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Permanent Structured Cooperation: not a panacea but an important step for consolidating EU security and defence cooperation

Introduction

On 11 December 2017 the Council of the EU established the permanent structured cooperation (PESCO) foreseen in the Lisbon Treaty. This decision is the latest in a series of moves in the last few years in the realm of security and defence policy. It has been welcomed as the confirmation that this time European integration - in a policy field which is considered as the bastion of national sovereignty - is going to make real progress, thus rendering the EU capable of looking after its own security. Critics were quick to point out that this latest development is a missed opportunity and that solemn announcements and good intentions will, once again, produce little tangible effects for the security of the EU and its citizens. Yet, both supporters and critics recognise that in the last three years the security environment has significantly deteriorated - domestically, regionally and globally - and that pressure for political action has never been as strong.

Repeated terrorist attacks on European soil, destabilisation in Ukraine and the annexation of Crimea, the surge of ISIS/Daesh in Iraq and Syria, continuous instability in Libya and the Sahel zone, renewed tensions in the Middle East concerning the Palestinian question, the war in Yemen and underlying regional rivalries, heightened tension in East Asia with repeated threats and provocations by the regime in North Korea, and increased uncertainty about the US foreign policy of the Trump Administration, suffice to sketch this deterioration in the security context the EU is facing. Most analysts would also agree that European defence capabilities have declined as a consequence of defence spending reductions in the post-Cold War period, reductions compounded by the economic crisis and subsequent austerity policies. This trend of defence spending cuts seems to have come to a halt in 2016-17. At the same time, awareness has been rising that, by spending better, Europe can recover, expand and upgrade its defence capabilities to serve its security interests. (Munich Security Conference 2017) Only together can member states have the confidence of being able to tackle the intensified security challenges effectively (given their transnational nature and uncertainty in the transatlantic security partners-

hip) and efficiently (at affordable budgetary cost). Against this background, how is the establishment of PESCO to be assessed? Does it constitute a breakthrough in the long-lasting efforts and repeated attempts for more cooperation and integration in this policy area? To address these questions, the decision on PESCO will be briefly analysed and issues related to its implementation discussed; PESCO will also be examined in context, with reference to what else is being done in parallel as part of the Security and Defence Union as a long-term goal of European integration.

The PESCO framework

The permanent structured cooperation is described in articles 42.6 and 46 as well as protocol No 10 of the Treaty on the EU (TEU). Art. 42.6 TEU refers to "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" as the basis for establishing PESCO. Art. 46 TEU defines the procedure to follow. The criteria are defined in some detail in the relevant Protocol No 10: member states wishing to participate undertake to develop defence capacities through national contributions and participation in multinational forces, in the main European equipment programmes and in EDA activities; they should have the capacity to supply a battle group either nationally or as part of a multinational force. In order to achieve these objectives member states undertake to a) achieve a certain level of investment expenditure on defence equipment; b) harmonise their military needs, including on training and logistics; c) enhance availability, interoperability, flexibility and deployability of their forces, including national decision-making procedures; d) make good shortfalls; e) take part in major equipment programmes within the EDA (European Defence Agency) framework. (Fiott, Missiroli, Tardy 2017)

Following an agreement in the European Council in June 2017, a large number of member states in November notified to the Council and the High Representative their intention to launch PESCO, outlining principles, commitments and the governance provisions. The Council adopted the decision

establishing PESCO in December. A list of projects has been annexed and member states are expected to adopt the relevant decisions in early 2018. (EEAS 2017)

Critics say that the launch of PESCO has been a wasted opportunity; the criteria have been watered down so as to allow the largest possible participation; in other words, the desire for inclusiveness (attributed principally to Germany) has prevailed over the initial concept of a pioneer group which is more in line with the desire for ambition and effectiveness (attributed to France); soft commitments and increased bureaucracy will not produce any added value and instead risk discrediting completely the EU defence project (Witney 2017). Others maintain that PESCO offers a useful framework and that it would be possible to prevent its inclusive character from diluting its ambitions; it provides an assessment mechanism that holds member states to account and ultimately kicks them out of the club if they fail to fulfil the commitments they have signed up to. (Besch 2017)

