COUNCIL DECISION (CFSP) 2018/1249

of 18 September 2018

on a European Union action in support of the United Nations Verification and Inspection Mechanism in Yemen

THE COUNCIL OF THE EUROPEAN UNION,

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

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

Whereas:

(1) On 14 April 2015, the United Nations Security Council adopted Resolution (UNSCR) 2216 (2015), which imposed an embargo on the supply, sale or transfer of arms and related materiel of all types to Ali Abdullah Saleh, the former President of Yemen, and certain other persons, as well as other persons and entities to be designated by the relevant Security Council Sanctions Committee.

(2) Pursuant to a request by the Government of Yemen of 6 August 2015, and in accordance with UNSCR 2216 (2015), the Secretary General of the United Nations, by a letter to the Government of Yemen dated 11 August 2015, agreed to institute a United Nations (UN) verification and inspection mechanism ('UNVIM') with the aim of facilitating the unimpeded flow of commercial items to Yemen and to revive the economy of the country.

(3) On 5 May 2016, UNVIM became operational. The United Nations Office for Project Services (UNOPS) operationalises and manages UNVIM on behalf of the UN Office for Coordination of Humanitarian Affairs (UN OCHA), the Government of Yemen, and the UN Member States concerned.

(4) On 3 April 2017, the Council stressed the importance of ensuring the effective and timely processing for commercial shipping to Yemen and expressed its full support to the continuation of UNVIM and the full and unhindered implementation of its mandate. The Council also called for the full implementation of the targeted arms embargo imposed by the UN Security Council, and, in this regard, reiterated the strict application of the rules set out in Council Common Position 2008/944/CFSP ([1]).

(5) On 27 December 2017, UNVIM made a proposal aiming at strengthening and expanding its activities for a further one year period until March 2019, in particular by further accelerating the clearance process of commercial shipments, and by increasing its ability to deploy additional personnel and resources in the ports concerned. This reinforcement requires support to increase UNVIM's staff and acquire additional inspection equipment. The Union should contribute financially to such support.

(6) On 25 June 2018, the Council stressed the importance of ensuring effective and timely processing for commercial shipping in the ports concerned, including fuel, and expressed its full support to the continuation of UNVIM and the full and unhindered implementation of its mandate, and decided to consider a reinforcement of UNVIM.

(7) The technical implementation of this Decision should be entrusted to UNOPS. The Union's contribution to UNVIM will be instrumental in enabling UNVIM to continue fulfilling its tasks of monitoring and inspection services that ensure that commercial cargos entering Yemen territorial waters are compliant with UNSCR 2216 (2015). Should UNVIM's mandate or needs change in a way that questions the adequacy or relevance of the project in achieving its objectives, the Union contribution will have to be reassessed accordingly.

(8) The supervision of the proper implementation of the Union's financial contribution should be entrusted to the Commission,

([1]) Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment (OJ L 335, 13.12.2008, p. 99).

HAS ADOPTED THIS DECISION:

Article 1

1. The Union shall support UNVIM with the overall objective of contributing to the restoration of the unimpeded free flow of commercial items to Yemen through the provision of a transparent and effective clearance process for commercial shipments destined for Yemeni ports which are not under the control of the Government of Yemen.

2. The specific objectives of this project are as follows:

— to increase the flow of commercial cargo to Yemen by accelerating further the clearance process of commercial shipments and restoring the confidence of shipping companies as regards the accessibility of the port of Hodeydah and Saleef,

— to increase UNVIM's ability to deploy additional personnel and resources in Djibouti, King Abdullah Port (KSA), Salalah and Sohar (Oman) and Dubai (UAE) ports as well as its capability to respond in case UNVIM is given additional responsibilities in the Hodeydah port during the duration of the project.

3. The Union shall contribute through this Decision to costs associated with the reinforcement of UNVIM and thereby also helping to respond to the needs of the Yemeni population as part of a broader humanitarian strategy.

A detailed description of the activities of the project 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. The technical implementation of the activities referred to in Article 1 shall be entrusted to UNOPS. It shall perform this task under the responsibility of the HR. For this purpose, the HR shall enter into the necessary arrangements with UNOPS.

