions set out in Article 3 of Decision (CFSP) 2020/1639.
- (4) In May 2022, Canada sent to the coordinator of NetLogHubs its request for participation in that PESCO project, in accordance with Article 2(1) of Decision (CFSP) 2020/1639. On the basis of the information provided by Canada, the project members then assessed, in accordance with Article 2(2) of Decision (CFSP) 2020/1639, whether it complied with the general conditions set out in Article 3 of that Decision.
- (5) On 29 November 2022, following the unanimous agreement of project members on 14 September 2022, the coordinator of NetLogHubs notified the Council and the High Representative of the Union for Foreign Affairs and Security Policy, in accordance with Article 2(3) of Decision (CFSP) 2020/1639, of a proposal to invite Canada to participate in that project. The notification set out the scope, form and extent of the participation of Canada, and confirmed that Canada complied with the general conditions set out in Article 3 of Decision (CFSP) 2020/1639.

⁽¹⁾ OJ L 331, 14.12.2017, p. 57.

⁽²⁾ OJ L 371, 6.11.2020, p. 3.

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

- (6) On 1 December 2022, the PSC agreed on an opinion on the notification regarding the request by Canada to participate in NetLogHubs. In particular, the PSC took note of the description of NetLogHubs as provided in the notification, including its objectives, organization, decision-making and focus areas of work. It also noted that no EU classified or sensitive information is shared within that project and that it is not implemented with the support of the European Defence Agency (EDA) within the meaning of Article 3, point (g), of Decision (CFSP) 2020/1639. Furthermore, it noted that NetLogHubs does not involve armament procurement, research or capability development, or the use or export of arms or capabilities or technology; and that it does not involve entities, investments or funding from PESCO participating Member States or requests for Union funding for project activities.
- (7) The PSC also agreed with the proposed scope, form and extent of the participation of Canada in NetLogHubs as described in the notification. It acknowledged that Canada had expressed that it fully supports the scope of that project as defined in the notification.
- (8) In the same opinion, the PSC confirmed the view unanimously agreed by the project members that Canada complies with the general conditions set out in Article 3 of Decision (CFSP) 2020/1639, as follows:
- Canada meets the condition set out in Article 3, point (a), which requires: sharing of the values on which the Union is founded, as laid down in Article 2 TEU, and the principles referred to in Article 21(1) TEU, as well as the objectives of the CFSP in Article 21(2) TEU; points (a), (b), (c) and (h), not contravening the security and defence interests of the Union and its Member States, including respect for the principle of good neighbourly relations with the Member States; and having a political dialogue with the Union, which should also cover security and defence aspects when participating in NetLogHubs;
 - as regards the condition in Article 3, point (b), on the substantial added value of Canada to NetLogHubs, the notification provides a detailed outline of Canada's contribution including on the scope, form and extent of the participation in the project, which substantiates the fulfilment of that condition;
 - as regards the condition set out in Article 3, point (c), Canada's participation in NetLogHubs will contribute to strengthening the common security and defence policy (CSDP) and the Union level of ambition, including in support of CSDP missions and operations, as also specified in the notification;
 - as regards the condition set out in Article 3, point (d), NetLogHubs does not address armament procurement, research or capability development, or the use and export of arms, capabilities or technology, nor does it develop any capability or technology; consequently, Canada's participation in that project will not lead to dependencies on Canada or to restrictions imposed by it against any Member State;
 - the required consistency, set out in Article 3, point (e), of Canada's participation with the relevant more binding PESCO commitments, also regarding the deployability and interoperability of forces that this project is helping to fulfil, as specified in the Annex to Decision (CFSP) 2017/2315, is also met, as further detailed in the notification, and as NetLogHubs is not a capability-orientated project, the condition concerning the contribution of Canada's participation to fulfilling priorities derived from the Capability Development Plan and the Coordinated Annual Review on Defence (CARD) or having a positive impact on the European Defence Technological Industrial Base (EDTIB) is not applicable in this context;
 - the requirement set out in Article 3, point (f), is fulfilled as the Agreement between the European Union and Canada on security procedures for exchanging and protecting classified information (*) has been in force since 1 June 2018;
 - the condition set out in Article 3, point (g), is not applicable in this case, as NetLogHubs is not implemented with the support of the EDA and therefore an administrative arrangement which has taken effect with the EDA is not required;

(*) Agreement between Canada and the European Union on security procedures for exchanging and protecting classified information (OJ L 333, 15.12.2017, p. 2).

- as regards the condition set out in Article 3, point (h), Canada has committed to seeking to conclude a project specific administrative arrangement and any other necessary project documentation in accordance with Decisions (CFSP) 2017/2315 and (CFSP) 2018/909 ⁽⁵⁾;
- (9) The PSC concluded its opinion with a recommendation that the Council take a positive decision that the participation of Canada in NetLogHubs meets the general conditions set out in Article 3 of Decision (CFSP) 2020/1639.
- (10) The Council should therefore decide that the participation of Canada in NetLogHubs meets the general conditions set out in Article 3 of Decision (CFSP) 2020/1639. Subsequently, the project coordinator is to send to Canada on behalf of the project members an invitation to participate in NetLogHubs. Canada is to join that project on the date specified in the administrative arrangement to be entered into by the project members and Canada in accordance with Article 2(7) of Decision (CFSP) 2020/1639, and is to have the rights and obligations determined in that arrangement in accordance with Article 4(1) of that Decision. The Council is to exercise its oversight in accordance with Article 5(2) of Decision (CFSP) 2020/1639 and is able to take further decisions in accordance with Article 6(2) and (3) thereof,

HAS ADOPTED THIS DECISION:

Article 1

The participation of Canada in the PESCO project NetLogHubs meets the general conditions set out in Article 3 of Decision (CFSP) 2020/1639.

Article 2

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

Done at Brussels, 20 February 2023.

For the Council
The President
J. BORRELL FONTELLES

⁽⁵⁾ Council Decision (CFSP) 2018/909 of 25 June 2018 establishing a common set of governance rules for PESCO projects (OJ L 161, 26.6.2018, p. 37).