



2024/1984

16.7.2024

COUNCIL DECISION (CFSP) 2024/1984

of 15 July 2024

in support of the Institutional Transitional Planning for Non-Routine Missions and Investigative Capacities of the Organisation for the Prohibition of Chemical Weapons (OPCW)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 28(1) and 31(1) thereof,

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

Whereas:

- (1) On 12 December 2003, the European Council adopted the EU Strategy against Proliferation of Weapons of Mass Destruction (the 'EU Strategy').
- (2) The EU Strategy underlines the crucial role of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (the 'Chemical Weapons Convention', 'CWC') and of the Organisation for the Prohibition of Chemical Weapons (the 'OPCW') in creating a world free of chemical weapons. As part of the EU Strategy, the Union committed to working towards universal adherence to key disarmament and non-proliferation treaties and agreements, including the CWC.
- (3) Since 2004, the Union has supported the activities of the OPCW through the following Joint Actions and Council Decisions: Council Joint Action 2004/797/CFSP ⁽¹⁾; Council Joint Action 2005/913/CFSP ⁽²⁾; Council Joint Action 2007/185/CFSP ⁽³⁾; Council Joint Action 2007/185/CFSP; Council Decision 2009/569/CFSP ⁽⁴⁾; Council Decision 2012/166/CFSP ⁽⁵⁾; Council Decision (CFSP) 2015/259 ⁽⁶⁾; Council Decision (CFSP) 2019/538 ⁽⁷⁾; Council Decision (CFSP) 2021/1026 ⁽⁸⁾ amended by Council Decision (CFSP) 2023/1515 ⁽⁹⁾; Council Decision (CFSP) 2021/2073 ⁽¹⁰⁾ and Council Decision (CFSP) 2023/1344 ⁽¹¹⁾.

⁽¹⁾ Council Joint Action 2004/797/CFSP of 22 November 2004 on support for OPCW activities in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction (OJ L 349, 25.11.2004, p. 63).

⁽²⁾ Council Joint Action 2005/913/CFSP of 12 December 2005 on support for OPCW activities in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction (OJ L 331, 17.12.2005, p. 34).

⁽³⁾ Council Joint Action 2007/185/CFSP of 19 March 2007 on support for OPCW activities in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction (OJ L 85, 27.3.2007, p. 10).

⁽⁴⁾ Council Decision 2009/569/CFSP of 27 July 2009 on support for OPCW activities in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction (OJ L 197, 29.7.2009, p. 96).

⁽⁵⁾ Council Decision 2012/166/CFSP of 23 March 2012 in support of activities of the Organisation for the Prohibition of Chemical Weapons (OPCW) in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction (OJ L 87, 24.3.2012, p. 49).

⁽⁶⁾ Council Decision (CFSP) 2015/259 of 17 February 2015 in support of activities of the Organisation for the Prohibition of Chemical Weapons (OPCW) in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction (OJ L 43, 18.2.2015, p. 14).

⁽⁷⁾ Council Decision (CFSP) 2019/538 of 1 April 2019 in support of activities of the Organisation for the Prohibition of Chemical Weapons (OPCW) in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction (OJ L 93, 2.4.2019, p. 3).

⁽⁸⁾ Council Decision (CFSP) 2021/1026 of 21 June 2021 in support of the Cyber Security and Resilience and Information Assurance Programme of the Organisation for the Prohibition of Chemical Weapons (OPCW) in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction (OJ L 224, 24.6.2021, p. 24).

⁽⁹⁾ Council Decision (CFSP) 2023/1515 of 20 July 2023 amending Decision (CFSP) 2021/1026 in support of the Cyber Security and Resilience and Information Assurance Programme of the Organisation for the Prohibition of Chemical Weapons (OPCW) in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction (OJ L 184, 21.7.2023, p. 37).

⁽¹⁰⁾ Council Decision (CFSP) 2021/2073 of 25 November 2021 in support of enhancing the operational effectiveness of the Organisation for the Prohibition of Chemical Weapons (OPCW) through satellite imagery (OJ L 421, 26.11.2021, p. 65).