Article 3

1. The financial reference amount for the implementation of the project referred to in Article 1(2) shall be EUR 4 915 504,24.

2. The amount intended to cover the period of six months following the conclusion of the financing agreement referred to in paragraph 4 of this Article shall be EUR 2 748 472,96. The remaining amount of EUR 2 167 031,28 shall be used if the Council so decides, following the review referred to in Article 5(2).

3. 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.

4. 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 UNOPS. The financing agreement shall stipulate that UNOPS is to ensure visibility of the Union's contribution.

5. The Commission shall endeavour to conclude the financing agreement referred to in paragraph 4 as soon as possible after 18 September 2018. 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 UNVIM, including on the monthly UNVIM's Steering Committee meetings. Those reports shall form the basis for the evaluation by the Council.

2. The Commission shall provide the Council with information on the financial aspects of the implementation of the project referred to in Article 1.

Article 5

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

2. The Council shall review this Decision five months after the date of the conclusion of the financing agreement referred to in Article 3(4).

3. This Decision shall expire 12 months after the date of the conclusion of the financing agreement between the Commission and UNOPS referred to in Article 3(4). However, it shall expire six months after its entry into force if no financing agreement has been concluded by that time.

Done at Brussels, 18 September 2018.

For the Council
The President
G. BLÜMEL

ANNEX

1. **Background**

(a) The current conflict in Yemen has resulted in a widespread humanitarian crisis, and has left approximately 75 % of the population (22,2 million people) in need of assistance. The impediments on commercial imports to Yemen have led to a severe lack of basic items, a surge in the prices of available goods, an increase of the black market and of smuggling networks.

In order to address the dire humanitarian situation in Yemen, the continuation of regular commercial cargo flows into the country is essential. UN Security Council resolution 2216 (2015) mandates UN Member States to take necessary measures to prevent the direct or indirect supply, sale or transfer from or through their territories or by their nationals, or using their flag vessels or aircraft, of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the abovementioned, to certain individuals and entities to be designated by the Committee set up pursuant to that resolution. In order to facilitate the unimpeded flow of commercial items to Yemen, the UN has been requested by the Government of Yemen to provide a monitoring and inspection service that ensures that commercial cargo entering Yemen's territorial waters is compliant with UNSCR 2216 (2015).

In December 2015, the United Nations Office for Project Services (UNOPS) was requested to operationalise and manage a mechanism to oversee the monitoring and inspection services on behalf of the UN Office for Coordination of Humanitarian Affairs (UN OCHA), the Government of Yemen, and the UN Member States concerned in order to facilitate the unimpeded flow of commercial items to areas of Yemen not under the control of the Government of Yemen. UNVIM became operational on 5 May 2016.

Following the November 2017 restrictions imposed by the Coalition on shipping to the north of Yemen, UNVIM conducted discussions with donors and external partners, as well as with the Coalition. The proposal for UNVIM's extension from April 2018 to March 2019 reflected the content of these discussions on strengthening its capacity, allaying concerns regarding the smuggling of weapons on board commercial vessels and reducing delays to commercial shipping.

UNVIM operates currently in Djibouti with 4 Monitors, 4 Inspectors, 4 EDD Teams, 13 Management/Technical staff and up to 7 United Kingdom secondees as well as in Jeddah (KSA) with 2 Monitors. Discussions are ongoing to expand UNVIM monitoring activities in King Abdullah Port (KSA), Salalah and Sohar (Oman) and Dubai (UAE) ports.

(b) The EU has consistently stressed the importance of the effective and timely processing of commercial shipping and has supported the continuation of UNVIM and the unhindered implementation of its mandate. Any form of EU support for the continuation of UNVIM should therefore be seen in the perspective of improving the efficiency of the mechanism in order to increase the ability for operators and states to deliver commercial items to the Yemeni population. As recognised in the Council Conclusions of April 2017, the full support of the Coalition and the Government of Yemen is needed in order for UNVIM to operate effectively and at full capacity. Furthermore, any EU activities should also be seen in the framework of the broader EU commitment towards a political solution to the conflict, in full support of the efforts of the UN Special Envoy.

