



Brussels, 6 May 2021
(OR. en)

8450/21

MI 309
POLARM 2
CFSP/PESC 453
COARM 87
DELECT 90

'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. Cion doc.:	ST 6862/21 + ADD 1 - C(2021) 1433
Subject:	Commission Delegated Directive (EU) amending Directive 2009/43/EC as regards the updating of the list of defence-related products in line with the updated Common Military List of the European Union of 17 February 2020 - Intention not to oppose a delegated act

1. On 5 March 2021, the Commission submitted the above draft Delegated Directive to the Council, which, pursuant to Article 13 and 13(a) of Directive 2009/43/EC¹, amends its Annex.

The Annex is of technical nature, and must strictly correspond to the Common Military List of the European Union, last updated by the Council on 17 February 2020. The Annex has not been aligned yet with the latest amendment of the Common Military List. It is necessary to do so through the adoption of a delegated act.

¹ 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 - 26/07/2019;

2. Pursuant to Article 13a (4), experts on EU transfers of defence-related products, designated by each Member State, are consulted in accordance with points 6 and 10 of the Annex to the Interinstitutional Agreement on Better Law-Making of 13 April 2016². The European Parliament and the Council were invited to participate in the expert group, and all stakeholders were consulted.
3. Directive 2009/43/EC was amended by Regulation (EU) 2019/1243³ adapting a number of legal acts providing for the use of the regulatory procedure with scrutiny to Articles 290 and 291 of TFEU⁴.
4. On 9 March, delegations were asked by 5 May 2021 to indicate their possible opposition to the above draft Delegated Regulation. No delegation raised any relevant grounds for opposition. The official three-month deadline expires on 6 June 2021.
5. Against this background, the Permanent Representatives Committee is invited to recommend to the Council to confirm the non-opposition to the draft Delegated Regulation, as set out in document ST 6862/21 + ADD 1 as an item without discussion at one of its forthcoming meetings.

² OJ L 123 of 12.05.2016, p. 1;

³ 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);

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