⁽¹¹⁾ Council Decision (CFSP) 2023/1344 of 26 June 2023 in support of enhancing the operational effectiveness of the Organisation for the Prohibition of Chemical Weapons (OPCW) (OJ L 168, 3.7.2023, p. 27).

- (4) The continued consistent and targeted assistance by the Union to the OPCW is warranted in the context of the active implementation of Chapter III of the EU Strategy. There is a specific need for further support to strengthening the OPCW's investigative capacities in the framework of its institutional transitional planning for non-routine missions, as well as transferring collected evidentiary information with a view to enabling international accountability for the use of chemical weapons in Syria.
- (5) The Union should therefore adopt this Decision in order to provide the necessary support.
- (6) The OPCW technical Secretariat should be entrusted with the technical implementation of the activities to be carried out under this Decision,

HAS ADOPTED THIS DECISION:

Article 1

1. With a view to the implementation of the EU Strategy against the Proliferation of Weapons of Mass Destruction, the Union shall support the implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction through an operational action.
2. The objectives of the action referred to in paragraph 1 shall be:
 - Integration of knowledge and expertise for investigative methodologies, protocols and activities (e.g. deployments etc.);
 - Continued compliance with evidentiary information sharing, as mandated in paragraph 12 of OPCW Decision C-SS-4/DEC.3 of 26-28 June 2018, entitled 'Addressing the Threat from Chemical Weapons Use', to preserve and provide information to relevant investigatory entities.
3. A detailed description of the action referred to in paragraph 1 is set out in the Project Document.

Article 2

1. The High Representative of the Union for Foreign Affairs and Security Policy (the 'HR') shall be responsible for the implementation of this Decision.
2. The technical implementation of the action referred to in Article 1 shall be carried out by the Technical Secretariat of the OPCW.
3. The OPCW shall perform the task referred to in paragraph 2 under the responsibility of the HR. For that purpose, the HR shall enter into the necessary arrangements with the OPCW.

Article 3

1. The financial reference amount for the implementation of the actions referred to in Article 1 shall be EUR 1 605 447,56.
2. The expenditure financed by the reference amount set out in paragraph 1 shall be managed in accordance with the rules and procedures applicable to the general budget of the Union.
3. The Commission shall supervise the proper management of the expenditure financed by the reference amount set out in paragraph 1. For that purpose, it shall conclude a contribution agreement with the OPCW. The contribution agreement shall stipulate that the OPCW is to ensure the visibility of the Union's contribution, appropriate to its size.
4. The Commission shall endeavour to conclude the 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 the conclusion of the agreement.

Article 4

1. The HR shall report to the Council on the implementation of this Decision on the basis of regular reports by the OPCW. The reports shall form the basis of the evaluation carried out by the Council.
2. The Commission shall provide information on the financial aspects of the implementation of the actions referred to in Article 1.

Article 5

1. This Decision shall enter into force on the date of its adoption.
2. This Decision shall expire 24 months after the conclusion of the agreement referred to in Article 3(3). However, it shall expire six months after the date of its entry into force if no agreement has been concluded within that period.

Done at Brussels, 15 July 2024.

For the Council

The President

NAGY I.

ANNEX

OPCW's Institutional Transitional Planning for Non-Routine Missions and Investigative Capacities**1. Background and Rationale**

In December 2003, the European Union (EU) adopted the EU Strategy against the Proliferation of Weapons of Mass Destruction (EU Strategy), in which it recognised the threat posed by weapons of mass destruction to international peace and security. The EU Strategy underlines the crucial role of the Chemical Weapons Convention (CWC) and of the OPCW in creating a world free of chemical weapons. The objectives of the EU Strategy are complementary to those of the CWC. The EU and the OPCW, since the adoption of the EU Strategy, have pursued cooperation including engagement through a series of Joint Actions and Decisions.⁽¹⁾