2. **UNVIM Inspection and Verification process**

At present, UNVIM applies to all vessels above 100 MT destined for Yemeni ports not under the control of the Government of Yemen and to (1) all vessels transporting commercial goods purchased by Yemen-based commercial or government entities intended for sale in Yemen; (2) bilateral assistance from UN Member States not channelled through a UNAFPs or a recognised international humanitarian organisation.

The verification process starts when a shipping company submits an online clearance request at www.vimye.org, uploads the necessary documents and submits all the requested documentation to UNVIM. Within 48 hours, UNVIM reviews the documentation, and sends notification to external partners such as the Evacuation and Humanitarian Operations Cell of the Coalition Forces (EHOC). UNVIM then decides whether to inspect the vessel or not based on its own process including discrepancies in the documentation received, undeclared port calls, suspicious vessel movement, switching-off the Automatic Identification System (AIS) for more than four hours, and feedback received from external partners. Vessel inspections are either conducted at port in territorial waters or at sea in international waters.

A clearance certificate is then either granted or denied (cancelled, declined or revoked). For cleared vessels, UNVIM keeps monitoring their movements through the AIS, including the transit to the Coalition holding area; from the holding area to anchorage area; from the anchorage to the berth for discharge. UNVIM tracking ends once the cleared vessels departs from Yemen's Red Sea ports after discharging their cargo and sailing out from the port. Throughout the entire process, UNVIM maintains strong contact with the shipping companies and the vessels' Master (Captain) and plays a critical role in addressing any issues the vessels encounter at sea, including advocating with EHOC and the Coalition. UNVIM's facilitation of the entire clearance process and consistent communication with the shipping companies is crucial in maintaining the trust of international shipping lines and, therefore, in ensuring commercial imports to the majority of the Yemeni population continues despite the ongoing conflict.

UNVIM has also sought to reassure the international shipping community through quarterly meetings with their representatives to ensure their difficulties and challenges are correctly understood and addressed.

3. **Overall objectives**

In order to ensure UNVIM unhindered implementation of its mandate, the overall objective of the Action is to contribute to the restoration of the unimpeded free-flow of commercial items to Yemen through the provision of a transparent and effective clearance process for commercial shipments destined for Yemeni ports not under the control of the Government of Yemen.

The specific objectives are as follows:

— Increase the flow of commercial cargo to Yemen by accelerating further the clearance process of commercial shipments and restoring the confidence of shipping companies as regards the accessibility of the port of Hodeydah and Saleef despite the current conflict,

— Increase UNVIM's ability to deploy additional personnel and resources in Djibouti, King Abdullah Port (KSA), Salalah and Sohar (Oman) and Dubai (UAE) ports as well as its margin of responsiveness should UNVIM be given additional responsibilities in the Hodeydah port during the duration of the project.

Should UNVIM's mandate or needs change in a way that questions the adequacy or relevance of the project in achieving the abovementioned objectives, the EU contribution shall be reassessed accordingly.

4. **Description of activities**

UNOPS will hold the responsibility for the technical implementation of the project.

Activity 1: Increasing the number of UNVIM Monitors. Up to five (5) additional monitors and up to two (2) additional cargo inspectors will be recruited for Djibouti, King Abdullah Port and Jeddah (KSA), Salalah and Sohar (Oman), Dubai (UAE) ports or for any other locations, including tentatively Hodeydah. This increase in capacity would allow UNVIM to adjust quickly to any developments and increase UNVIM's operational reach to conduct vessel inspections whilst ensuring UNVIM's operational continuity. UNVIM will also recruit one additional officer based in Djibouti who will inter alia liaise with the EU and in particular the EU Delegations in the Red Sea region.

Planned activities are as follows:

— UNOPS will recruit the new monitors, inspectors and officer in accordance with the UNOPS recruitment rules and procedures,

— UNOPS will pre-inform the EEAS of any opening of positions.

Timeline: throughout the duration of the project.

Activity 2: Renting of a part of the Djibouti port. Following the Project Cooperation Agreement signed with the Djiboutian authorities on 1 May 2018, UNVIM rents quays and berths in the port of Djibouti to ensure a constant location to conduct inspections. A new facility within the port is currently under renovation to ease the work of the monitors, inspectors and EDDs. This will also contribute to accelerate the inspection process.

