

III

(Acts adopted under the EU Treaty)

ACTS ADOPTED UNDER TITLE V OF THE EU TREATY

COUNCIL JOINT ACTION 2008/368/CFSP

of 14 May 2008

in support of the implementation of United Nations Security Council Resolution 1540 (2004) and in the framework of the implementation of the EU strategy against the proliferation of weapons of mass destruction

THE COUNCIL OF THE EUROPEAN UNION,

lished by UNSCR 1540 ('the 1540 Committee') with a report on steps which they have taken or intend to take to implement UNSCR 1540.

Having regard to the Treaty on European Union, and in particular Article 14 thereof,

Whereas:

- (1) On 12 December 2003, the European Council adopted the EU strategy against the proliferation of weapons of mass destruction, Chapter III of which contains a list of measures to combat such proliferation which need to be taken both within the EU and in third countries.
- (2) The EU is actively implementing this strategy and is giving effect to the measures listed in Chapter III thereof, in particular through releasing financial resources to support specific projects conducted by multilateral institutions, providing States in need with technical assistance and expertise with regard to a wide range of non-proliferation measures, and fostering the role of the United Nations Security Council.
- (3) On 28 April 2004, the UN Security Council adopted Resolution 1540 (2004) ('UNSCR 1540'), which is the first international instrument that deals with weapons of mass destruction, their means of delivery and related materials in an integrated and comprehensive manner. UNSCR 1540 established binding obligations for all States aimed at preventing and deterring non-State actors from obtaining access to such weapons and weapon-related material. It also called upon States to present the Committee of the Security Council estab-

- (4) On 27 April 2006, the UN Security Council adopted Resolution 1673 (2006) and decided that the Committee should intensify its efforts to promote the full implementation of UNSCR 1540 through programmes of work, outreach, assistance, dialogue and cooperation. It also invited the 1540 Committee to explore with States and international, regional and sub-regional organisations the possibility of sharing experience and lessons learned, and the availability of programmes which might facilitate the implementation of UNSCR 1540.
- (5) The 1540 Committee's report in April 2006 recommended that regional and subregional outreach activities be widened and intensified with a view to providing States, in a structured manner, with guidance for implementing their obligations under UNSCR 1540, taking into account the fact that at that time 62 States had yet to submit their first national report and that 55 States which had submitted their first national report still had to submit additional information and clarification requested by the 1540 Committee.
- (6) On 12 June 2006, the European Union adopted a first Council Joint Action 2006/419/CFSP ⁽¹⁾ in support of the implementation of UNSCR 1540 and in the framework of the implementation of the EU strategy against the proliferation of weapons of mass destruction. That Joint Action was aimed at raising awareness of the requirements related to UNSCR 1540 and at contributing to strengthening third States' administrative capacities in drafting national reports on the implementation of UNSCR 1540.

⁽¹⁾ OJ L 165, 17.6.2006, p. 30.

- (7) The implementation of Joint Action 2006/419/CFSP resulted in the organisation of five regional seminars in Africa, the Middle East, Latin America, the Caribbean and Asian-Pacific regions. These activities contributed to diminishing significantly the number of non-reporting States and the number of States which did not submit additional information required by the 1540 Committee following their submission of incomplete reports.
- (8) The 1540 Committee emphasised to the UN Security Council in December 2007 that in practical work the main focus of the Committee should shift away from national reporting and towards the implementation of all aspects of UNSCR 1540. In this regard, individually designed outreach and assistance, which is responsive to regional and other specific circumstances, could help States to cope with the challenges of implementing UNSCR 1540. The 1540 Committee has also stated in its work programme that national plans or road maps for implementation could serve States as useful planning tools and that this idea should be further promoted. The countries concerned should also receive more assistance in developing their national action plans.
- (9) The Office for Disarmament Affairs within the United Nations Secretariat, which is responsible for providing the 1540 Committee and its experts with substantive and logistical support, should be entrusted with the technical implementation of the projects to be carried out under this Joint Action.
- (10) This Joint Action should be implemented in accordance with the Financial and Administrative Framework Agreement concluded by the European Commission with the United Nations concerning the management of financial contributions by the European Union to programmes or projects administered by the United Nations,

HAS ADOPTED THIS JOINT ACTION:

Article 1

1. In accordance with the EU strategy against the proliferation of weapons of mass destruction, which sets the objective of fostering the role of the UN Security Council and of enhancing its expertise in meeting the challenges of proliferation, the EU shall further support the implementation of UNSC Resolution 1540 (2004) ('UNSCR 1540').

2. The projects in support of UNSCR 1540, corresponding to measures of the EU strategy, shall consist of a series of thematic workshops in several targeted subregions.

The aim of the workshops shall be twofold:

- enhancing the capacity and skills of officials in targeted States who are responsible for managing the export control process in all its dimensions, so that they can make effective efforts at the practical level for the implementation of UNSCR 1540,
- putting officials of targeted States participating in the projects in a position to clearly identify gaps and needs, taking into account different perspectives (government and industry) so that effective requests for assistance can be formulated.

