

Council Decision 2012/711/CFSP of 19 November 2012 on support for Union activities in order to promote, among third countries, the control of arms exports and the principles and criteria of Common Position 2008/944/CFSP

COUNCIL DECISION 2012/711/CFSP

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on support for Union activities in order to promote, among third countries, the control of arms exports and the principles and criteria of Common Position 2008/944/CFSP

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) The European Security Strategy adopted by Heads of State and Government on 12 December 2003 outlines five key challenges to be addressed by the Union in the post-Cold War environment: terrorism, the proliferation of weapons of mass destruction, regional conflicts, State failure, and organised crime. The consequences of the uncontrolled circulation of conventional weapons are central to four of these five challenges. The Strategy underlines the importance of export controls to contain proliferation.
- (2) On 5 June 1998, the Union adopted a politically binding Code of Conduct on Arms Exports, setting common criteria to regulate the legal trade in conventional weapons. The Code was regularly updated.
- (3) The EU Strategy to combat illicit accumulation and trafficking of small arms and light weapons (SALW) and their ammunition, adopted by the European Council on 15 and 16 December 2005, provides that the Union, at regional and international levels, supports the strengthening of export controls and the promotion of the criteria of the Code of Conduct on Arms Exports by, inter alia, helping third countries to draft relevant national legislation and promoting measures to improve transparency.
- (4) The Code of Conduct on Arms Exports was replaced on 8 December 2008 by the legally binding Council Common Position 2008/944/CFSP⁽¹⁾ which provides for common rules governing control of exports of military technology and equipment. Common Position 2008/944/CFSP establishes eight criteria against which applications for export of conventional arms are to be assessed. It also includes a notification and consultation mechanism for arms exports denials, and transparency measures such as the yearly publication of an EU annual report on arms exports.
- (5) In accordance with Article 7 of Common Position 2008/944/CFSP and in order to maximise the effectiveness of the Common Position, Member States have agreed to

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work within the framework of the Common Foreign and Security Policy (CFSP) to reinforce their cooperation and to promote their convergence in the field of exports of military technology and equipment. The principles and criteria of Common Position 2008/944/CFSP have been officially supported by several third countries.

- (6) Article 11 of Common Position 2008/944/CFSP states that Member States have to use their best endeavours to encourage other arms exporting States to apply the criteria contained in that Common Position.
- (7) The Union and its Member States are bound by confidentiality in their information exchange on arms export policy, in particular with beneficiary third countries.
- (8) On 6 December 2006, the United Nations (UN) General Assembly, with the support of all Member States of the European Union, adopted Resolution 61/89, entitled ‘Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms’, thereby formally starting the UN process for the negotiation of an Arms Trade Treaty.
- (9) On 12 January 2010, the UN General Assembly, with the support of all Member States of the European Union, adopted Resolution 64/48, entitled ‘The Arms Trade Treaty’, convening the UN Conference on the Arms Trade Treaty to sit for four consecutive weeks in 2012 to elaborate a legally binding instrument on the highest possible common international standards for the transfer of conventional arms.
- (10) While the UN Conference on the Arms Trade Treaty of July 2012 did not agree on a final text of the Treaty, it nonetheless achieved considerable progress as reflected in the draft of the Treaty text presented by the President of the Conference on 26 July 2012. The Union fully supports the swift completion of negotiations in early 2013 through the convening of a final shorter UN Conference on the Arms Trade Treaty, under the same rules as those followed in the first Conference, to conclude negotiations on the Treaty on the basis of the President’s draft text of 26 July 2012.
- (11) The Council adopted, in 2005, 2006, 2007, 2010 and 2012, conclusions in support of the negotiation of an Arms Trade Treaty, underlining the importance of cooperation in this process with other States and regional organisations.
- (12) On 17 March 2008, the Council adopted Joint Action 2008/230/CFSP on support for EU activities in order to promote the control of arms exports and the principles and criteria of the EU Code of Conduct on Arms Exports among third countries⁽²⁾. In the framework of the Joint Action, a series of four regional seminars was organised for countries in South Eastern Europe, Eastern Europe and Southern Caucasus, and North Africa.
- (13) On 22 December 2009, the Council adopted Decision 2009/1012/CFSP on support for EU activities in order to promote the control of arms exports and the principles and criteria of Common Position 2008/944/CFSP among third countries⁽³⁾. In the framework of Decision 2009/1012/CFSP, a series of five regional seminars was organised for countries in South Eastern Europe, Eastern Europe and Southern Caucasus, and North Africa. Decision 2009/1012/CFSP also provided for the organisation of four study visits for EU candidate countries, hosted by Member States.

