

III

(Acts adopted under the EU Treaty)

ACTS ADOPTED UNDER TITLE V OF THE EU TREATY

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

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 13(3) and Article 23(1) thereof,

Whereas:

(1) On 12 December 2003, the European Council adopted the EU Strategy against Proliferation of Weapons of Mass Destruction, Chapter III of which contains a list of measures that need to be taken both within the European Union (EU) and in third countries to combat such proliferation.

(2) The EU is actively implementing this 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 (hereinafter 'the Code' or 'HCoC' is an integral part of that system. It aims at preventing and curbing the proliferation of ballistic missile systems capable of delivering weapons of mass destruction and related technologies.

(3) On 17 November 2003, the Council adopted Common Position 2003/805/CFSP⁽¹⁾ on the universalisation and reinforcement of multilateral agreements in the field of non-proliferation of weapons of mass destruction and means of delivery. That Common Position calls, *inter alia*, for the promotion of the subscription of as many countries as possible to the Code, especially those with ballistic missile capabilities, as well as for the further development and implementation of the Code, especially its confidence building measures, and for the promotion of a closer relationship between the Code and the UN multilateral non-proliferation system.

(4) On 23 May 2007, the Council decided to take action to promote the universality of the Code and compliance with its principles. To that end, a workshop was organised in the margins of the 2007 Annual Meeting of Subscribing States which brought together States with major ballistic missile capabilities, including those which did not subscribe to the Code. It is a priority of the EU to continue this 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,

HAS DECIDED AS FOLLOWS:

Article 1

1. For the purposes of ensuring the continuous and practical implementation of certain elements of the EU Strategy against Proliferation of Weapons of Mass Destruction, the EU shall support the activities of subscribing States to the Code in order to further the following objectives:

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

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

- (a) providing means for the organisation of targeted outreach, for example in the form of a workshop, aiming at the promotion of new subscriptions to the Code for the region with the lowest level of subscription to the Code;

⁽¹⁾ OJ L 302, 20.11.2003, p. 34.

- (b) providing financial and technical means to facilitate, on the one hand, the exchange of information among subscribing States, and, on the other, a visit by international observers to Space Launch Vehicles (SLV) testing launching sites, which subscribing States have resolved to consider on a voluntary basis under Article 4a (ii) of the Code;
- (c) providing means to pursue a debate among subscribing States on how to preserve the relevance and the viability of the Code. The debate shall in particular take into account new developments in the area of ballistic missile proliferation and the developments in international institutional and legal frameworks related to ballistic missiles.

These projects shall be carried out for the benefit of subscribing and non-subscribing States to the Code.

A detailed description of the projects is set out in the Annex.

Article 2

1. The Presidency, assisted by the Secretary-General of the Council/High Representative for the Common Foreign and Security Policy (SG/HR), shall be responsible for the implementation of this Decision. The Commission shall be fully associated.

2. The technical implementation of the projects referred to in Article 1(2) shall be carried out by the Foundation for Strategic Research in Paris (FRS).

The FRS shall perform this task under the control of the SG/HR, in support of the Presidency and in close consultation with the Chair of the Annual Meetings of the subscribing States to the Code as well as with Austria in its capacity as Immediate Central Contact (ICC)/Executive Secretariat of the Code. For this purpose, the SG/HR shall enter into the necessary arrangements with the FRS.

3. The Presidency, the SG/HR and the Commission shall keep each other regularly informed about the implementation of this Decision, in accordance with their respective competences.

Article 3

1. The financial reference amount for the implementation of the projects referred to in Article 1(2) shall be 1 015 000 EUR.

2. The expenditure financed by the amount stipulated in paragraph 1 shall be managed in accordance with the procedures and rules applicable to the general budget of the European Communities.

3. The Commission shall supervise the proper management of the expenditure referred to in paragraph 2, which shall take the form of a grant. For this purpose, it shall conclude a financing agreement with the FRS. The financing 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

The Presidency, assisted by the SG/HR, shall report to the Council on the implementation of this Decision on the basis of regular reports prepared by the FRS. These reports shall form the basis for the evaluation carried out by the Council. The Commission shall be fully associated. It shall report on the financial aspects of the implementation of this Decision.

Article 5

This Decision shall take effect on the day of its adoption.

It shall expire 6 months after the date of its taking effect, unless the Commission concludes a financing agreement with FRS before expiry of that period, in which case this Decision shall expire 24 months after the date of conclusion of the financing agreement.

Article 6

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 18 December 2008.

For the Council
The President
M. BARNIER

ANNEX

EU support to 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**1. Objectives**

The European Union has strongly supported the Code from its inception. The European Union considers the Code as an important multilateral instrument which aims at curbing the proliferation of ballistic missiles systems and related technologies through transparency and confidence building measures. All the European Union Member States have subscribed to the Code and are implementing the Code in good faith.

In the past, the European Union tried to overcome remaining loopholes in the implementation of the Code and its universality by organising a workshop of subscribing and non-subscribing States to the Code in the margins of the 2007 Annual Meeting. Encouraged by the outcome of the workshop, the European Union wishes to pursue this initiative and support three aspects of the Code as follows:

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

2. Description of the projects**2.1. Project 1: Promotion of the universality of the Code****2.1.1. Purpose of the project**

While the number of subscribing States has attained the level of two thirds of all UN Member States, more needs to be done to achieve universality of the Code. At the Annual Meetings, the subscribing States noted that the reasons behind the reluctance of non-subscribing States to subscribe to the Code vary extensively, from general lack of awareness and understanding of the Code to more political reasons.