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 Joint Action. 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 UN Secretariat (Office for Disarmament Affairs) ('UN Secretariat (ODA)'). It shall perform this task under the control of the SG/HR, assisting the Presidency. For this purpose, the SG/HR shall enter into the necessary arrangements with the UN Secretariat (ODA).

3. The Presidency, the SG/HR and the Commission shall keep each other regularly informed concerning the implementation of this Joint Action, in conformity 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 EUR 475 000 to be funded from the general budget of the European Union.

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

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, the Commission shall conclude a financing agreement with the UN Secretariat (ODA). The financing agreement shall stipulate that the UN Secretariat (ODA) 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 Joint Action. 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 Joint Action on the basis of regular reports prepared by the UN Secretariat (ODA). These reports shall form the basis for the evaluation carried out by the Council. The Commission shall be fully associated, and shall report on the financial aspects of the implementation of this Joint Action.

Article 5

This Joint Action shall enter into force on the day of its adoption.

It shall expire 24 months after the conclusion of the financing agreement referred to in Article 3(3), or three months after the date of its adoption if no financing agreement has been concluded within that period.

Article 6

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

Done at Brussels, 14 May 2008.

For the Council
The President
A. BAJUK

ANNEX

EU support for the implementation of United Nations Security Council Resolution 1540 (2004)**1. Background**

In its April 2006 report, the 1540 Committee concluded that 62 States had yet to submit their first national report and 55 States, although they had done so, still had to submit additional information and clarification. Since these States were concentrated in three geographical areas (Africa, the Caribbean and the South Pacific), and since the gaps in the national reports followed certain regional patterns, the 1540 Committee suggested that activities to assist States in meeting implementation requirements of UNSCR 1540 should concentrate on regions and areas where specific needs were identified.

In response to this view, the EU support during the period 2004-2007 for the activities of the 1540 Committee was twofold:

- the EU carried out démarches to third States to promote the submission of national reports under UNSCR 1540,
- on 12 June 2006 the EU adopted Joint Action 2006/419/CFSP providing financial support for five outreach activities targeting five different regions of developing countries. The outreach activities, in the form of seminars, aimed at raising awareness among developing countries of their obligations under UNSCR 1540 and contributing to strengthening third States' national administrative capacities in drafting national reports on the implementation of UNSCR 1540.

According to the briefing presented by the Chairman of the 1540 Committee to the UNSC on 17 December 2007, considerable progress has been made with regard to the reporting obligations of the UN Member States, but more efforts are needed in the next period to achieve full implementation of all aspects of the resolution. In particular, as of March 2008, 144 States had already submitted their first reports and 99 States have already submitted additional information requested. Consequently, thematic discussion on outreach activities held by the 1540 Committee in October 2007 recognised the need for a phased approach and recommended that future outreach activities should focus less on the issue of reporting and more on assisting States with issues of implementation.

The December 2007 briefing also stressed how in practical work the main focus of the 1540 Committee should shift from reporting to implementation of all aspects of UNSCR 1540. In this regard individually designed outreach and assistance, which is responsive to regional and other specific circumstances, could help Member States cope with the challenges of implementation. As the Committee stated in its work programme, national plans or road maps of implementation can serve States as useful planning tools and this idea should be further promoted. The countries concerned should receive more assistance in developing their national action plans. Similarly, Member States' capacity to formulate effective assistance requests should also be enhanced.

2. Description of projects

The projects in support of the implementation of UNSCR 1540 will take the form of six workshops aiming at enhancing the capacity of officials responsible for managing the export control process in six subregions (Africa, Central America, Mercosur, the Middle East and Gulf Regions, Pacific Islands and South-East Asia), so that they can at a practical level undertake implementation efforts of UNSCR 1540. The proposed workshops will be specifically tailored for border, customs and regulatory officials and will comprise the main elements of an export control process including applicable laws (including national and international legal aspects), regulatory controls (including licensing provisions, end-user verification and awareness-raising programmes) and enforcement (including commodity identification, risk-assessment and detection methods).

During the workshop, States will be encouraged to confer and share experiences on practical issues relating to implementation. States will have the opportunity to compare their export control processes and, by making these comparisons, identify those practices which could gain from the experience of others. Where assistance may be required to enable States to apply the most effective practices, assistance programmes may be assembled.

The proposed activities should also position the abovementioned officials to clearly identify gaps and needs taking into account different perspectives (government and industry) so that effective assistance requests for training, equipment and other fields of activities can be formulated. These requests will be submitted to the 1540 Committee — for circulation to States — or directly to States, international, regional and non-governmental organisations. These workshops will, as well as drawing on the experts of the 1540 Committee, need to draw on expertise available internationally. Therefore donor countries, as well as international intergovernmental organisations, could also provide well-established or known competencies by making their experts available for the duration of the workshop.

