

Council Decision 2014/913/CFSP of 15 December 2014 in support of the Hague Code of Conduct and ballistic missile non-proliferation in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction

COUNCIL DECISION 2014/913/CFSP

of 15 December 2014

in support of the Hague Code of Conduct and ballistic missile non-proliferation in the framework of the implementation 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 Article 26(2) thereof,

Whereas:

- (1) On 12 December 2003, the European Council adopted the EU Strategy against the Proliferation of Weapons of Mass Destruction ('the Strategy'), Chapter III of which contains a list of measures that need to be taken both within the Union and in third countries to combat such proliferation.
- (2) The EU is actively implementing the 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') and the Missile Technology Control Regime ('MTCR') are integral parts of that multilateral non-proliferation system. The Code and the MTCR aim to prevent and curb the proliferation of ballistic missile systems capable of delivering weapons of mass destruction ('WMD') and related technologies.
- (3) On 17 November 2003, the Council adopted Common Position 2003/805/CFSP<sup>(1)</sup>. 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'. The document states, inter alia, 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 Common Foreign 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.

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- (5) On 18 December 2008, the Council adopted Decision 2008/974/CFSP<sup>(2)</sup> in support of the Code in the framework of the implementation of the Strategy.
- (6) On 23 July 2012, the Council adopted Decision 2012/423/CFSP<sup>(3)</sup>. That Decision has allowed the successful promotion of the universality of the Code and compliance with its principles. It is a priority of the Union to continue 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 Decision should contribute to this process.
- (7) More generally, 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-East Asia, including Iran, Syria and the Democratic People's Republic of Korea ('DPRK').
- (8) The UN Security Council emphasised in 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 UNSCRs 1929 (2010) and 1718 (2006), based inter alia on UNSC resolutions 1540 (2004), 1977 (2011) and 1887 (2009), that Iran and the DPRK 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 and DPRK related to such activities.
- (9) This Decision should serve, more generally, to support a range of activities aimed to fight against 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 Strategy, as referred to in the Annex, the Union shall:

- a support activities in support of the Code and the MTCR, in particular with the aim to:
  - (i) promote the universality, and in particular the subscription to the Code by all States with ballistic missile capabilities;
  - (ii) support the implementation and reinforcing the visibility of the Code;
  - (iii) promote adherence to the MTCR guidelines and the Annex thereto;
- 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

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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:
  - (i) prepare and publish a ‘welcome package’ for outreach activities towards non-subscribing States, also recalling obligations for subscribing States;
  - (ii) organise outreach side events in Vienna in the margins of the HCoC annual meeting of subscribing States;
  - (iii) organise outreach side events in support of the HCoC in the margins of the UN General Assembly First Committee meetings;
  - (iv) organise up to three regional outreach seminars based on EU priorities (possibly Asia, Gulf countries and Latin America);
  - (v) encourage subscribing and non-subscribing States' representatives from developing countries to attend the HCoC Annual meetings and outreach seminars;
  - (vi) organise 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;
  - (vii) support the coordination of HCoC promotion efforts with the activities of the UN 1540 Committee, including through financing the participation of HCoC experts into the 1540 Committee country visits;
  - (viii) support the HCoC secure internet-based information and communication mechanism (e-ICC), including through technical enhancement of the website;
- b activities in support of ballistic missile non-proliferation in general:
  - (i) organise 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 or the Non-Proliferation Treaty Preparatory committees;
  - (ii) organise up to three regional seminars to raise awareness on ballistic missile proliferation and encourage discussions on perspectives to better address the ballistic missile proliferation threat at a regional level, possibly linked with other EU outreach activities on HCoC; in association with the States concerned, seminars could take place in Asia, the Gulf region and Latin America;
  - (iii) provide four 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 and exploring the possibility to adopt 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;

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- (iv) in order to prevent dual-use technology and knowledge transfer at an early stage, organise up to three awareness-building sessions for experts, especially from the scientific and/or space communities and the industry;
- (v) encourage access of academics from developing countries working on missile non-proliferation to projects of the EU Centres of Excellence;
- (vi) in coordination with the EU Centres of Excellence, organise targeted expert missions in third countries 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;
- (vii) support experts training on ballistic missiles non-proliferation, through participation in EU programmes such as that of the European Security and Defence College or in programmes of the Member States of the Union ('Member States').

A detailed description of the 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.

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 990 000.

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 FRS. The agreement shall stipulate that the FRS is to ensure visibility of the EU 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*

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).

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*Article 5*

- 1 This Decision shall enter into force on the day of its adoption.
- 2 This Decision shall expire 30 months after the date of the conclusion of the financing agreement 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, 15 December 2014.

