

DRAFT COUNCIL CONCLUSIONS

The European Council has agreed the modalities to implement the Nice provisions on the involvement of the non-EU European members of NATO. The implementation of the Nice provisions on the involvement of the non-EU European members of NATO will be made possible by the relevant decisions on the relations between the European Union and NATO.

On this occasion, the European Council recalled that these modalities and decisions and their implementation shall at all times respect the provisions of the Treaty on European Union, in particular those concerning the objectives and principles of CFSP, as provided in Article 11 of the TEU¹. They shall also respect the relevant conclusions and texts approved by the European Council.

It is also understood that no action will be undertaken that would violate the principles of the Charter of the United Nations, including the Charter principles of maintenance of international peace and security, peaceful settlement of disputes, and refraining from the threat or use of force as both the Treaty on EU and the North Atlantic Treaty are built on these principles, which apply to all Members accordingly.

The European Council also recalled that the EU provides that the policy of the Union in accordance with Article 17 of the TEU shall not prejudice the specific character of the security and defence policy of certain Member States. The Presidency noted that Denmark drew attention to Protocol N° 5 to the EU Treaty on the position of Denmark.

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- ¹ "1. The Union shall define and implement a common foreign and security policy covering all areas of foreign and security policy, the objectives of which shall be :
- to safeguard the common values, fundamental interests, independence and integrity of the Union in conformity with the principles of the United Nations Charter;
 - to strengthen the security of the Union in all ways;
 - to preserve peace and strengthen international security, in accordance with the principles of the United Nations Charter, as well as the principles of the Helsinki Final Act and the objectives of the Paris Charter, including those on external borders;
 - to promote international cooperation;
 - to develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms.
2. The Member States shall support the Union's external and security policy actively and unreservedly in a spirit of loyalty and mutual solidarity.
The Member States shall work together to enhance and develop their mutual political solidarity. They shall refrain from any action which is contrary to the interests of the Union or likely to impair its effectiveness as a cohesive force in international relations.

The Council shall ensure that these principles are complied with."

The European Council has given a mandate to the Secretary General/High Representative, Javier Solana, to act accordingly for an agreement to be reached between the EU and NATO as soon as possible.

The Presidency, along with the Secretary General/High Representative, Javier Solana, will report on the outcome of these efforts in about two to three weeks. On the basis of the outcome, the European Union will adopt the necessary decisions.

ESDP: IMPLEMENTATION OF THE NICE PROVISIONS ON THE INVOLVEMENT OF THE NON-EU EUROPEAN ALLIES

Respect by certain EU Member States of their NATO obligations

1. The Treaty of the European Union states (Article 17.1):

“The policy of the Union in accordance with this Article 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.”

2. For the Member States concerned, this means that the actions and decisions they undertake within the framework of EU military crisis management will respect at all times all their Treaty obligations as NATO allies. This also means that under no circumstances, nor in any crisis, will ESDP be used against an Ally, on the understanding, reciprocally, that NATO military crisis management will not undertake any action against the EU or its Member States. It is also understood that no action will be undertaken that would violate the principles of the Charter of the United Nations.

Participation of the non-EU European Allies in peace-time ESDP consultations

3. As agreed at the Nice European Council, the EU will have permanent and continuing consultations with the non-EU European Allies, covering the full range of security, defence and crisis management issues. Additional 15 + 6 meetings will be arranged as required. In particular, consultations will, as appropriate, involve additional meetings in the format of EU + 6 in advance of PSC and EUMC meetings where decisions may be taken on matters affecting the security interests of the Non-EU European Allies. The objective of these consultations will be for the EU and the non-EU European Allies to exchange views, and to discuss any concerns and interests raised by these Allies, so as to enable the EU to take them into consideration. As with CFSP, these consultations will enable the non-EU European Allies to contribute to European Security and Defence Policy and to associate themselves with EU decisions, actions and declarations on ESDP.

4. The consultations between the EU and the non-EU European Allies will be carefully prepared, including by consultations involving the Presidency, Council Secretariat, and the representatives of the non-EU European Allies and through circulation of relevant documents. The meetings will be properly followed up, including through the circulation by the Council Secretariat of a record of the discussion. The objective of these arrangements is to ensure that the consultations are both comprehensive and intensive.

5. 15 + 6 meetings, as provided for in the Nice arrangements, will be facilitated through the appointment of permanent interlocutors with the PSC. To provide for dialogue with the EUMC and to help prepare the 15 + 6 meetings at Military Committee representative level, the non-EU European Allies may also designate interlocutors with the Military Committee. The designated interlocutors with the various EU bodies will be able, on a day-to-day basis, to pursue bilateral contacts, which will underpin the regular 15 + 6 consultations.

Relations with the EUMS and national HQs involved in EU-led operations.

