

Council Decision 2012/421/CFSP of 23 July 2012 in support of the Biological and Toxin Weapons Convention (BTWC), in the framework of the EU Strategy against Proliferation of Weapons of Mass Destruction

COUNCIL DECISION 2012/421/CFSP

of 23 July 2012

in support of the Biological and Toxin Weapons Convention (BTWC), in the framework of the EU Strategy against Proliferation of Weapons of Mass Destruction

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 26(2) and 31(1) thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 12 December 2003, the European Council adopted the EU Strategy against Proliferation of Weapons of Mass Destruction ('the EU Strategy'), Chapter III of which contains a list of measures to combat such proliferation.
- (2) The Union is actively implementing the EU Strategy and is giving effect to the measures listed in its Chapter III thereof, in particular those measures related to reinforcement, implementation and universalisation of the Biological and Toxin Weapons Convention (BTWC).
- (3) On 27 February 2006, the Council adopted Joint Action 2006/184/CFSP<sup>(1)</sup> in support of the BTWC, in the framework of the EU Strategy against the proliferation of the Weapons of Mass Destruction (WMD), which expired on 26 August 2007. Seven more States became States Parties to the BTWC since the adoption of Joint Action 2006/184/CFSP.
- (4) On 20 March 2006, the Council adopted an Action Plan on biological and toxin weapons, complementary to Joint Action 2006/184/CFSP in support of the BTWC<sup>(2)</sup>. The Action Plans provided for an efficient use of Confidence Building Measures (CBMs) and the United Nations (UN) Secretary-General investigation mechanism for alleged use of biological weapons.
- (5) On 10 November 2008, the Council adopted Joint Action 2008/858/CFSP<sup>(3)</sup> in support of the BTWC, in the framework of the EU Strategy against the proliferation of WMD. Three more States became States Parties to the BTWC since the adoption of Joint Action 2008/858/CFSP and several States benefited from assistance provided by Union experts.
- (6) The Sixth Review Conference of the BTWC decided to establish the Implementation Support Unit (ISU), with a five-year mandate (2007-2011), within the Geneva Branch of

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the U N Office for Disarmament Affairs (UN ODA) in order to provide administrative support to meetings agreed by the Sixth Review Conference as well as support for the comprehensive implementation and universalisation of the BTWC and the exchange of Confidence-Building Measures.

- (7) On 18 July 2011, the Council adopted Decision 2011/429/CFSP<sup>(4)</sup> relating to the position of the European Union for the Seventh Review Conference of the BTWC.
- (8) The Seventh Review Conference of the BTWC decided to renew the mandate of the Implementation Support Unit for another five-year term (2012-2016) and decided to expand its tasks to include the implementation of the decision to establish and administer the database for assistance requests and offers, and facilitating the associated exchange of information among States Parties, as well as support, as appropriate, the implementation by States Parties of the decisions and recommendations of the Seventh Review Conference.
- (9) The Commission should be entrusted with the supervision of the proper implementation of the Union financial contribution,

HAS ADOPTED THIS DECISION:

*Article 1*

1 For the purpose of giving immediate and practical application to some elements of the EU Strategy against the Proliferation of Weapons of Mass Destruction, the European Union shall support the BTWC, with the following objectives:

- promoting the universality of the BTWC,
- supporting the implementation of the BTWC, including submission of CBMs by the States Parties,
- supporting the work of the 2012-2015 inter-sessional programme with a view to strengthening the implementation and effectiveness of the BTWC.

2 The projects corresponding to measures of the EU Strategy, are those that aim at:

- promoting awareness about implementation of the BTWC, strengthening the regional discussion of inter-sessional topics and their application, and supporting key regional actors in defining needs and requirements for national implementation,
- assisting both States Parties and States non-Parties, in order to ensure that States Parties transpose their international obligations into their national legislation and administrative measures and establish functioning relationship among all national stakeholders. The assistance entails support to States Parties for establishing a national CBMs process and nomination of national contact points. For non-States Parties, the assistance would include support for acceding to or ratifying the BTWC,
- supporting the development of various enabling tools and activities that would assist States Parties in national implementation, including the submission of CBMs, allow representatives of States Parties to actively engage in the international BTWC process, and raise States Parties' awareness of available international support.

A detailed description of these projects is set out in the Annex.

*Article 2*

1 The High Representative of the Union for Foreign Affairs and Security Policy (HR) shall be responsible for the implementation of this Decision.

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2 The technical implementation of the activities referred to in Article 1 shall be entrusted to the UN ODA. It shall perform its task under the responsibility of the HR. For this purpose, the HR shall enter into the necessary arrangements with the UN ODA.