Is the proverbial glass half full or half empty? The idea of permanent structured cooperation was elaborated in the European Convention in 2002-03 and included in the Constitutional Treaty which was rejected in the referenda in France and the Netherlands in 2005; initially the intention was that a few member states fulfilling certain criteria would engage in closer cooperation in the field of defence. By the time the Lisbon Treaty entered into force (December 2009) member states were reluctant to engage in PESCO with a limited membership. This Treaty provision remained dormant until 2017 when twentyfive member states decided to be part of PESCO; with the exception of the UK for obvious reasons, Denmark because of the opt out from military aspects of CFSP in the Maastricht Treaty, and Malta, all member states will participate in PESCO.

Thus, inclusiveness has been given priority at this stage. What can explain this outcome? Three factors may be mentioned in this regard. a) procedural provisions of the Treaty: the initial members define by unanimity among themselves the criteria and commitments; member states participating would decide by qualified majority whether to admit new members at a later stage (and whether to suspend the participation of a member state); newcomers would have to accept the definition of criteria and procedures established before joining. It is indeed preferable to be part of the club from the beginning

to influence the framework conditions so as to avoid possibly high hurdles in case of joining at a later stage (or even to be able to block a specific direction which PESCO might take). « The lesson of EU history is that you should be there when the architecture is being designed. » (D. Clark, then shadow labour defence secretary, cited in Posen 2006). Thus, the course decided should not be a surprise. On the other hand, it is also a fact that no restricted group of member states was willing to take the initiative and go ahead in notifying its determination to activate PESCO on the basis of more demanding criteria. b) beyond this legal/procedural aspect, it would be politically unwise for the principal proponents of PESCO (France and Germany) to leave behind and thus risk alienating smaller member states with specific security needs and policy orientations; c) incentives given by the European Defence Fund (see below) may also have played a certain role; the Fund will provide additional funding for projects included in PESCO; capability projects from at least three member states could profit from synergies with Commission actions related to the defence industry as the 20% ceiling on research financing will be raised to 30% for PESCO projects. Such differential treatment corresponds to the integration logic of having on board as many member states as possible. By the way, the same logic underlies the plan presented by Commission President Juncker in his State of the Union speech in the European Parliament on 16 September 2017 that all member states except those with an opt out (again, the UK and Denmark) should be enabled to adopt the euro as their currency.

Beyond dilemmas

A successful implementation of PESCO will have to find a good balance between ambition / effectiveness and inclusiveness, also providing a coherent framework for existing bi-, mini- and multilateral cooperation schemes. It is important for member states to have a common framework in which to operate; the value added of PESCO is to provide such a framework, in addition to the EU legislative and regulatory instruments and budgetary resources. A common policy framework helps ensuring coherence of different efforts and fosters group discipline which is conducive to a common target; it ensures continuity in time, which is particularly important in this case since defence cooperation is a long term process and results need time to materialise; and it contributes to making good use of complementarities between member states capabilities and assets (for example, location, infrastructure

etc.), thus opening the way for win-win configurations ensuring sustainability.

However, if everything would have to be decided at 25 when crisis situations require early and quick decision-making, this may, indeed, be frustrating especially for those member states with the ambition, political will and capabilities to enable the EU to play a noticeable role in international affairs. It seems we are facing a typical trade-off situation where reaching one important objective (the EU to act decisively using the means of the most capable and willing member states) can only be achieved at the expense of another, not less important objective (inclusiveness which ensures cohesion and legitimacy); the solution would consist in the best possible combination of maximising benefits and minimising disadvantages of two alternatives favouring effectiveness and inclusiveness, respectively.