6. Arrangements in NATO for non-NATO EU members will be taken as a basis for developing appropriate arrangements for the non-EU European Allies in the EU military structures, bearing in mind the differences in military structures of the two organisations. If operational planning is conducted in NATO, the non-EU European Allies will be fully involved. If operational planning is conducted in one of the European strategic-level Headquarters, the non-EU European Allies as contributors will be invited to send officers to that Headquarters.

Involvement in EU-led exercises

7. The EU does not intend to conduct military exercises below Force HQ (FHQ) level. Exercises below that level will remain the responsibility of member states.

8. The EU is committed to dialogue, consultation and cooperation with the non-EU European Allies and these arrangements will also need to be covered in relevant exercises.

9. Arrangements for the participation of those Allies in EU exercises will mirror those agreed for their participation in EU-led operations. Non-EU European Allies will be able to participate in EU exercises which envisage use of NATO assets and capabilities. Since there is also the possibility of their participation in EU-led operations which do not have recourse to NATO assets and capabilities, there will accordingly be a need for the non-EU European Allies to participate in relevant exercises and for the EU to provide for this. Non-EU European Allies should be invited to observe other relevant exercises in which they do not participate.

Modalities for participation in EU-led operations

10. In considering the options for response to a crisis, including a possible EU-led operation, the EU would take account of the interests and concerns of non-EU European Allies and consultations between them would be sufficiently intensive to ensure this was the case.

11. In the case of an EU-led operation using NATO assets and capabilities, non-EU European Allies will, if they wish, participate in the operation, and will be involved in its planning and preparation in accordance with the procedures laid down within NATO.

12. In the case of any EU-led operation not requiring recourse to NATO assets and capabilities, non-EU European Allies will be invited, upon a decision of the Council, to participate. In taking decisions on participation, the Council will take account of the security concerns of the non-EU European Allies. In a specific case when any of the non-EU European Allies raises its concerns that an envisaged autonomous EU operation will be conducted in the geographic proximity of a non-EU European Ally or may affect its national security interests, the Council will consult with that Ally and, taking into consideration the outcome of those consultations, decide on the participation of that Ally, bearing in mind the relevant provisions of the Treaty on the European Union quoted above and the statement in paragraph 2 above.

Involvement in preparation, planning and management of an EU-led operation

13. The 15 + 6 consultations would constitute a forum for the non-EU European Allies, as potential contributors to any EU-led military operation to be engaged from the earliest stages of a crisis in dialogue with the EU and to be consulted in the development of the EU's thinking.

14. Contacts at all levels with non-EU European Allies will be intensified as the pre-crisis stage unfolds through 15 + 6 consultations and other arrangements. This process will be important for discussing provisional military contributions from the non-EU European Allies during the pre-operational phase, and relevant military factors during the development of strategic military options, in order to inform the planning and preparation on which a Council decision to launch an EU-led operation will be based. This will enable the views of the non-EU European Allies, particularly their security concerns and their views on the nature of an EU response to the crisis, to be taken into account by the Council before decisions on a military option.

15. Subsequently, consultations would be carried forward together in the 15 + 6 forum, including at PSC and EUMC levels, to discuss the development of the Concept of Operations and related issues such as command and force structures. The non-EU European Allies would have the opportunity to make known their views about the CONOPS, and about their potential participation, before the Council took decisions to proceed to detailed planning of an operation and decisions formally to invite non-EU Member States to take part. Once decisions were taken on non-EU Member States' participation, non-EU European Allies, as contributors, would be invited to take part in operational planning. Consultations in the 15 + 6 forum would address the ongoing detailed planning of the operation, including the OPLAN.

16. Following a decision by the Council to undertake a military operation, and a force generation conference, the Committee of Contributors would be established and convened in order to discuss the finalisation of the initial operational plans and military preparations for the operation.

17. As foreseen in Nice, the Committee of Contributors will play a key role in the day-to-day management of the operation. It will be the main forum where contributing nations collectively address questions relating to the employment of their forces in an operation. The Committee will discuss reports from and issues raised by the Operation Commander and, as necessary, provide advice to the PSC. The Committee of Contributors takes decisions on the day-to-day management of the operation and makes recommendations on possible adjustments to operational planning, including possible adjustments to objectives, by consensus. The views expressed by the Committee of Contributors will be taken into account by the PSC as it considers issues of political control and strategic direction of the operation. The Council Secretariat will prepare a record of discussions at each Committee of Contributors meeting, which will be forwarded to PSC and EUMC representatives in time for the next meetings of the respective Committees.

18. The Operation Commander will report on the operation to the Committee of Contributors so that it can exercise its responsibilities and key role in the day to day management of the operation.

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FYROM

Further to discussions between the SG/HR and President Trajkovski, the Council reaffirmed its readiness to take over the NATO military operation in FYROM on 15 December. It requested the relevant bodies of the European Union to examine all the necessary options in order to achieve this objective. The Council noted that this follow-on operation would take place within the context of the spirit of partnership in crisis management established between the EU and NATO should an agreement be reached in time.