*Article 3*

1 The financial reference amount for the implementation of the projects referred to in Article 1(2) shall be EUR 1 700 000.

2 The expenditure financed by the amount set out in paragraph 1 shall be managed in accordance with the procedures and rules applicable to the general budget of the Union.

3 The Commission shall supervise the proper management of the expenditure referred to in paragraph 1. For this purpose, it shall conclude a financing agreement with the UN ODA. The agreement shall stipulate that the UN ODA is to ensure visibility of the Union contribution.

4 The Commission shall endeavour to conclude the financing agreement referred to in paragraph 3 as soon as possible after the entry into force of this Decision. It shall inform the Council of any difficulties in that process and of the date of conclusion of the agreement.

*Article 4*

The HR shall report to the Council on the implementation of this Decision on the basis of regular reports prepared by the UN ODA. Those reports shall form the basis for the evaluation carried out by the Council. The Commission shall provide information on the financial aspects of the projects referred to in Article 1(2).

*Article 5*

1 This Decision shall enter into force on the day of its adoption.

2 This Decision shall expire 24 months after the date of the conclusion of the financing agreement referred to in Article 3(3) or six months after the date of its adoption if no financing agreement has been concluded within that period.

Done at Brussels, 23 July 2012.

*For the Council*

*The President*

C. ASHTON

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## ANNEX

### 1. GENERAL FRAMEWORK

Building on the successful implementation of Joint Action 2008/858/CFSP, this Decision serves as an operational policy tool for carrying forward the objectives of Decision 2011/429/CFSP and focuses in particular on those aspects on which consensus was reached at the Seventh Review Conference, as reflected in its Final Document.

This Decision is guided by the following principles:

- (a) making best use of the experience gained through Joint Action 2008/858/CFSP;
- (b) reflecting on specific needs expressed by the States Parties as well as States non-Parties to the BTWC with respect to better implementation and universalisation of the BTWC;
- (c) encouraging local and regional ownership of the projects in order to ensure their long-term sustainability and to build a partnership between the Union and third parties in the framework of the BTWC;
- (d) focusing on those activities that bring concrete results and/or contribute to an early framing of common understanding relevant for the 2016 BTWC review process;
- (e) supporting the Chair of the States Parties' meetings and making best use of the mandate of the ISU as agreed at the Sixth Review Conference and renewed and expanded at the Seventh Review Conference.

### 2. PROJECTS

#### 2.1. Project 1: Regional workshops to raise awareness and identify needs

##### 2.1.1. Project purpose

To raise awareness among relevant national officials and experts on different aspects of BTWC implementation (including CBMs), to discuss inter-sessional programme topics and their application in a regional context, and to identify key personnel, national needs and requirements, and possible recipient countries for extended national implementation assistance (see Project 2) through organising regional workshops building on the experience and contacts resulting from Joint Action 2008/858/CFSP.

This project will support the implementation of the decisions and recommendations of the Seventh Review Conference concerning Article IV of the BTWC (in particular paragraphs 13 and 14 of the Final Declaration), and the 2012-2015 inter-sessional programme.

##### 2.1.2. Expected results of the Project

- (a) Increased adherence to the BTWC in all geographic regions.
- (b) Enhanced understanding of the BTWC among the relevant national authorities and/or strengthened sub-regional networking concerning the BTWC in order to promote accession to and implementation of the BTWC.
- (c) Identification of needs for enhancing regional and national activities aimed at implementation of the BTWC.
- (d) Promotion of and support for, the creation and adherence to national and regional bio-safety associations.

- (e) Requests for extended assistance, to be executed under Project 2.

### 2.1.3. Project description and implementation

A maximum number of four regional or sub-regional workshops will be held, where appropriate in collaboration with international and regional organisations and in coordination with the 2012-2015 BTWC inter-sessional programme.

Both States Parties and States non-Parties to the BTWC will be invited to the workshops, as well as relevant international and regional organisations, national and regional bio-safety associations, academic experts and non-governmental organisations (NGOs).

The regions or sub-regions will be selected for workshops on the basis of criteria such as previous activities within the framework of Joint Actions 2006/184/CFSP and 2008/858/CFSP and Council Common Position 2006/242/CFSP<sup>(6)</sup>, other Union activities (including the Centres of Excellence project), activities of other assistance providers, and assessed needs and interests for strengthening of BTWC processes in the regions.

The workshops will be used for outreach and information on the extended assistance programme and available support activities.

## 2.2. Project 2: Extended national implementation assistance programmes

### 2.2.1. Project purpose

To promote universal adherence to the BTWC and enhance national capabilities for implementing obligations under the BTWC, including CBM submissions, by means of legislation, administrative and enforcement measures, awareness raising, codes of conduct, standards on bio-safety and bio-security, and establishment of modalities for national coordination through extended assistance programmes.

