

Council Decision 2012/423/CFSP of 23 July 2012 in support of ballistic missile non-proliferation in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction and of the Council Common Position 2003/805/CFSP

COUNCIL DECISION 2012/423/CFSP

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in support of ballistic missile non-proliferation in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction and of the Council Common Position 2003/805/CFSP

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 28 and Article 31(1) thereof,

Whereas:

- (1) On 12 December 2003, the European Council adopted the EU Strategy against Proliferation of Weapons of Mass Destruction ("WMD"), Chapter III of which contains a list of measures that need to be taken both within the European Union and in third countries to combat such proliferation;
- (2) The Union is actively implementing that Strategy and giving effect to the measures listed in Chapters II and III thereof, for example by releasing financial resources to support specific projects leading to the enhancement of a multilateral non-proliferation system and multilateral confidence building measures. The Hague Code of Conduct against ballistic missile proliferation ('the Code' or 'HCoC') is an integral part of that system. It aims at preventing and curbing the proliferation of ballistic missile systems capable of delivering weapons of mass destruction and related technologies;
- (3) On 17 November 2003, the Council adopted Common Position 2003/805/CFSP⁽¹⁾ on the universalisation and reinforcement of multilateral agreements in the field of non-proliferation of weapons of mass destruction and means of delivery. That Common Position calls, *inter alia*, for the promotion of the subscription of as many countries as possible to the Code, especially those with ballistic missile capabilities, as well as for the further development and implementation of the Code, especially its confidence building measures, and for the promotion of a closer relationship between the Code and the UN multilateral non-proliferation system;
- (4) On 8 December 2008, the Council adopted its conclusions and a document entitled "New lines for action by the European Union in combating the proliferation of weapons of mass destruction and their delivery systems", which states that proliferation of WMD and their delivery systems continue to constitute one of the greatest security challenges and that non-proliferation policy constitute an essential part of the Common and Security Policy. In the light of progress made and of ongoing efforts in the

implementation of the "new lines for action", the Council agreed in December 2010 to prolong their implementation period until the end of 2012;

- (5) On 18 December 2008, the Council adopted Decision 2008/974/CFSP⁽²⁾ in support of the Hague Code of Conduct against Ballistic Missile Proliferation in the framework of the implementation of the EU Security Strategy against Proliferation of Weapons of Mass Destruction. That Decision allowed the successful promotion of the universality of the Code and compliance with its principles. It is a priority of the Union to continue the dialogue among subscribing and non-subscribing States with the aim of further promoting the universality of the Code as well as its better implementation and enhancement. This follow-up Decision should contribute to this process;
- (6) Beyond The HCoC, the continued proliferation of ballistic missiles capable of delivering WMD constitutes a cause of growing concern for the international community, in particular ongoing missiles programmes in the Middle-East, North-East Asia and South Asia, including Iran and the Democratic People's Republic of Korea;
- (7) The UN security Council emphasised in its Resolution (UNSCR) 1540 (2004) and recalled in UNSCR 1977 (2011) that the proliferation of nuclear, chemical and biological weapons, as well as their means of delivery, constituted a threat to international peace and security and obliged States, *inter alia*, to refrain from supporting by any means non-State actors from developing, acquiring, manufacturing, possessing, transporting, transferring or using nuclear, chemical or biological weapons and their delivery systems. The threat caused by nuclear, chemical and biological weapons and their means of delivery to international peace and security was reaffirmed in UNSCR 1887 (2009) on nuclear non-proliferation and nuclear disarmament. Furthermore, the UN Security Council decided in UNSCR 1929 (2010), based *inter alia* on the prior Security Council resolutions, that Iran should not undertake any activity related to ballistic missiles capable of delivering nuclear weapons, including launches using ballistic missile technology, and that States should take all necessary measures to prevent the transfer of technology or technical assistance to Iran related to such activities. This Decision should serve, more generally, to support a range of activities aimed to fight the proliferation of ballistic missiles,

HAS ADOPTED THIS DECISION:

Article 1

1 For the purposes of ensuring the continuous and practical implementation of certain elements of the EU Strategy against Proliferation of Weapons of Mass Destruction, the Union shall:

- a support activities in support of The Hague Code of Conduct against ballistic missile proliferation, in particular with the aim to:
 - promoting the universality of the Code, and in particular the subscription to the Code by all States with ballistic missile capabilities;
 - supporting the implementation of the Code;
 - reinforce the visibility of the Code, in particular on the occasion of the tenth anniversary of its signature;

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- b more generally, support a range of activities to fight against the proliferation of ballistic missiles, aimed in particular at raising awareness of this threat, stepping up efforts to increase the effectiveness of multilateral instruments, building up support to initiatives to address these specific challenges and helping interested countries to reinforce nationally their relevant export control regimes.

