



Brussels, 24 November 2022  
(OR. en)

15135/22

MI 858  
COMPET 936  
POLARM 2  
CFSP/PESC 1594  
COARM 254  
DELECT 210

#### 'I/A' ITEM NOTE

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From: General Secretariat of the Council  
To: Permanent Representatives Committee/Council

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No. Cion doc.: ST 13374/22 + ADd 1 - C (2022) 6970 final

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Subject: COMMISSION DELEGATED DIRECTIVE (EU) .../... of 5.10.2022 amending Directive 2009/43/EC of the European Parliament and of the Council as regards the updating of the list of defence-related products in line with the updated Common Military List of the European Union of 21 February 2022  
- Intention not oppose a delegated act

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1. On 5 October 2022, the Commission submitted the above draft Delegated Directive to the Council, which, pursuant to Article 13 and 13a(4) of Directive 2009/43/EC<sup>1</sup>, amends its Annex.

The Common Military List of the European Union was last updated by the Council on 21 February 2022<sup>2</sup>. The Annex has not been aligned with this latest amendment of the Common Military List, and it is necessary to do so through the adoption of the present delegated act.

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<sup>1</sup> Directive 2009/43/EC of the European Parliament and of the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community (OJ L 146, 10.6.2009, p. 1–36); Current consolidated version - 07/10/2021;

<sup>2</sup> OJ C 100, 1.3.2022, p. 3.

2. Directive 2009/43/EC was amended by Regulation (EU) 2019/1243<sup>3</sup> adapting a number of legal acts providing for the use of the regulatory procedure with scrutiny to Articles 290 and 291 of TFEU<sup>4</sup>.
  3. Article 1 of the Delegated Directive provides that the Annex to Directive 2009/43/EC is replaced by the Annex to the above Delegated Directive, whose content is identical to the Common Military List as last updated by the Council.
  4. On 10 October 2022, delegations were asked to indicate their possible opposition to the above draft Delegated Directive by 22 November 2022. No delegation raised any relevant grounds for opposition. The official three-month deadline expires on 6 January 2023, after which the delegated act will be adopted.
  5. Against this background, the Permanent Representatives Committee is invited to recommend to the Council to confirm the non-opposition to the draft Delegated Directive, as set out in document ST 13374/22 + ADD 1 as an item without discussion at one of its forthcoming meetings.
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<sup>3</sup> Regulation (EU) 2019/1243 of the European Parliament and of the Council of 20 June 2019 adapting a number of legal acts providing for the use of the regulatory procedure with scrutiny to Articles 290 and 291 of the Treaty on the Functioning of the European Union (OJ L 198, 25.7.2019, p. 241–344);

<sup>4</sup> Treaty on the Functioning of the European Union (OJ C 326, 26.10.2012, p. 47–390).