*For the Council*

*The President*

F. MOGHERINI

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## ANNEX

### 1. OBJECTIVES

The Union is a strong promoter of missile non-proliferation. Its efforts in this regard include the Strategy and Common Position 2003/805/CFSP. In addition, the Council has endorsed 'New lines for action by the European Union in combating the proliferation of weapons of mass destruction and their delivery systems', and the EU supported UNSC Resolution 1540 (2004), which has since been recalled in UNSC resolution 1977 (2010).

The Union considers the MTCR an important multilateral instrument which aims at curbing the proliferation of ballistic missile systems and related technologies and know-how through the establishment and the implementation of export control regulations on sensitive materials. 19 Member States are members of the MTCR and all Member States are implementing the MTCR export control list through Council Regulation (EC) No 428/2009<sup>(4)</sup>.

The Union has also strongly supported the Code from its inception and has expressed regular concern over ballistic missile proliferation. The Union considers the Code as a central transparency and confidence building measure. All Member States have subscribed to the Code and are implementing the Code in good faith.

In the past, the Union tried to overcome the remaining loopholes in the implementation of the Code and in its universality by organising workshops, expert meetings and regional awareness seminars. Those activities, which have been organised under Decision 2008/974/CFSP and implemented by the FRS, have proved their efficiency and relevance.

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

- (a) universality of the Code;
- (b) implementation of the Code;
- (c) enhancement and improved functioning of the Code.

This action was undertaken under Decision 2012/423/CFSP, which allowed the development of several initiatives in support of HCoC including:

- (a) the development of a dedicated secure website;
- (b) the organisation of several side-events aimed at promoting the Code vis-à-vis non-subscribing States in Vienna, Geneva and New York;
- (c) awareness raising workshop for African and Middle Eastern Countries in Paris;
- (d) regional seminars in Singapore, Abu Dhabi and Lima;
- (e) preparation of food-for-thought papers.

Decision 2012/423/CFSP has contributed to raising awareness about the Code and to its promotion vis-à-vis third countries. Through that Decision, the Union has supported Costa Rica, France, Hungary, Japan, Peru and Romania in their activities as HCoC Chairs. By raising the profile of the HCoC, it has facilitated the adherence 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,

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in particular ongoing missile programmes in the Middle-East, North-East Asia and South-East Asia, including Iran and the DPRK, the following actions will be carried out:

- (a) project 1, information and communication;
- (b) project 2, strengthening the ballistic missile non-proliferation;
- (c) project 3, universalisation of the HCoC — Outreach activities;

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

## 2. DESCRIPTION OF THE PROJECT

### 2.1. Project 1: Information and Communication

#### 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:

- (a) promoting the universality of the Code, and in particular the subscription to the Code by all States with ballistic missile and space capabilities;
- (b) supporting the implementation of the Code in all its aspects;
- (c) reinforcing the visibility of the Code.

#### 2.1.2. Description of the project

The project provides for three types of activities:

- (a) preparing, designing, printing and distributing up to 1 500 leaflets describing Union support for the Code. The leaflet will also include:
  - (i) a description of the HCoC;
  - (ii) the objectives of the HCoC;
  - (iii) a description of the annual declarations, the pre-launch notifications and the voluntary observation visits;
  - (iv) the European strategy towards the HCoC and the proliferation of WMD means of delivery;
  - (v) demarches to be fulfilled in order to subscribe to the Code;
  - (vi) contact details for non-subscribing States;
- (b) preparing, designing, printing and distributing up to 1 000 'welcome package' printed booklets and a 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. The 'welcome package' will include the leaflet described in point (a);
- (c) supporting and updating the HCoC secure Internet-based information and communication mechanism ('electronic Immediate Central Contact' — e-ICC),

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including through technical enhancement of the website in close cooperation with the Austrian Federal Ministry of Foreign Affairs.

#### 2.1.3. Expected results of the project/indicators

- (a) through wide distribution of the ‘welcome package’ during the various events, greater awareness achieved amongst partners of the value added of the HCoC, and of the role of the Union;
- (b) more secure HCoC website enables improved exchange of relevant information amongst partners;
- (c) 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.

#### 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: strengthening the ballistic missile non-proliferation

#### 2.2.1. Purpose of the project

The continued proliferation and operational use 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-East Asia, including Iran and the DPRK.

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 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 publication of two food-for-thought papers per year (4 for the duration of the project). Possible subjects could include:

- (a) the use of the existing WMD free zones as an example and a potential framework for further initiatives banning ballistic missiles;
- (b) 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;
- (c) export and transit control mechanisms;
- (d) the role of Intangible Transfer of Technology (ITT) in the area of ballistic missiles.