There are different ways of addressing this trade-off: varying configurations of member states or a differentiated approach in time. Thus, addressing this trade-off within the established PESCO could take the form, first, of a sub-group of member states for specific tasks, or, second, arrangements over time (phased approach, whereby member states would move up the scale of requirements). Since it is not appropriate to invent new formats which would only complicate things, it appears better to make use of what already exists; a number of member states participating in PESCO would correspond to what is foreseen in article 42.5 TEU whereby the Council can entrust a task (carrying out an operation / mission or the development of capability projects) to a group of member states. With respect to the time dimension one could think of a convergence mechanism with a roadmap (calendar and benchmarks) towards a situation where all participants would fulfil commonly agreed criteria; a rigorous assessment and peer pressure that hold member states to account, and ultimately suspend their participation if they fail to fulfil ambitious commitments would be a way to strengthen the framework and deliver results in accordance with the initial vision of PESCO. This is what is foreseen in the governance provisions (Annex III) of the notification submitted in November and endorsed by the Council decision in December. The sequencing of commitments will be structured in two phases (2018-21 and 2021-25); national implementation plans will be assessed annually and updated as appropriate, while at the beginning of every phase commitments will be detailed through more precise

objectives.

It appears that the joint leadership of France and Germany with the support of Italy and Spain, combining a phased approach with full spectrum capabilities, was decisive for the breakthrough in the negotiations in summer 2017 (Billon-Galland, Quencez, 2017). Inclusiveness would then be preserved through the commonly agreed framework conditions and joint implementation of the convergence mechanism, whereas the whole process would be geared to achieve and guarantee ambition and effectiveness within a given timeframe. Otherwise, if the PESCO framework is not implemented in a way so as to overcome the initial trade-off and to achieve inclusiveness cum effectiveness, there could be a high risk of diluting the effort, possibly leading to reactions in form of looking for alternatives outside PESCO.

Addressing the need to renovate the European integration project, in his speech at Sorbonne on 26 September 2017 French President E. Macron placed expressly his proposals in the context of the Europeans collectively regaining sovereignty at the EU level. The first of six main points was devoted to security and defence; in this field he made a number of concrete proposals to the European partners: creating a common European intervention force by 2020, a common defence budget and a common doctrine for action, a European intelligence academy and a European public prosecutor's office against terrorism. Furthermore, the agreement of 7 February 2018 between the coalition partners in Germany puts a new start in Europe at a prominent place and supports breathing life into PESCO. Therefore, one can reasonably expect that once the federal government is in place, the Franco-German tandem would provide impetus for proceeding with PESCO implementation.

In this context, the Germany-led framework nation concept (FNC) has been mentioned and a certain uneasiness can be observed seeing Germany and France championing different initiatives (Major, Mölling 2017). The framework nation concept presented by Germany in NATO in 2016 is being pursued a) with the participation of 19 allied countries in the coordinated development of defence capabilities in 16 clusters and b) in form of large multinational formations with the involvement of 7 allied nations. It is a systematic and structured approach to gradually build European forces, within NATO, which would constitute over time a balanced

force pool, but not a standing multinational force. Since larger formations remain under national control they could be deployed in EU operations. Under certain conditions the FNC could so become compatible with PESCO. (Glatz, Zapfe 2017) The French proposal for a European Intervention Initiative (and Force by 2020) is aiming partners that have the necessary military capabilities and political will; it should complement major bilateral defence relationships with Germany and the UK; and help to develop a shared strategic culture (Revue stratégique, 2017). The initiative focuses on operational readiness and is not limited to the EU institutional framework, while France supports strengthening European defence. The interest in closer cooperation with the UK on operational engagement (Keohane 2018) could be accommodated within post-Brexit arrangements, possibly covering a broader scope of cooperation (Ricketts 2018).

