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COUNCIL DECISION (CFSP) 2018/101

of 22 January 2018

on the promotion of effective arms export controls

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COUNCIL DECISION (CFSP) 2018/101

of 22 January 2018

on the promotion of effective arms export controls

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) promoting effective controls on arms exports by third countries, in accordance with the principles set out in Common Position 2008/944/CFSP and in the ATT, and seeking, where appropriate, complementarity and synergies with Union assistance projects in the field of export controls on dual-use goods;

(b) supporting third countries' efforts at national and regional levels to render trade in conventional weapons more responsible and transparent, and to mitigate the risk of the diversion of arms to unauthorised users.

2. The Union shall pursue the objectives referred to in paragraph 1 through the following project activities:

(a) further promoting, among third countries, the criteria and principles set out in Common Position 2008/944/CFSP and in the ATT, based on the achievements reached through the implementation of Decision (CFSP) 2015/2309, Decisions 2012/711/CFSP and 2009/1012/CFSP, and Joint Action 2008/230/CFSP;

(b) assisting third countries in the drafting, updating and implementing, as appropriate, of relevant legislative and administrative measures which aim to establish an effective system of conventional arms export controls;

(c) assisting beneficiary countries in the training of licensing and enforcement officers to ensure the adequate implementation and enforcement of arms export controls;

(d) assisting beneficiary countries in outreach to their national arms industries to ensure compliance with export control regulations;

(e) promoting transparency and responsibility in the international arms trade, including through support for national and regional measures that promote transparency and appropriate scrutiny in the export of conventional weapons;

(f) encouraging those beneficiary countries that have not taken any steps towards accession to the ATT to join the ATT, and to encourage signatories of the ATT to ratify it;

(g) promoting further consideration of the risks of the diversion of arms and the mitigation thereof, both from the importing and exporting perspectives.

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 ('High Representative') shall be responsible for the implementation of this Decision.

2. The implementation of the project activities referred to in Article 1(2) shall be carried out by the German Federal Office for Economic Affairs and Export Control ('BAFA'). The selection of BAFA is justified by its proven experience, qualifications and necessary expertise over the full range of relevant Union arms export control activities

3. BAFA shall perform its tasks under the responsibility of the High Representative. For that purpose, the High Representative shall enter into the 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 1 304 107,28.

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 that purpose, it shall conclude a financing agreement with BAFA. The financing agreement shall stipulate that BAFA is to ensure the visibility of the Union's 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. Those 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).

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Article 5

This Decision shall enter into force on the date of its adoption and shall expire on 30 November 2020.

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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 transfers by third countries and to support third countries' efforts, at national and regional levels, to render international trade in conventional weapons more responsible and transparent, and to mitigate the risk of the diversion of arms to unauthorised users. Where relevant, those objectives should include the promotion of the principles and criteria set out in Common Position 2008/944/CFSP and in the ATT. Those objectives should be pursued in seeking, where appropriate, complementarity and synergies with the Union's assistance projects in the field of export controls on dual-use goods.

In order to achieve the above-mentioned objectives, the Union should continue to promote the standards of Common Position 2008/944/CFSP, building on the achievements reached through the implementation of Decision (CFSP) 2015/2309, Decisions 2012/711/CFSP and 2009/1012/CFSP, and Joint Action 2008/230/CFSP. For that purpose, assistance should be provided to beneficiary third countries for the drafting, updating and implementation, as appropriate, of relevant legislative and administrative measures that support an effective system of conventional arms transfer controls. Support should also be provided regarding the assessment and mitigation of the risk of arms diversion.

Support should also be given to the training of licensing and enforcement officers responsible for the implementation and enforcement of arms transfer controls, and to national and regional measures promoting transparency and appropriate scrutiny over exports of conventional weapons. Furthermore, contacts with the private sector and compliance with relevant national legal and administrative provisions that regulate the transfer of arms should be promoted.

2. **Selection of the implementing agency**

The implementation of this Council Decision is entrusted to BAFA. Where appropriate, BAFA will partner with Member States' export control agencies, relevant regional and international organisations, think tanks, research institutes and NGOs.

BAFA has leading experience in the provision of export control assistance and outreach activities. It has developed such experience in all the relevant fields of strategic export control, addressing the CBRN-related, dual-use goods and arms areas. Through those programmes and activities, BAFA has gained in-depth knowledge of the export control systems of most of the countries covered by the present Decision.

With regard to arms export control assistance and outreach, BAFA successfully completed the implementation of Decisions 2009/1012/CFSP and 2012/711/CFSP and Decision (CFSP) 2015/2309. BAFA is also in charge of the technical implementation of the ATT implementation support programme established by Decision 2013/768/CFSP and Decision (CFSP) 2017/915.

The overall effect is that BAFA is uniquely placed to identify the strengths and weaknesses of the export control systems of countries that will be the beneficiaries of the activities provided for in this Decision. It is thus most able to facilitate synergies between the various arms export control assistance and outreach programmes and to avoid duplication.