Timeline: Throughout the duration of the project

Activity 3: Increasing the number of explosive-detection dogs (EDD) from four to six in Djibouti: UNVIM will increase the number of EDDs and dog-handlers from four to six. As EDDs need rest during inspections and considering the climate conditions in Djibouti, the increase in the number of inspections necessitates additional capacity to ensure the EDDs' welfare and operational continuity.

Planned activities:

— as per UN procurement procedures, UNOPS will either launch a new call for tender for EDDs and their handlers for a contract award or amend the existing contract with the current service provider of UNVIM (TDI — The Development Initiative),

— New EDDs to be integrated into the existing team of 4 EDDs and dog handlers.

Timeline: Throughout the duration of the project

Activity 4: Purchasing additional inspection equipment: to assist the UNVIM team in Djibouti with the scanning of containers and cargo, UNVIM will purchase two (2) portable scanners. This additional equipment will facilitate the timely inspection of vessels in Djibouti port and in international waters.

Planned activities are as follows:

— Development of technical specifications currently ongoing,

— As per UNOPS procurement procedures, launch of a call for an international call for tender for supplies and award of contract,

— Delivery of the equipment and training of the relevant personnel.

Timeline: Months 1 through 4 of the project.

At the end of the project, the disposal of the assets will be done in accordance with the contract signed with the European Commission.

Activity 5: Project Implementation

UNOPS will provide program management oversight; this is to include development of milestones, internal reviews, oversight of contractual agreements, and financial management. Anticipated activities include:

— Procurement of external services or Special Services Agreement for technical assistance for the implementation of the project,

— Financial and contractual management of services that UNOPS sub-contracts to third parties.

Timeline: throughout the duration of the project.

5. **Expected results**

In stepping up UNVIM operational activities, the expected results of the project are as follows:

— Prevent the flow of prohibited items from entering Yemen's Red Sea ports,

— Facilitate the free-flow of commercial goods to Yemen's Red Sea ports,

— Build trust amongst the international shipping community by projecting a transparent and efficient process for the entry of commercial goods to Yemen's Red Sea ports, despite the ongoing conflict,

— Support the Government of Yemen in meeting its population's needs of basic commodities not fully met by humanitarian assistance and local sources.

6. **Estimated duration**

The duration of the project is envisaged for 12 months in two terms of 6 months (6 + 6). The first term will run until March 2019, the second term will run as from April 2019. Since the current UNVIM funding arrangements with donors only apply until March 2019 the Council Decision foresees a specific arrangement with regard to the period beyond March 2019.

This arrangement consists in a review clause stipulating that the EU contribution has to be reassessed, in view of a favourable opinion by Member States on the undisrupted extension of the EU contribution for a further six months.

Accordingly, the Delegation agreement between the Commission and UNOPS will be signed for an initial terms of six months only extendable for further term of six months upon positive opinion by Member States.

7. **Union visibility**

UNOPS' being responsible for the technical implementation of the project will ensure proper visibility of the financial support of the Union, for example in reports, events or meetings. An EU flag will be displayed on all UNVIM documentation.

UNVIM/UNOPS will display appropriate visibility on all equipment purchased using EU funds that is not consumable, including the display of the EU logo. Where such display could jeopardise the UNOPS' privileges and immunities or the safety its staff or of the final beneficiaries, appropriate alternative arrangements will be made.

8. **EU participation in the UNVIM Steering Committee**

The UNVIM Steering Committee comprises the Kingdom of Saudi Arabia (EHOC and the Ministry of Defence), the UAE, the Government of Yemen (a Djibouti-based UNVIM liaison officer and a Ministry of Transport representative), UNOPS and OCHA. As for the United States, the Netherlands and the United Kingdom which attend this meeting with 'observer status' in their capacity of donors to UNVIM, the EU will participate in the monthly meetings of the UNVIM Steering Committee.

9. **Reporting**

UNVIM/UNOPS will provide to the EEAS a monthly report to review progress towards the completion of project results. These reports will be shared with the relevant Council body.

EEAS will report to the relevant Council body on the monthly UNVIM Steering committee meetings.

UNVIM/UNOPS will report directly to the relevant Council body on a quarterly basis in Brussels.

UNVIM/UNOPS will submit a final narrative and financial report within six months of the end of the implementation period.