2 In this context, the projects to be supported by the Union shall cover the following specific activities:

- a Activities in support of the Code:
 - The preparation and publication of a "welcome package" for outreach activities towards non-subscribing States, also recalling obligations for subscribing States;
 - Organising outreach side events in Vienna in the margins of the HCoC annual meeting of subscribing states;
 - Organising outreach side events in support of the HCoC in the margins of the UN General Assembly First Committee;
 - Organising up to three regional outreach seminars based on Union priorities (possibly Asia, Gulf countries and Latin America);
 - Encouraging subscribing and non-subscribing States' representatives from developing countries to attend the HCoC Annual meetings and outreach seminars;
 - Organising awareness sessions for States having recently joined the HCoC to assist them in fulfilling their obligations, including in the margins of the HCoC annual meeting in Vienna;
 - Supporting the coordination of HCoC promotion efforts with the activities of the UN 1540 Committee, including through financing the participation of HCoC experts into 1540 Committee country visits;
 - Supporting the HCoC secure internet-based information and communication mechanism (e-ICC), including through technical enhancement of the website;
 - Providing financial support to activities to mark the tenth anniversary of the HCoC.
- b Activities in support of ballistic missile non-proliferation in general:
 - Organising up to four seminars to raise awareness on ballistic missile proliferation in the margins of multilateral fora, possibly linked with the HCoC outreach events referred to in point (a), such as a seminar in the margins of UNGA, the Conference on Disarmament or the Non-Proliferation Treaty Preparatory committees;
 - Organising up to three regional seminars to raise awareness of ballistic missile proliferation and encourage discussions on perspectives to better address the ballistic missile proliferation threat at a regional level, possibly linked with other Union outreach activities on HCoC; in association with the States concerned, seminars could take place in Asia, the Gulf region and Latin America;
 - Providing three food-for-thought papers on possible further multilateral steps to prevent the threat of missile proliferation and to promote disarmament efforts in the field of ballistic missiles, focusing in particular on possible confidence-building measures; possible legally-binding measures on short-range and intermediate range ground-to-ground ballistic missiles; and exploring the possibility of adopting a regional focus as a first step, for instance in regions of particular interest for the Union and/or where progress can be expected in the near future;

- In order to prevent dual-use technology and knowledge transfer at an early stage, organising up to three awareness-building sessions for experts, especially from the scientific and/or space communities and industry;
- Encouraging access for academics from developing countries working on missile non-proliferation to projects of the European Union Centres of Excellence;
- In coordination with the European Union Centres of Excellence, organising targeted expert missions in countries outside the Union in order to share information and lessons learned regarding missile technology and dual use goods related export control and help them build up their national capabilities;
- Supporting experts' training on ballistic non-proliferation, through participation in Union programmes such as that of the ESDP College or in EU Member States' programmes.

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.

2 Technical implementation of the projects referred to in Article 1(2) shall be carried out by the *Fondation pour la recherche stratégique* (FRS), which shall perform this task under the responsibility of the HR. For this purpose, the HR shall enter into the necessary arrangements with the FRS.

Article 3

1 The financial reference amount for the implementation of the projects referred to in Article 1(2) shall be EUR 930 000.

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 Union budget.

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

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

1 The HR shall report to the Council on the implementation of this Decision on the basis of regular reports prepared by the FRS. Those reports shall form the basis for the evaluation carried out by the Council.

2 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 agreements referred to in Article 3(3). However, it shall expire six months after its entry into force if no financing agreement has been concluded by that time.

Done at Brussels, 23 July 2012.

For the Council

The President

C. ASHTON

ANNEX

EU support to ballistic missile non-proliferation in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction and of the Council Common Position 2003/805/CFSP

1. OBJECTIVES

The European Union is a strong promoter of missile non-proliferation (EU Strategy against the Proliferation of Weapons of Mass Destruction of 12 December 2003; Council Common Position 2003/805/CFSP of 17 November 2003 on the universalisation and reinforcement of multilateral agreements in the field of non-proliferation of weapons of mass destruction and means of delivery; Council endorsed "New lines for action by the European Union in combating the proliferation of weapons of mass destruction and their delivery systems" of 8 December 2008; EU support to UNSC resolution 1540 (2004), recalled in UNSC resolution 1977 (2010)).

The Union has strongly supported the Hague Code of Conduct against ballistic missile proliferation ('the Code' or 'HCoC') from its inception and has expressed regular concern over ballistic missile proliferation. The European Union considers the Code as an important multilateral instrument which aims at curbing the proliferation of ballistic missile systems and related technologies through transparency and confidence building measures. All the European Union Member States have subscribed to the Code and are implementing the Code in good faith.

In the past, the Union tried to overcome remaining loopholes in the implementation of the Code and its universality by organising a workshop of subscribing and non-subscribing States to the Code in the margins of the 2007 Annual Meeting.