#### 2.2.3. Expected results of the project/indicators

- (a) Promoting multilateral efforts curbing missile proliferation including the HCoC and the MTCR increases the EU influence in the field of missile non-proliferation;
- (b) encouraging the debate on new initiatives to strengthen the Code and the MTCR and open the door for further initiatives;



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- (c) fostering missile non-proliferation;
- (d) at least 4 food-for-thought papers to be published;
- (e) raising awareness about dual-use technology and knowledge transfer issues prevents unintentional transfer among Member States and increase global awareness of export control mechanism.

#### 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) of this Decision.

#### 2.3. Project 3: Universalisation of the HCoC — Outreach activities

##### 2.3.1. Purpose of the project

The 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 and New York to engage the UN delegations in the margins of relevant events.

##### 2.3.2. Project description

The project will provide for three types of events:

- (a) Financing of four outreach events (2 in each city) in support of both the HCoC and ballistic missile non-proliferation that will take place in two cities:
  - (i) in New York, in the margins of the UN General Assembly First Committee meetings or of the non-Proliferation Treaty Preparatory Committees meetings;
  - (ii) in Vienna, in the margins of the HCoC or other relevant activities of the UN in Vienna.

Regarding the organisation of the seminars:

- (i) each seminar will last half a day and will gather up to 80 participants from UN missions in New York and Vienna around a selected group of speakers and EU officials;
- (ii) up to 6 speakers will be invited;
- (iii) the HCoC acting Chair will be invited;
- (iv) restricted lunches or dinners aimed at engaging senior officials from selected countries led by an EU senior representative and experts will be organised and funded under this Decision.

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

- (b) Financing of three regional outreach seminars that could take place in Latin America (e.g. Argentina, Brazil, Chile, Mexico or a non-member in the Caribbean region), the Middle East (e.g. the Gulf countries, Bahrain, Qatar or Saudi Arabia) and Asia (e.g. Indonesia or Vietnam). The choice of the location will be made in agreement with

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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. Subscribing States of the region will be invited at governmental level in order to share their experience with non-subscribing States. The HCoC acting Chair will also be invited to deliver a statement and chair the session. The attendance could include officials, diplomats, military staff, international organisation representatives, EU representatives, academics, etc.

Regarding the organisation of the seminars:

- (i) each seminar will last one day;
  - (ii) up to 50 persons could be invited to attend;
  - (iii) the HCoC acting Chair will be invited to deliver a statement.
- (c) Up to 10 targeted expert missions for non-subscribing States. They will mainly target the relevant industries, scientific community, export control experts and civil society representatives. In coordination with the European Union Centres of Excellence, two experts on ballistic missile non-proliferation from the implementing agency and an EU expert will conduct field missions in targeted countries. Possible destinations could include, but are not limited to Algeria, Bahrain, Bolivia, Brazil, China, Egypt, India, Indonesia, Israel, Malaysia, Mexico, Qatar, Saudi Arabia, South Africa and Thailand. The final list of countries will be decided in close cooperation with the HR, as well as the opportunity of joint demarches with the UN 1540 Committee outreach efforts. The attendance could include officials, diplomats, military staff, academics, industry, researchers, etc. from the visited country. Priority will be given to officials and political deciders, diplomats, relevant military staff, etc.

Regarding the organisation of the seminars:

- (i) each seminar will last one day;
- (ii) up to 25 persons could be invited;
- (iii) 3 experts will be invited;
- (iv) the HCoC acting Chair will be invited.

### 2.3.3. Expected results of the project/ indicators

- (a) At least 4 outreach events to be organised in New York and Vienna;
- (b) the 3 regional events have gathered an important diplomatic and academic community and allowed new perspectives on adhesions;
- (c) 10 expert's missions were conducted in order to enhance the universalisation of the HCoC. Those missions have gathered at least 20 decision-makers and officials and increased the level of commitment from the officials and decision-makers in the visited countries;
- (d) raising awareness of missile proliferation trends and more particularly on the Code with regard to non-subscribing States promote discussions on further efforts to curb missile proliferation;
- (e) the project fosters the debate within and outside the Union on future initiatives;

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(f) the project raises 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.

### 3. DURATION

The total estimated duration of the implementation of the projects is 30 months.

### 4. IMPLEMENTING ENTITY

- (a) The FRS will be entrusted with the technical implementation of the projects;
- (b) co-funding will depend on the FRS;
- (c) the implementing entity will prepare:
  - (i) quarterly reports on the implementation of the projects;
  - (ii) a final report not later than one month after the end of the implementation of the projects;
- (d) reports will be sent to the HR;
- (e) 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 under 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.

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- (1) 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 (OJ L 302, 20.11.2003, p. 34).
- (2) Council Decision 2008/974/CFSP of 18 December 2008 in support of the Hague Code of Conduct against Ballistic Missile Proliferation in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction (OJ L 345, 23.12.2008, p. 91).
- (3) 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 (OJ L 196, 24.7.2012, p. 74).
- (4) Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (OJ L 134, 29.5.2009, p. 1).

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