### 2.2.2. Expected results of the Project

- (a) Increased number of States Parties to the BTWC.
- (b) Voluntary implementation of the BTWC by States prior to their accession thereto.
- (c) Adoption of appropriate legislative or administrative measures, including criminal law provisions, which encompass the full scope of the prohibitions and preventive measures provided for in the BTWC and elaborated by the Seventh Review Conference.
- (d) Effective implementation and enforcement to prevent violations of the BTWC and to impose sanctions in cases of breaches.
- (e) Creation or enhancement of national mechanisms for compilation of required information and annual submissions of CBMs with a view to increase the number of States Parties participating in CBMs exchange.
- (f) Better coordination and networking among all stakeholders involved in the BTWC process, including national and regional bio-safety associations and the private sector, in order to promote effective implementation.
- (g) Promotion of awareness raising programs, codes of conduct and standards on bio-safety and bio-security.

### 2.2.3. Project description

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The Seventh Review Conference reaffirmed that the enactment and implementation of necessary national measures would strengthen the effectiveness of the BTWC. That Conference called upon States Parties to adopt legislative, administrative, judicial and other measures designed to enhance domestic implementation of the BTWC and to ensure the safety and security of microbial or other biological agents or toxins. That Conference emphasised the importance of the exchange of information among States Parties through the CBMs and recognised the need to increase the number of States Parties participating in the CBMs. That Conference agreed that a further concerted effort by States Parties through bilateral, regional and multilateral activities is needed for promoting the universalisation of the BTWC.

Based on experiences gained through Joint Action 2008/858/CFSP, extended national implementation assistance programmes will be provided to a maximum of eight countries identified as suitable through the regional workshops of Project 1.

Each programme will run for approximately 12 months, involve participation by EU delegations in beneficiary countries and the UN regional disarmament offices where appropriate, and will comprise:

- an initial national workshop, to gather all the relevant domestic agencies and stakeholders, to introduce the various BTWC concepts, to identify motivated and reliable local partners, and to make an initial assessment of needs and priorities,
- the development of a structured plan for assistance (Action Plan), tailored for the beneficiary country, that would involve visits and/or workshops by various assistance providers over the duration of the programme, as well as training provided in EU Member States or elsewhere,
- the execution of the Action Plan, with providers such as Interpol, WHO, VERTIC, EU Member States, the BTWC ISU, and academic institutions conducting the respective assistance activities (e.g. drafting of legislation, bio-safety/bio-security training, CBM preparation, police training, awareness-raising for scientists, emergency response planning, etc),
- a wrap-up workshop following the conclusion of the activities, where the threads will be drawn together, agencies will report on their activities and progress, and any needs for further or continuing assistance will be assessed,
- to support universalisation of the BTWC, extended national assistance programmes could, where appropriate, be provided to States non-Parties, in which case accession to the BTWC would form part of the Action Plan agreed with the recipient country,
- to ensure efficient and productive assistance, a EU workshop for EU experts assisting beneficiary countries under Project 2 will be organised with an objective of discussing best practices and appropriate preparations for assistance activities.

### 2.3. Project 3: Enabling tools and activities

#### 2.3.1. Project purpose

To provide various tools and activities, which will enable and support effective national implementation of the BTWC including submission of CBMs.

#### 2.3.2. Expected results of the Project

- (a) Guidance brochure on national implementation.
- (b) Revised CBM guidance brochure.
- (c) System for electronic submission of CBMs.

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- (d) Increased participation by developing countries in the BTWC inter-sessional programme.
- (e) Increased capacity for the UN Secretary-General mechanism for the investigation of alleged use of biological and toxin weapons.

### 2.3.3. Project description

The Seventh Review Conference decided that strengthening of national implementation will be a Standing Agenda Item during the 2012-2015 inter-sessional programme. The topics to be addressed include specific measures for full and comprehensive implementation of the BTWC, especially Articles III and IV, and ways and means to enhance national implementation and sharing of best practices and experiences.

The Seventh Review Conference decided to adopt a revision of the reporting forms for CBMs submissions. Further, it was decided that the ISU in cooperation with States Parties will examine and develop options for electronic means of CBMs submission.

The Seventh Review Conference further discussed and decided on specific measures to support and increase the participation of developing States parties in the meetings of the inter-sessional programme.

The Seventh Review Conference referred to the UN Secretary-General investigation mechanism for alleged use of chemical and biological weapons. Its promotion, including through specialised training courses for experts, would be instrumental.