Encouraged by the outcome of the workshop, the European Union has pursued its initiative and supported three aspects of the Code as follows:

- Universality of the Code;
- Implementation of the Code;
- Enhancement and improved functioning of the Code.

This action was undertaken under Council Decision 2008/974/CFSP of 18 December 2008, which allowed developing several initiatives in support of HCoC including:

- the development of a dedicated secure website;
- the organisation of several side-events aimed at promoting the Code vis-à-vis non-subscribing States in Vienna and New York;
- an awareness raising workshop for African and Middle Eastern Countries in Paris
- a visit by observers to SLV launch site in French Guyana (Kourou);
- preparation of food-for-thought papers.

That Decision contributed to raising awareness about the Code and to its promotion with third countries. It supported Costa Rica, Hungary, France and Romania in their activities as HCoC Chairs. By raising the profile of the HCoC, it facilitated the accession of new members to the Code.

In view of the results achieved, and of the continued proliferation of ballistic missiles capable of delivering WMD which constitute a cause of growing concern for the international community, in particular ongoing missile programmes in the Middle-East, North-East Asia and South Asia, including Iran and the Democratic People's Republic of Korea, the following actions will be carried out:

- supporting the HCoC;
- supporting ballistic missile non-proliferation;

- organising outreach events on HCoC and ballistic missile non-proliferation.

Going beyond the sole promotion of adherence to the Code, this Decision allows deepening the international debate over missile proliferation and engaging new regional areas and new communities.

2. DESCRIPTION OF THE PROJECT

2.1. **Project 1: Support to the HCoC**

2.1.1. *Objective of the project*

The Code represents an important instrument for curbing the proliferation of ballistic missiles and related technologies through confidence-building and transparency measures. However, more needs to be done to support it, in particular with the aim of:

- promoting the universality of the Code, and in particular the subscription to the Code by all States with ballistic missile capabilities;
- supporting the implementation of the Code in all its aspects;
- reinforce the visibility of the Code, in particular on the occasion of the 10th anniversary of its signature.

2.1.2. *Description of the project*

The project provides for three types of activities:

- (a) the preparation and publication of a "welcome package" printed booklet and a CD or USB stick for outreach activities towards non-subscribing States, also recalling obligations for subscribing States. It will also be available online, covering all the necessary information about the Code and the relevant points of contact.
- (b) Supporting the HCoC secure Internet-based information and communication mechanism ("electronic Immediate Central Contact" – e-ICC), including through technical enhancement of the website in close cooperation with the Austrian Ministry of Foreign Affairs.
- (c) Organising of an event for the 10th anniversary of the HCoC. The implementing agency will provide financial support to activities to mark this anniversary. This will primarily take the form of an international conference to be organised during winter 2012-2013 possibly in the Hague, New York or Vienna (to be determined by the High Representative of the Union for Foreign Affairs and Security Policy (HR) in close consultation with Member States in the framework of the competent Council Working Party).

2.1.3. *Expected results of the project*

- Use of the "welcome package" by the HCoC chair, the Austrian Secretariat ("Immediate Central Contact" – ICC), the Union and other partners as necessary in their outreach activities.
- Wide distribution of the "welcome package" during the various events.
- Further developing and upgrading the dedicated HCoC website.
- Raising the international profile of the HCoC by organising an international event on its tenth anniversary.

2.1.4. *Beneficiaries of the project*

The beneficiaries of the project are both States subscribing to the HCoC and non-subscribing States.

2.2. **Project 2: Support To Ballistic Missile Non-Proliferation**

2.2.1. *Purpose of the project*

Beyond the HCoC, the continued proliferation of ballistic missiles capable of delivering WMD constitutes a cause of growing concern for the international community, in particular ongoing missiles programmes in the Middle-East, North-East Asia and South Asia, including Iran and the Democratic People's Republic of Korea.

More generally, the project will support a range of activities to fight against the proliferation of ballistic missiles, aimed in particular at raising awareness of the threat, stepping up efforts to increase the effectiveness of multilateral instruments, building up support to initiatives to address those specific challenges and helping interested countries to reinforce nationally their relevant export control regimes.

2.2.2. *Description of the project*

The project provides for three types of measures:

- (a) The publication of food-for-thought papers. Possible subjects could include:
 - legally-binding measures on short-range and intermediate range ground-to-ground ballistic missiles;
 - further multilateral steps to prevent the threat of missile proliferation and to promote disarmament efforts in the field of ballistic missile, focusing in particular on possible confidence-building measures;
 - export and transit control mechanisms.
- (b) The organisation of three awareness-building sessions about dual-use technology and knowledge transfer issues in order to prevent them in the field of ballistic missiles. The sessions will allow considering both trends in the technology transfer for ballistic missiles and what could be promoted to prevent it at an early stage. To this end, FRS will organise three workshops for experts from scientific, space and industry communities of HCoC subscribing and non-subscribing States.
- (c) Targeted expert missions outside the Union. In coordination with the European Union Centres of Excellence, two experts on ballistic missile non-proliferation will conduct field missions in targeted countries. Possible destinations could include, but are not limited to, Malaysia, the United Arab Emirates, China, Algeria, South Africa, India, Brazil, Thailand and Mexico. The final list of countries will be defined in close cooperation with the EEAS, as well as the opportunity of joint demarches with UN 1540 Committee outreach efforts.