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, synergy and complementarity should be sought. To that end, the activities referred to in

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points 5.2.1 to 5.2.3 and 5.2.5 should be carried out, where appropriate, in conjunction with other activities financed through the CFSP budget, in particular those activities provided for under Decision (CFSP) 2017/915, or with other activities relating to dual-use goods export controls financed through Union financial instruments other than the CFSP budget. In particular, back-to-back events should be explored. This should be done in full compliance with the legal and financial limitations set for the use of relevant Union financial instruments.

4. **Coordination with other donors' assistance projects in the field of export controls**

Where appropriate, synergy and complementarity with other donors' assistance projects in the field of export controls should also be sought. As mentioned in point 3, the coordination with other donors should be carried out especially for the activities referred to in points 5.2.1 to 5.2.3 and 5.2.5. The reference in point 3 with regard to back-to-back planning remains valid.

5. **Description of project activities**

5.1. *Project objectives*

The main objective is to provide technical assistance to a number of beneficiary countries which have demonstrated their willingness to develop their standards and practices regarding arms export control. To do so, the activities to be undertaken will take into account the status of the beneficiary countries, in particular regarding:

— the possible membership of, or application for membership of, international export control regimes relating to the transfer of conventional arms and dual-use goods and technologies,

— the candidatures for membership of the Union and whether the beneficiary countries are official candidates or potential candidates,

— the position regarding the ATT.

Where the beneficiary countries addressed are only signatories to the ATT, the activities should — where feasible — seek to ascertain better what the obstacles to ATT ratification are, in particular where those obstacles are of a juridical or regulatory nature and are related to gaps or needs in implementation capacities. Where relevant, possible Union support under Decision (CFSP) 2017/915 should be promoted. Where the countries addressed have taken no steps towards the Treaty (neither signature, ratification, nor accession), the activities should promote accession to the ATT, possibly with the support of other beneficiary countries that have ratified the ATT.

Another complementary objective is to sensitise a number of third countries to arms diversion risk-assessment and diversion mitigation, both from the exporting and importing perspectives.

5.2. *Project description*

5.2.1. Regional workshops

The project will take the form of up to eight 2-day workshops, providing training in relevant areas of conventional arms export controls.

The participants in the workshop (up to 35) would include government officials of the beneficiary countries covered. Representatives from national parliaments and industry and civil society representatives may also be invited, where appropriate.

Training will be conducted by experts from Member States' national administrations (including former officials), representatives of countries that have aligned themselves with Common Position 2008/944/CFSP, and representatives of the private sector and civil society.

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

The regional workshops will be organised as follows:

(a) up to two workshops for the countries in South-Eastern Europe; Eastern European and Caucasian countries of the European Neighbourhood Policy and Turkey will be invited to at least one of the workshops;

(b) up to two workshops for the Eastern European and Caucasian countries of the European Neighbourhood Policy; South-Eastern Europe countries and Turkey will be invited to at least one of those workshops;

(c) up to two workshops for the North African Mediterranean countries of the European Neighbourhood Policy; Southern Neighbourhood countries of the European Neighbourhood Policy will be invited to at least one of the workshops;

(d) up to two workshops for Central Asia; Eastern European and Caucasian countries of the European Neighbourhood Policy will be invited to at least one of the workshops.

This regional breakdown of two workshops per region may not be achieved if circumstances are not propitious (for example if the number of participants is unexpectedly too low, if there is no serious offer to host by any beneficiary country of the region, or if there is duplication with other activities of other outreach providers). In the event that one or more workshop is not implemented, the number of workshops for the other abovementioned region(s) could be increased accordingly, within the global ceiling of eight workshops.

5.2.2. Study visits

The project will take the form of up to four 2-day study visits of government officials to the relevant authorities of Member States.

Study visits should cover between two and four beneficiary countries. Beneficiary countries of the study visits need not necessarily come from the same region.

The project will also take the form of up to three 2-day study visits of government, customs and/or licensing officials of beneficiary countries to the relevant authorities of other beneficiary countries.

5.2.3. Individual assistance to beneficiary countries

The project will take the form of workshops of no more than 10 days' duration in total for individual beneficiary countries which request one, in which state officials from the beneficiary countries, including government, licensing and enforcement officials, will participate. These events will preferably take place in the respective beneficiary countries. Depending on the exact needs and availability of the beneficiary countries' and EU Member States' experts, the overall 10 days available will be allocated with a minimum 2-day format.

Experts from Member States' national administrations (including former officials), representatives of countries that have aligned themselves with Common Position 2008/944/CFSP, and representatives of the private sector and civil society will share their expertise.

Those individual assistance workshops will be mainly held at the request of the beneficiary countries. They are intended to address a specific issue or a specific need raised by the beneficiary country, for example, in the margins of a regional workshop or during regular contacts with EU experts and with BAFA.

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5.2.4. Experts' meeting

The project will take the form of a 1-day experts' meeting in Brussels dedicated to government officials, including government, licensing and enforcement officials from beneficiary countries belonging to the SEE region. The meeting will take place in the margins of the meetings of COARM.

5.2.5. Assessment events

In order to provide a mid-term and a final assessment of the activities under this Decision, two experts meetings will be organised in Brussels, ideally back-to-back with a regular COARM meeting.