What *prima facie* seems to cause uneasiness can be seen in a more positive light. In fact, the two initiatives can be complementary and are both essential building blocks in fulfilling the function of defence integrator; the EU needs both. As experience in Libya and Mali has shown, operations cannot be carried out (or sustained over a longer period of time) without capabilities sufficient in number, range and quality. On the other hand, building capabilities without the realistic prospect of using them, in other words without the necessary political will to deploy them would make this endeavour in the long run obsolete. The EU battle groups - launched in 2004 with full operational capability reached in 2007 but never used - is a case in point as their continuation was put into question (though another factor is also at play, namely the financial burden linked to their deployment). It remains, nevertheless, that impressions matter and that perceptions and expectations must be properly managed by France and Germany. Recognising the complementarity of their strategic cultures and making sure the EU partners stay on board by taking their interests into account, the two countries can exercise a common leadership; this would, indeed, constitute a leap forward towards European strategic autonomy (Kempin, Kunz 2017)

The broader picture

An assessment should also look at the broader picture as PESCO is the most recent of several initiatives launched in the past few years by the Council and the High Representative as well as by the Com-

mission. In the first year of implementation of the EU Global Strategy, adopted by the European Council in June 2016, policy actions with respect to security and defence include (Mogherini 2017): reform of crisis management structures, in particular the establishment of a permanent Military Planning and Conduct Capability (MPCC) for non-executive military missions within EU Military Staff (EUMS); proposals for capabilities and responsiveness of civilian missions; enhancing flexibility and financing in using battle groups for rapid response, with the European Council in June 2017 agreeing that deployment cost should be borne as a common cost by the Athena mechanism on a permanent basis; deepening defence cooperation, including the EDA-led Coordinated Annual Review on Defence (CARD) which looks into national defence plans with a view to addressing shortfalls and exploring cooperation opportunities (European Defence Agency 2017); preparations for launching permanent structured cooperation; and the Commission proposal for a European Defence Fund; with respect to partnerships should be mentioned: the initiative on Capacity Building in support of Security and Development, deepening EU-NATO cooperation in line with the Joint Declaration (July 2016) and new Framework Partnership Agreements for crisis management operations with third countries.

The Commission, on its part, launched a debate on the future of the EU after Brexit and presented several scenarios and reflection papers, notably on defence and EU finances (European Commission 2017a). It also took bold steps in the area of defence capabilities and intensified work on the Security Union. The Commission proposed in November 2016 a European Defence Action Plan in continuation of earlier efforts and as the third element (with the EU Global Strategy and the EU-NATO Joint Declaration) of current efforts aimed at strengthening security and defence policy in light of the deteriorating security situation. Under the Action Plan the Commission proposed: a) setting up a European Defence Fund; b) fostering investments in SMEs, start-ups and mid-caps using the European Structural and Investment Funds, the European Investment Bank as well as sectoral co-operation on skills; c) strengthening the Single Market by the effective application of the two Directives (on defence procurement and intra-community transfers), industry standards and sectoral policies such as space.

The European Defence Fund (European Commission 2017b) will have two main strands ("windows"):

first, collaborative research funded by the EU budget with an amount of 90 million euros in 2017-19 and proposed increase to 500 million euros per year after 2020; second, joint development and acquisition of defence equipment and technology, adding to national spending co-financing from the EU budget of 500 million euros for 2019-20 and 1 billion euros per year after 2020. A common framework (umbrella structure) and a coordination board (member states, EU institutions and industry) would make up the governance structure. The Action Plan and the Defence Fund will contribute to increase efficiency and reduce the cost of non-Europe by creating incentives for defence cooperation. Obviously, the ambitious spending plans depend on the negotiations for the multiannual financial framework from 2020 onwards. In the reflection paper on the future of EU finances in all but one scenario the share of spending on security, defence (and migration) is set to increase. Beyond the amounts proposed and those to be eventually agreed for the Defence Fund, it is fair to say that the bold initiatives of the Commission added dynamism to ongoing discussions and can have a catalysing effect for defence cooperation.