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- (14) Over the past years, the Union has been providing assistance to improve export controls of dual-use goods in third countries, in the framework of projects undertaken under EU financial instruments other than the CFSP budget.
- (15) The German Federal Office of Economics and Export Control (hereinafter ‘BAFA’) had been entrusted by the Council with the technical implementation of Decision 2009/1012/CFSP and successfully completed the organisation of all activities foreseen therein in January 2012. BAFA has also been identified as the implementing agency of EU-funded projects on export controls on dual-use goods under the Instrument for Stability. Against this background, the selection of BAFA as the implementing agency of further Union activities in the field of export controls is justified by its proven experience, qualifications and necessary expertise related to the implementation of relevant *acquis* of the Union and its promotion vis-à-vis third countries and will enhance the continuity and overall coherence of Union assistance in this field,

HAS ADOPTED THIS DECISION:

Article 1

- 1 For the purpose of promoting peace and security and in line with the European Security Strategy, the Union shall pursue the following objectives:
- a to promote improved controls on arms exports by third countries in accordance with the principles set out in Common Position 2008/944/CFSP, and seek complementarity and synergies with Union assistance projects in the field of export controls on dual-use goods;
 - b to support third countries’ efforts at national and regional levels to render trade in conventional weapons more responsible and transparent.
- 2 The Union shall pursue the objectives referred to in paragraph 1 through the following project activities:
- a continuing to promote, among third countries, the criteria and principles of Common Position 2008/944/CFSP, based on the achievements reached through the implementation of Decision 2009/1012/CFSP and Joint Action 2008/230/CFSP;
 - b assisting third countries in drafting, updating, and implementing, as appropriate, relevant legislative and administrative measures aiming at establishing an effective system of conventional arms export controls;
 - c assisting countries in the training of licensing and enforcement officers to ensure adequate implementation and enforcement of arms export controls;
 - d promoting transparency and responsibility in international arms trade, including through support to national and regional measures to promote transparency and appropriate scrutiny in the exports of conventional weapons;
 - e encouraging third countries to support the elaboration and implementation of a legally binding Arms Trade Treaty establishing international common standards for the global trade in conventional arms.

A detailed description of the project activities referred to in this paragraph is set out in the Annex.

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Article 2

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

2 The technical implementation of the project activities referred to in Article 1(2) shall be carried out by BAFA.

3 BAFA shall perform its tasks under the responsibility of the High Representative. For this purpose, the High Representative shall enter into necessary arrangements with BAFA.

Article 3

1 The financial reference amount for the implementation of the project activities referred to in Article 1(2) shall be EUR 1 860 000.

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's budget.

3 The Commission shall supervise the proper management of the financial reference amount referred to in paragraph 1. For this purpose, it shall conclude a financing agreement with BAFA. The agreement shall stipulate that BAFA is to ensure the 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 financing agreement.

Article 4

The High Representative shall report to the Council on the implementation of this Decision on the basis of regular reports prepared by BAFA. These reports shall form the basis for the evaluation carried out by the Council. The Commission shall report on the financial aspects of the implementation of the project activities as referred to in Article 1(2).

Article 5

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

It shall expire 24 months after the date of 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, 19 November 2012.

For the Council

The President

C. ASHTON

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ANNEX

PROJECT ACTIVITIES REFERRED TO IN ARTICLE 1(2)

1. Objectives

The objectives of this Decision are to promote improved controls on arms exports by third countries and to support third countries' efforts at national and regional level to render international trade in conventional weapons more responsible and transparent. These objectives shall be pursued in accordance with the principles set in Common Position 2008/944/CFSP and seeking complementarity and synergies with Union's assistance projects in the field of export controls on dual-use goods.

In order to achieve the abovementioned objectives, the Union shall continue to promote the principles and criteria of Common Position 2008/944/CFSP, building on the achievements reached through the implementation of Decision 2009/1012/CFSP and Joint Action 2008/230/CFSP. For this purpose, assistance shall be provided to third countries to draft, update and implement, as appropriate, relevant legislative and administrative measures aiming at establishing an effective system of conventional arms export controls. Support should also be given to the training of licensing and enforcement officers in third countries responsible for the implementation and enforcement of arms export controls, and to national and regional measures to promote transparency and appropriate scrutiny in the exports of conventional weapons.

The objective of rendering international trade in conventional weapons more responsible and transparent will also be pursued through the promotion, vis-à-vis third countries, of the elaboration and implementation of a legally binding Arms Trade Treaty, establishing common international standards for the global trade in conventional arms.

2. Description of project activities

2.1. *Project objective*

To provide technical assistance to a number of interested third countries which have demonstrated a willingness to improve their standards and practices in the field of the control of exports of military technology and equipment, and to align their standards and practices to those agreed and applied by Member States, and laid down in Common Position 2008/944/CFSP and the accompanying User's Guide.

2.2. *Project description*

2.2.1. *Regional workshops*

The project will take the form of up to eight two-day workshops for third countries' state officials, providing training in relevant areas of conventional arms export controls. Participants in the seminar would include third countries' state officials, such as customs and enforcement officers, officers from relevant ministries and enforcing agencies, representatives from national parliaments, and industry and civil society representatives. Training will be imparted by experts from Member States' national administrations, representatives of countries that have aligned themselves with Common Position 2008/944/CFSP, officials of relevant Union institutions, representative of the private sector and civil society.