2.2.3. *Expected results of the project*

- Fostering missile non-proliferation;
- Promoting multilateral efforts curbing missile proliferation including the HCoC;
- Encouraging the debate on new initiatives aimed at curbing missile proliferation;
- Raising awareness about dual-use technology and knowledge transfer issues in order to prevent them in the field of ballistic missiles through awareness-building sessions.

2.2.4. *Project beneficiaries*

The Union and the Member States will benefit from the food-for-thought papers; wider distribution will be decided by the HR in close consultation with Member States in the framework of the competent Council Working Party. The final Decision will be based on proposals by the implementing entity in accordance with Article 2(2).

Awareness-building sessions will be an opportunity to engage the wider community of experts on space and missile issues by holding sessions for representatives of the industry, of the research community, and beyond.

Targeted expert missions will focus on key non-subscribing States or on regional players with an important role in technological transfers and space related activities.

2.3. **Project 3: Organise Outreach events on HCoC and Ballistic Missile Non-Proliferation**

2.3.1. *Purpose of the project*

This project will raise awareness of both missile non-proliferation and the HCoC by organising several events aimed at engaging non-subscribing States. To this end, events will be organised in Vienna, Geneva and New York to engage the UN delegations in the margins of relevant events.

2.3.2. *Project description*

The project will provide for two types of events:

- (a) Financing of six outreach events in support of both the HCoC and ballistic missile non-proliferation that will take place in three cities:
- in New York, in the margins of the UN General Assembly First Committee or of the non-Proliferation Treaty Preparatory Committees;
 - in Geneva, in the margins of the Conference on Disarmament;
 - in Vienna, in the margins of the HCoC, COPUOS or other relevant activities of the UN in Vienna.

Those events could take different forms:

- seminars gathering up to 80 participants from UN missions in New York, Geneva and Vienna around a selected group of speakers and European Union officials;
- closed lunches or dinners aimed at engaging senior officials from selected countries around an EU senior representative and experts.

To this end, the implementing entity will propose for each event to the HR a list of countries, some of which will be non-subscribing States. This will allow convening senior representatives that deal with non-proliferation issues.

- (b) Financing of three regional outreach seminars that could take place in Latin America (e.g. Chile, Mexico, Argentina, or Brazil), the Middle East (e.g. the Gulf countries, UAE or Jordan), and Asia (e.g. Singapore or Vietnam). The choice of the location will be made in agreement with the HR, in close consultation with Member States in the framework of the competent Council Working Party. The seminar will be dedicated to trends in missile proliferation and a focus on regional issues and will address the HCoC and practical information about being a subscribing state.

2.3.3. *Expected results of the project*

- Raising awareness of missile proliferation trends and more particularly on the Code of Conduct against ballistic missile proliferation (HCoC) with regard to non-subscribing States and promoting discussions on further efforts to promote missile non-proliferation;
- Fostering debate within and outside the Union on future initiatives;
- Raising the profile of missile proliferation as a strategic challenge.

2.3.4. *Beneficiaries of the project*

The main focus of these events will be non-subscribing States, although subscribing States might be associated with some events for policy reasons. Participants should be primarily governmental experts and senior officials.

The final choice of the beneficiary States will be made in consultation between the implementing entity and the HR in close consultation with Member States in the framework of the competent Council Working Party. The final Decision will be based on proposals by the implementing entity in accordance with Article 2(2).

3. DURATION

The total estimated duration of the implementation of the project is 24 months.

4. IMPLEMENTING ENTITY

The FRS will be entrusted with the technical implementation of the projects.

The implementing entity will prepare:

- (a) quarterly reports on the implementation of the projects;
- (b) a final report not later than one month after the end of the implementation of the projects.

Reports will be sent to the HR.

The FRS will ensure the visibility of the Union contribution, appropriate to its size.

5. THIRD PARTY PARTICIPANTS

The projects will be financed in their entirety by this Decision. Experts from States subscribing to the Code or from non-subscribing States may be considered as third-party participants. They will work in accordance with the standard rules of the FRS.

Status: This is the original version (as it was originally adopted).

- (1) OJ L 302, 20.11.2003, p. 34.
- (2) OJ L 345, 23.12.2008, p. 91.