The mid-term assessment event will take the form of a workshop with the participation of EU Member States, which may last up to 1 day.

The final assessment event will take the form of a 2-day event in Brussels with the participation of beneficiary countries and EU Member States.

Up to two representatives (appropriate government officials) of each beneficiary country will be invited to the final assessment event.

6. **Beneficiaries**

6.1. *Countries beneficiary of activities under this Council Decision*

(i) South Eastern European countries (Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Montenegro, Serbia and Kosovo (under UNSCR/1244/99 ([1]));

(ii) North African Mediterranean countries of the European Neighbourhood Policy (Algeria, Egypt, Morocco and Tunisia);

(iii) Eastern European and Caucasian countries of the European Neighbourhood Policy (Armenia, Azerbaijan, Belarus, Georgia, Republic of Moldova and Ukraine);

(iv) Central Asian countries (Kazakhstan, Tajikistan, Uzbekistan, Kyrgyzstan, Turkmenistan);

(v) Southern Neighbourhood countries of the European Neighbourhood Policy (Jordan and Lebanon);

(vi) Turkey.

6.2. *Amendment to the scope of beneficiary countries*

The COARM Working Party may, upon a proposal from the High Representative, decide to modify the list of beneficiary countries based on an appropriate justification. Modifications should be communicated in a formal manner between BAFA and the EU.

7. **Project results and implementation indicators**

In addition to the final assessment event referred to in 5.2.5, the assessment of the results of the project will take into account the following:

7.1. *Individual assessment of beneficiary countries*

On completion of the activities foreseen, BAFA shall provide the EEAS and the Commission with a progress report on each of the beneficiary countries referred to in 6.1. That report will be prepared in liaison with the EU Delegations in the countries concerned and will recap the activities that took place in the beneficiary

([1]) This designation is without prejudice to positions on status, and is in line with UNSCR 1244 (1999) and the ICJ Opinion on the Kosovo Declaration of Independence.

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country over the duration of the Decision. The report will also assess the beneficiary country's capacity in the area of arms transfer controls. Where the beneficiary country is party to the ATT, the assessment will assess how the capacity in place enables that country to implement the ATT.

7.2. *Impact assessment and implementation indicators*

The impact of activities provided for by this Decision for the beneficiary countries should be assessed after the activities have been carried out. The impact assessment will be carried out by the High Representative, in cooperation with COARM and, as appropriate, with the EU Delegations in the beneficiary countries, as well as with other relevant stakeholders.

For that purpose, the following indicators will be used:

— whether relevant national regulations on arms transfer controls are in place and whether/to which extent they meet the provisions of the Common Position 2008/944/CFSP (inter alia, application of the assessment criteria, implementation of the EU common military list, reporting),

— where available, information on enforcement cases,

— whether the beneficiary countries are able to report arms exports and/or imports (e.g. UN Register, ATT annual reporting, Wassenaar Arrangement, OSCE, national reports),

— whether the beneficiary country has aligned, or intends to officially align, with Common Position 2008/944/CFSP.

The individual assessment reports under 7.1 should refer to those implementation indicators as appropriate.

8. **Promoting the use of the EU outreach web portal** [1]

The EU P2P web portal provided for in Decision 2012/711/CFSP has been developed as a Union-owned resource. It operates as a joint platform for all the Union outreach programmes (dual-use, arms). The activities listed under 5.2.1 to 5.2.5 are to raise the awareness of the Union outreach web portal and to promote its use. Participants in outreach activities should be informed about the private part of the web portal that offers permanent access to resources, documents and contacts. Likewise, the use of the web portal should be promoted to other officials who are not able to participate directly in assistance and outreach activities. Furthermore, activities should be promoted through the EU P2P Newsletter.

9. **EU visibility**

BAFA shall take all appropriate measures to publicise the fact that the action is funded by the European Union. Such measures will be implemented in accordance with the communication and visibility manual for Union external actions published by the European Commission. BAFA will thus ensure the visibility of the Union contribution with appropriate branding and publicity, highlighting the role of the Union and raising awareness of the reasons for the Decision, as well as Union support for the Decision and the results of that support. Material produced by the project will prominently display the Union flag in accordance with Union relevant guidelines, including the logo ‘EU P2P export control programme’. Union Delegations should be involved in events in third countries to enhance political follow-up and visibility.

Given that planned activities vary greatly in scope and character, a range of promotional tools will be used, including traditional media, website, social media, information and promotional materials (including infographics, leaflets,

[1] https://export-control.jrc.ec.europa.eu/

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newsletters, press releases and others as appropriate). Publications and public events, procured under the project will be branded accordingly.

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10. **Duration**

The project will end on 30 November 2020.

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11. **Reporting**

BAFA shall prepare 6-monthly reports, including after the completion of each of the activities. The reports shall be submitted to the High Representative no later than 6 weeks after the completion of relevant activities.

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

The total estimated cost of the project is EUR 1 451 597,28 with co-financing from the Government of the Federal Republic of Germany. The total estimated cost of the EU-financed project is EUR 1 304 107,28.