The workshops may take place in a beneficiary country or in another location to be determined in consultation with the Council Working Group on Conventional Arms Exports (COARM) and the High Representative.

The regional workshops will be organised for the following countries:

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- (a) up to 3 workshops for the countries in South Eastern Europe;
- (b) up to 3 workshops for the Eastern European and Caucasian countries of the European Neighbourhood Policy;
- (c) up to 2 workshops for the North African Mediterranean countries of the European Neighbourhood Policy.

2.2.2. *Staff exchanges*

The project will take the form of a up to of six study visits of government, customs and/or licensing officials to the relevant authorities of Member States and a maximum of eight up to one-month study visits of government and/or licensing officials from Member States to the relevant authorities of beneficiary countries.

2.2.3. *Individual assistance to beneficiary countries*

The project will take the form of up to ten two-day workshops for individual beneficiary countries to which state officials, including government, licensing and enforcement officials from beneficiary countries, will be invited. These events will preferably take place in beneficiary countries and expertise will be imparted by experts from Member States.

2.2.4. *Web-portal to enhance arms export controls in third countries*

The project will consist of the development of a web-portal accessible to Member States and third countries' officials to promote arms export controls in line with the principles and parameters of Common Position 2008/944/CFSP. The Portal will provide beneficiary states with permanent access to technical resources for implementing and enhancing their arms export controls and will facilitate the sharing of relevant information on other Union outreach activities foreseen by this Decision with officials of beneficiary countries that could not directly participate in assistance and outreach activities. It will also provide technical and detailed information on export controls systems in Member States and beneficiary countries to be used as supporting material during assistance activities under this Decision.

The web-portal will be also complemented by a range of activities to enhance the visibility of Union outreach and promote alignment with Common Position 2008/944/CFSP. Such activities will include the publication of regular newsletters and appropriate media campaign.

2.2.5. *Assessment events*

In order to provide a mid-term and final evaluation of the activities under this Decision, with the joint participation of beneficiary countries and Member States, up to two two-day events will be organised in Brussels, in the margins of meetings of the COARM. Up to two representatives of each beneficiary country in charge of arms export control may be invited to attend these meetings.

3. **Coordination with other union assistance projects in the field of export controls**

Based on the experience of previous Union outreach activities in the field of exports controls covering both dual-use goods and conventional arms, maximum synergy and complementarity should be sought in the provision of assistance to third countries, to ensure that Union activities are as effective and coherent as possible. To this end, the possibility should be retained to organise some of the activities referred to in points 2.2.1 to 2.2.4 in conjunction with other activities on dual-use good export controls, financed through Union financial instruments other than CFSP budget. This shall be done in full respect of the legal and financial limitations set for the use of relevant Union financial instruments.

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4. **Beneficiaries**

Beneficiaries of project activities shall include state officials, industry and civil society representatives from the following countries:

- (i) South Eastern European countries (Albania, Bosnia and Herzegovina, Croatia, the FYROM, Montenegro and Serbia);
- (ii) North African Mediterranean countries of the European Neighbourhood Policy (Algeria, Egypt, Libya, Morocco and Tunisia);
- (iii) Eastern European and Caucasian countries of the European Neighbourhood Policy (Armenia, Azerbaijan, Belarus, Georgia, Republic of Moldova and Ukraine).

Specific beneficiary countries for each type of activities provided for in this Council Decision will be selected on the basis of, inter alia, the following criteria:

- commitment of third country to improve its conventional arms export controls and bring them in line with Union standards;
- relevance of the third country to the global arms trade;
- impact of previous Union assistance on national system of conventional arms export of the third country and expected long-term and sustainable impact of further assistance.

The COARM may, upon a proposal from the High Representative, decide to modify the list of beneficiary countries based on appropriate justification.

5. **Impact assessment**

The impact of this Decision should be technically assessed upon completion of the last activities foreseen therein. The impact assessment will be carried out by the High Representative, in cooperation with relevant Council Working Groups and, as appropriate, with the Union Delegations in beneficiary countries and with other relevant stakeholders.

6. **Duration**

The total estimated duration of the project will be 24 months.

7. **Technical implementing entity**

The technical implementation of this Decision will be entrusted to BAFA which will perform its tasks under the responsibility of the High Representative.

8. **Reporting**

BAFA will prepare regular reports, including after the completion of each of the activities. The reports should be submitted to the High Representative no later than six weeks after the completion of relevant activities.

9. **Estimated total cost of the project and union financial contribution**

The total cost of the project is EUR 1 860 000.

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- (1) OJ L 335, 13.12.2008, p. 99.
- (2) OJ L 75, 18.3.2008, p. 81.
- (3) OJ L 348, 29.12.2009, p. 16.

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