Based on experiences gained through the Joint Action 2008/858/CFSP and as a continuation of completed and/or initiated activities, the following actions will be performed:

- (a) preparation of comprehensive documentation (guidance brochure) providing an overview of the obligations of the States Parties of the BTWC and covering national measures for full and comprehensive implementation of the BTWC. The brochure will be designed as a toolkit of implementation measures and will provide examples of best practices while recognising differences in the national procedures. Experts from the EU Member States, BTWC States Parties, relevant international organisations, as well as the non-governmental sector concerned with BTWC implementation would be consulted in the process of its preparation. The brochure will be reproduced in all the official languages of the UN. Overall coordination of the preparation of the brochure will be carried out by UN ODA;
- (b) revision and further development of the CBMs guidance brochure, prepared under Joint Action 2008/858/CFSP, in accordance with the decision taken by the Seventh Review Conference;
- (c) development and maintenance of an electronic tool for CBMs submission, processing and dissemination (CBMs electronic facility);
- (d) further development of the ISU website and related IT and communication tools;
- (e) sponsorship for participation of experts from a maximum of ten developing countries in the BTWC inter-sessional programme;
- (f) organisation of an international exercise on the UN Secretary-General investigation mechanism for alleged use of biological weapons, with sponsorship for experts' participation.

## 3. PROCEDURAL ASPECTS, COORDINATION

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The implementation of the projects will be initiated by a Steering Committee with an objective of determining procedures and modalities for cooperation. The Steering Committee will review the implementation of the projects regularly, at least once every six months, including by using electronic communication means.

The Steering Committee will be composed of the representatives of HR and UN ODA.

The applications of States Parties, which are not EU Member States, for any assistance and cooperation under this decision shall be addressed to the UN ODA. The UN ODA will review and assess those applications, as appropriate, and submit recommendations to the Steering Committee. The Steering Committee will examine the applications for assistance as well as the Action Plans and their implementation. On the proposal of the HR, and taking into account the outcomes of discussions in the Steering Committee, the HR will make the final decision on the beneficiary countries in consultation with the competent working parties of the Council.

To ensure a strong ownership and sustainability of EU-initiated activities by beneficiary countries, it is envisaged that whenever possible and appropriate, selected beneficiaries will be asked to prepare the Action Plans, which will inter alia specify the timetable for carrying out funded activities (including those funded through national resources), the scope and the duration of the project, the main stakeholders. The UN ODA, or EU Member States as appropriate, will be associated with the preparation of those Action Plans. The implementation of the projects will be carried out in accordance with the Action Plans.

#### 4. REPORTING AND ASSESSMENT

The UN ODA will submit to the HR regular six-monthly progress reports on the implementation of the projects. In addition, reports will be submitted on individual assistance activities taking place under the established Actions Plans for beneficiary countries. The reports will be transmitted to the relevant working party of the Council for assessment of progress and overall evaluation of projects and a possible follow-up.

Whenever possible, the BTWC States Parties will be informed about the implementation of the projects, including through electronic means.

#### 5. PARTICIPATION OF EXPERTS COMING FROM EU MEMBER STATES

The active involvement of experts coming from EU Member States is necessary for successful implementation of the Decision. The UN ODA will be encouraged to make use of those experts. Their mission costs related to the implementation of projects will be covered by this Decision.

It is expected that when assistance visits are envisaged (such as legal assistance or assistance with CBMs), a visit by a maximum of three experts for a maximum duration of five days will be considered as standard practice.

#### 6. DURATION

The total estimated duration of the projects' implementation is 24 months.

#### 7. BENEFICIARIES

The beneficiaries of universalisation-related activities are States non-Parties to the BTWC (both signatory States and non-signatory States).

The beneficiaries of national implementation activities are both States Parties and States non-Parties to the BTWC, as well as representatives of national and regional bio-safety associations, the private sector, academia and NGOs.

The beneficiaries of CBM-related activities are States Parties to the BTWC.

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## 8. THIRD PARTY REPRESENTATIVES

In order to promote regional ownership and the sustainability of the projects, the participation of non-EU experts, including those from relevant regional and international organisations, will be funded by this Decision. Participation by UN ODA in BTWC workshops and meetings will be funded. The participation of the Chair of BTWC States Parties meetings may be funded on a case-by-case basis.

## 9. IMPLEMENTING ENTITY — STAFF ISSUES

Given the extra-budgetary character of the activities envisaged in this Decision for the UN ODA, additional staff will be required.

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- (1) OJ L 65, 7.3.2006, p. 51.
- (2) OJ C 57, 9.3.2006, p. 1.
- (3) OJ L 302, 13.11.2008, p. 29.
- (4) OJ L 188, 19.7.2011, p. 42.
- (5) OJ L 88, 25.3.2006, p. 65.

**Changes to legislation:**

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