This new Joint Action builds on and intensifies efforts undertaken under the previous Joint Action 2006/419/CFSP that mainly focused on awareness-raising and reporting obligations. It will provide a clearly operational and sub-regional dimension to the projects by involving approximately three State officials (practitioners/expert level) from each participating State in the workshops, with a duration of three to four days.

The clear identification of gaps and needs which will be facilitated by the workshops financed through this Joint Action will be particularly useful to the European Union, mainly for the selection of countries which could benefit from capacity-building projects financed under the new stability instrument. It will also help define the precise fields in which additional EU actions are mostly needed. Participants of the workshops will be encouraged to deliver specific assistance requests. The EU will identify the scope of assistance taking into account the intentions of other potential donors and will ensure a maximum synergy with other EU financial instruments (e.g. complementarity with this Joint Action of activities under the stability instrument in the area of export control in third countries).

Results of projects:

- enhanced understanding by participants of national, regional and international efforts to prevent proliferation of weapons of mass destruction and their means of delivery,
- greater clarity of current implementation and enforcement measures and increase steps taken or planned to be taken toward full implementation of UNSCR 1540,
- enhanced risk-assessment, detection and examination techniques,
- improved interplay and information-sharing between national and regional export control and enforcement authorities,
- enhanced understanding of cargo movements and methods that are employed to circumvent export control processes,
- enhanced understanding of the dual-use nature of certain commodities and improved capability to identify those dual-use commodities related to weapons of mass destruction and their means of delivery,
- enhanced cooperation between regulatory and enforcement officials and industry,
- workshop output for participants:
 - (a) produce potential national action plans;
 - (b) develop assistance requests for future follow-up on more specific areas in this workshop, and, as appropriate, enhance cooperation with intergovernmental organisations and subregional organisations in the provision of such assistance; and
 - (c) report of seminar proceedings.

3. Duration

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

4. Beneficiaries and participants

States selected to attend have been chosen in accordance with several criteria. Examination of country matrices on implementation of UNSCR 1540 were used to identify those States which may require assistance in areas of risk-assessment, border and transshipment controls, commodity identification, and detection techniques.

In proposing the States mentioned below for participation in the projects, consideration has also been given to their varying levels of implementation and capability. Similarities in regional issues, such as transshipment, provide a common thread and allow synergies between States to be identified and developed.

In addition, the selected States participated in outreach activities previously undertaken in the relevant subregions.

States will be requested to nominate officials at the implementation level, familiar with the export and border-control processes. These would include representatives from the following areas of government:

- regulatory authorities, and
- border enforcement (including customs and police authorities; particular attention will be given to cross-governmental and interagency processes).

Additional agencies identified as central to the export control process will be invited as appropriate, following a decision of the Presidency of the EU, assisted by the SG/HR.

An invitation to attend and participate in the workshops would also be considered for the relevant intergovernmental and regional organisations.

It is important to stress that some of the participating States might be faced, even inadvertently, with risks of proliferation of WMD, due to their geographical location, political situation or to their national energy plans. Several among them have also already engaged in a constructive dialogue on non-proliferation of WMD with the EU, also through the negotiation and signing of bilateral agreement including clauses on non-proliferation of WMD. Accordingly, the organisation of this series of workshops represent a great opportunity for the EU to deliver on its commitments under these clauses and to show the importance it attaches to assisting developing countries also through multilateral means.

The States selected for attendance at the workshops include:

1. Project covering Africa

Ghana, Kenya, Morocco, Nigeria, Uganda, South Africa, Republic of the Congo, Egypt, Libya, and Tanzania.

2. Project covering Central America

Belize, Costa Rica, El Salvador, Guatemala, Honduras, Mexico, Nicaragua and Panama.

3. Project covering Mercosur States

Argentina, Brazil, Uruguay, Paraguay, Venezuela, Bolivia, Chile, Columbia, Ecuador and Peru.

4. Project covering the Middle East and Gulf regions

Bahrain, Iraq, Jordan, Kuwait, Oman, Saudi Arabia, Syria, United Arab Emirates.

5. Project covering Pacific Islands States

Fiji, Marshall Islands, Micronesia (Federated States of), Nauru, Palau, Papua New Guinea, Solomon Islands (Republic of), Timor-Leste, Tuvalu, Vanuatu.

6. Project covering South-East Asian States

Cambodia, Indonesia, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam.

5. Implementing entity

The Presidency, assisted by the SG/HR, is responsible for the implementation of this Joint Action. The Presidency shall entrust the technical implementation to the UN Secretariat (ODA). The UN Secretariat (ODA) will sign a Host Nation Support agreement with the States, which will be identified as hosting countries. The hosting State will participate in the implementation of the projects, financed by this Joint Action. The procurement of any goods, works or services by the UN Secretariat (ODA) of the hosting States in the context of this Joint Action will be carried out in accordance with the applicable UN rules and procedures, as detailed in the financing agreement with the UN Secretariat (ODA) (Article 3(3) of this Joint Action).