2.1.2. Results of the project

- increase awareness about, understanding and support of the Code,
- enhance interaction among subscribing and non-subscribing States to the Code,
- increase the number of subscribing States to the Code.

2.1.3. Description of the project

The project provides for the organisation of two workshops:

- an awareness raising workshop for the region with the greatest number of non-subscribing States.

In Africa, the following countries have not subscribed to the Code: Algeria, Angola, Botswana, Central African Republic, Côte d'Ivoire, Democratic Republic of the Congo, Egypt, Lesotho, Namibia, Republic of Congo, Somalia, Swaziland, Togo and Zimbabwe.

- a general workshop, following the model of the workshop that was organised in the margins of the 2007 Annual Meeting of subscribing States with focused and structured exchanges on technical and politico-security considerations related to ballistic missile proliferation and the relevance of the Code.

2.2. Project 2: Support for the implementation of the Code among subscribing States**2.2.1. Purpose of the project**

While the Code represents an important instrument for curbing the proliferation of ballistic missiles and related technologies through confidence-building and transparency measures, more needs to be done to promote better exchanges among subscribing States. The project will focus on those aspects of exchanges where tangible results can be achieved.

2.2.2. Results of the project

- creation of a prototype of a secure internet-based information and communication mechanism (e-ICC), which could enable faster, easier and securitized exchange of information among subscribing States and provide for the electronic distribution of documents,

- in the event that the subscribing States decide to establish an e-ICC at their Annual Meeting, such a prototype could be made operational,
- greater support for a visit by observers to SLV testing launch sites.

2.2.3. Description of the project

The project provides for two types of measures:

- (a) Facilitation of the exchange of information and communication among subscribing States through the creation of an e-ICC. The experience of France with the Missile Technology Control Regime (MTCR) e-POC system is of particular relevance to this project.

Given the fact that it is for the subscribing States of the Code at the Annual Meeting to decide whether to establish such a system, the project will be implemented in two phases. The implementation of the second phase will be subject to prior deliberation by the subscribing States on the e-ICC at the Annual Meeting.

Phase 1: Proposal of the EU to the subscribing States of the Code to create an e-ICC

A prototype of an e-ICC will be prepared with a view to presenting it to the subscribing States, possibly in 2009 and to receiving feedback on its operation from the subscribing States.

Phase 2: Operationalisation of the e-ICC prototype

In the event that the subscribing States decide to establish an e-ICC at the Annual Meeting, such a prototype could be made operational. To that end, the know-how and material aspects of the prototype would be transferred to the ICC/Executive secretariat for management and training would be provided to the ICC and the subscribing States;

- (b) Providing financial means for a visit of international observers to SLVs' testing launch sites of the EU Member States.

2.3. *Project 3: Promotion of the further enhancement and improved functioning of the Code*

2.3.1. Purpose of the project

The security environment is evolving constantly, including in the area of proliferation of the means capable to deliver Weapons of Mass Destruction. The subscribing States meet annually and assess the implementation of the Code as well as the new trends in the proliferation of ballistic missiles and related technologies.

The project will promote more in-depth discussion among subscribing States, and, when appropriate, include non-subscribing States in a more informal setting and will provide for access to technical expertise concerning ballistic missile proliferation outside governmental circles. The outcomes of the project could be submitted as a food-for-thought paper at the Annual Meeting of subscribing States.

2.3.2. Results of the project

- better understanding of current trends in ballistic missile proliferation and SLV programmes with recommendations for the subscribing States,
- analysis of options how to motivate the subscribing States to undergo the Ballistic Missile and SLV programmes,
- better understanding of the interface between the Code, the MTCR and bilateral and regional arrangements concerning confidence building measures in pursuit of the goal of missile non-proliferation and a definition of policy recommendations,
- working papers or other forms of documentation from the workshops, which could be submitted by the EU to the HCoC Annual Meeting.

2.3.3. Description of the project

The project will provide for two types of activities:

- (a) Financing of a study on the current trends in ballistic missiles and the dynamics in their proliferation, as well as SLV programmes, which could be submitted as a food-for-thought paper at the Annual Meeting of the subscribing States. In conducting this study, FRS will ensure that there is no duplication of work with the UN Group of Governmental Experts;

(b) Financing of workshops of experts from the subscribing and non-subscribing States, both from the governmental and non-governmental sectors. The workshops could be organised in the margins of the Annual Meetings. The outcomes could be submitted as a working paper to the Annual Meeting of the subscribing States. The workshops will address the following issues:

- The interface between the Code, the MTCR and bilateral and regional confidence building measure arrangements in pursuit of the goal of missile non-proliferation as well as between the Code and the UN system (UNGA),
- How to motivate the subscribing States to undergo the ballistic missile and SLV programmes.

3. **Duration**

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

4. **Beneficiaries**

The beneficiaries of the projects in this Decision are both subscribing and non-subscribing States to the Code.

The final choice of the beneficiary States will be made in consultation between the implementing entity and the Presidency, assisted by the SG/HR in close consultation with Member States and the Commission 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).

5. **Implementing entity**

FRS will be entrusted with the technical implementation of the projects. The projects will be implemented directly by staff of the FRS or of its cooperative partners, the Institute of Peace Research and Security Policy of Hamburg University and the Polish Space Research Centre in Warsaw.

The implementing entity will prepare:

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

Reports will be sent to the Presidency, assisted by the SG/HR.

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

6. **Third party participants**

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