



Ministry  
of Defence

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THE RT HON BARONESS GOLDIE DL  
MINISTER OF STATE IN THE HOUSE OF LORDS

MSU/4/2/2/1/is

26 January 2021

Dear Peter,

Thank you for your letter on EU Permanent Structured Cooperation (PESCO) dated 13 January 2021, in which you asked various questions relating to the Government's position on PESCO. This letter was in response to an Explanatory Memorandum submitted by Minister Adams on EU 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. Minister Adams has passed this letter to me for response as the Minister responsible at the Ministry of Defence (MOD).

Firstly, I can clarify the Government's specific concerns around export controls and intellectual property rights. Art. 3(d) of the 5 November 2020 Council Decision includes a requirement that the participation of a third country "must not lead to dependencies on that third State", which suggests that no unique technologies could be manufactured solely in a non-EU country or that this could only be allowed if the technology could then be freely transferred to an EU Member State. This would be contrary to the general expectation that participants in international collaborative projects are able to retain or limit the transfer of the unique technologies they contribute.

The requirement that there must be no "restrictions imposed by [a third country] against any Member State of the Union, as regards armament procurement, research and capability development, or on the use and export of arms or capabilities and technology" could be similarly problematic. It implies that a third country would forego its usual intellectual property rights in any new technologies or capabilities developed within a PESCO project, or control over their future use or export. This may also be incompatible with a third country's international export regime commitments to restrict the export of certain military and dual-use technologies.

Such restrictions would be out of step with other major international defence collaborative programmes, for example Eurofighter and Meteor, where participants have more of a say over the capabilities developed.

Lord Ricketts GCMG GCVO  
Chair  
EU Security and Justice Sub Committee  
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You asked how the Government intends to assess the extent to which third countries might participate meaningfully in PESCO projects. As yet, no third countries have formally agreed to participate in any PESCO projects and it remains to be seen how the general conditions laid out in the Council Decision will be applied by the PESCO Member States in practice. We will continue to monitor this through our engagement with European partners, defence industry and other non-EU NATO Allies.

You also asked whether there are any factors that might lead the Government to conclude that it was in the national interest to get involved in a specific PESCO project. While we have no current plans to participate in PESCO, we will keep third countries' ability to participate meaningfully under review. Any future interest in PESCO projects would also be determined on a case-by-case basis, considering for example whether the project might be the most appropriate way to fulfil an identified UK capability requirement or to contribute to NATO commitments.

Lastly, you asked whether the Government's public position that the UK is not participating in PESCO should be interpreted as leaving open the option of private exchanges on particular PESCO projects. Our public and private messaging is consistent: while we are grateful for the German Council presidency's efforts in facilitating agreement on the terms for third country participation, we have no plans to participate in PESCO and remain concerned at the restrictions that these conditions could impose - particularly in relation to intellectual property rights and export controls as outlined above. We will monitor how the PESCO rules work in practice, in particular the extent to which they help build capabilities that are required by NATO, and allow meaningful cooperation with other non-EU NATO allies.

This does not preclude private exchanges on particular PESCO projects, in which we would continue to raise our concerns and explore any potential future interest as we would with other international collaborative opportunities.

I am copying this letter to Jeremy Quin MP, Minister for Defence Procurement; James Ward at the Ministry of Defence; and Adam Nutley at the Foreign Commonwealth and Development Office.

*Yours sincerely,  
Annabel Su Gobie*

**BARONESS GOLDIE DL**