Furthermore, following the European Agenda on Security (April 2015) work on the Security Union has accelerated, not least spurred by terrorist and cyber attacks in Europe in recent years. The fight against terrorism, radicalisation and violent extremism, organised crime as well as cybercrime aims, first, at reducing the space for terrorists and criminals and denying them the means for their acts (money, ammunition and movement) and, second, at enhancing resilience, closing information gaps and protecting critical infrastructure. In particular, work concentrated on interoperability of information systems, preventing radicalisation and addressing cybercrime. Tools such as databases, the European arrest warrant and the European investigation order; policy frameworks allowing the identification of common priorities; and European agencies (Euro-pol, Eurojust), all contribute to increased security in the EU, with full respect to European values, the democratic rule of law and fundamental rights. The publication of regular progress reports and a comprehensive assessment help increase transparency and facilitate critical public debate on cooperation in this particularly sensitive policy area (European Commission 2017c, Carrera, Mitsilegas 2017). Some of the proposals of President Macron (an intelligence academy, a European public prosecutor) are relevant for the security union.

A European Security and Defence Union including closer defence cooperation and work under the security agenda is essential for the EU facing both conventional and asymmetric threats and risks. The notion of security itself has been changing in the post-Cold War period; in particular the distinction between external and internal security is increasingly blurred, an evolution captured by the concept of comprehensive and networked approach to security. This evolving security notion adds to the complexity of closer EU cooperation; at the same time, EU level cooperation may help to overcome structural rigidities existing at the national level. Beyond institutional legacies and political symbols, what is needed are effective responses to real threats and risks so that citizens can be convinced that the EU is actually delivering results; this would increase output legitimacy and bring the latent added value of the EU to the consciousness of the citizens, thus reducing the appeal of eurosceptics and populists.

In democracies public opinion is a factor to reckon with when it comes to the political feasibility of a project. The Eurobarometer has indicated for the last two decades strong support for European cooperation in the realm of security and defence. Recent polls among French and Germans show that perceptions of security challenges have converged, that support for closer cooperation in this field has risen and that both are more positive than before towards higher defence expenditure; differences remain, however, concerning the effectiveness and legitimacy of the use of force. (Koenig 2017) When it comes to the Franco-German tandem spearheading the Security and Defence Union project, the review of new drivers and old constraints offers a mixed picture, suggesting an incremental approach as more appropriate. (Koenig, Walter-Franke 2017) It is also not certain that public opinion displays a coherent attitude on such a serious issue. (Franke 2017) Political leadership is crucially needed to carry through the necessary cooperation initiatives and at the same time make sure this cooperation is politically feasible. The old method of package deals could prove, once again, productive for European integration, involving under the current circumstances security and defence, economic and monetary union as well as migration policy. (European Policy Centre 2017)

Conclusion

The decision to activate the Treaty provisions and establish PESCO is no doubt a significant step in the development of defence cooperation in the EU.

While it is not a panacea it can certainly help to enable the EU to better cope with the numerous and multifaceted security challenges it is confronted with provided its potential is fully used and further developed with determination, imagination and pragmatism. The preceding brief analysis has shown conditions for a successful implementation of this cooperation framework, stressing, in particular, ways to combining inclusiveness with effectiveness and the need to harness the complementarities between the different strategic cultures of France and Germany. PESCO must also be seen within the broader context of what else is being done in the realm of security and defence. Assuming that these other elements (creation of a planning and conduct capability of operations, bringing closer national defence planning, more common funding of operations and capabilities as well as continuous work under the heading of security union) are pursued according to plan, the EU can be seen making good progress in this policy area. Faced with multiple crises and against negative developments and perceptions which fuelled scepticism about the future of the EU in recent years, pressing needs and the emerging political constellation with a new impetus for the Franco-German tandem tend to favour further steps in closer cooperation. Europeans must continue to “walk the talk” of the Security and Defence Union to secure the long-term goal of European integration.

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