The OPCW has received consistent support from the EU in the implementation of its mandate, reflecting a continued commitment to the full implementation of the CWC, with 43,6M EUR of voluntary contributions through the Common Foreign and Security Policy (CFSP) Joint Actions and Decisions approved since 2004. The OPCW welcomes the EU's continued commitment to supporting OPCW's efforts to fulfil the goal of the Convention – a world free of chemical weapons, thus contributing to international peace and security. The OPCW further recognises EU support through financing since 2004 covering varied areas such as: application of the verification regime and destruction of chemical weapons stockpiles, promotion of universality, implementation of the CWC by States Parties, international cooperation for chemical activities, preparedness to prevent and respond to attacks involving toxic chemicals, developments in the field of science and technology, cyber security, construction of the OPCW Centre for Chemistry and Technology, situation awareness and satellite imagery products, and addressing the threats of chemical weapons use. Furthermore, recognising emerging challenges in countering re-emergence of chemical weapons, the OPCW also welcomes the EU's sustained interest in strengthening its support to the institutionalisation of OPCW's investigative and verification capacities.

Following the end of the destruction of all declared chemical weapons stockpiles in July 2023, the OPCW has continued its adaptation to the post-destruction phase. Accordingly, the Secretariat of the OPCW has initiated a knowledge mapping for processes related to ensuring retention of the Secretariat capacities related to effective response to use of chemical weapons and allegations thereof.

This proposal is to be considered in conjunction with the Council Decision (CFSP) 2023/1344, 26 June 2023, (EU2023), and the activities under Output 3 ('Effective responses to allegations of chemical weapons use'). Activities in the Council Decision (CFSP) 2023/1344, are primarily in relation to the conduct of pending/on-going investigations. This proposal focuses on obligations and activities occurring after the conclusion of investigations and issuance of reports.

The proposal for 2024 CFSP funding is aligned with the OPCW and Technical Secretariat's priorities associated with knowledge acquisition, expertise integration, with the detailing of information security processes and procedures to date, as well as in response to the risk of developments in science and technology which impact chemical weapons use and the threats thereof. In concrete terms, the proposal seeks to capture the outcomes of the conduct of independent and impartial investigative activities, and, inter alia, the related documentation obligations mandated under the decision of the Conference of the States Parties C-SS-4/DEC.3, para 12, adopted on 27 June 2018, and C-28/Dec.12 adopted on 30 November 2023. In furtherance of efforts made by the Secretariat in implementing modalities under para 21 of C-SS-4/DEC.3, and in line with para 2 of C-28/Dec.12, the Conference of States Parties has requested the Secretariat to continue efforts to sustain and build its capabilities to investigate allegations of use of chemical weapons, including through the further development of tools and methodologies such as those related to forensics, witness interviews, evidence collection, chain of custody, the planning and conduct of regular training and other relevant exercises, the integration and retention of knowledge, skills and expertise accumulated through the conduct of previous missions, and by any other means the Director-General deems necessary and appropriate.

⁽¹⁾ Inclusive of Joint Action 2004/797/CFSP (expired); Joint Action 2005/913/CFSP (expired); Joint Action 2007/185/CFSP (expired); Decision 2009/569/CFSP (expired); Joint Action 2012/166/CFSP (expired); Decision 2013/726/CFSP (expired); Decision 2015/259 (extended with Decision 2018/294 and expired); Decision (CFSP) 2015/2215 (expired); Decision 2017/2302 (extended with Decision 2019/1092, expired); Decision 2017/2303 (extended with Decision 2018/1943 and Decision 2019/2112, expired); Decision 2019/538 (extended with Decision 2022/573, expired); Decision 2021/1026 (extended with Decision 2023/1515, in force through August 2024), and Decision 2021/2073 (in force through Dec 2025); Decision 2023/1344 (in force through June 2026).

The OPCW 2024-2025 Biennial Programme and Budget was adopted at the 28th Conference of States Parties (27 Nov – 1 Dec 2023). It includes the ongoing transformation of the Inspectorate Division. This adaptation seeks to incorporate and integrate the knowledge and expertise gained through non-routine missions conducted in Syria and beyond, so as to embed this distinctive capacity through trainings within the relevant existing Secretariat structures and respond in the benefit of States Parties upon request. This transition period will require complementary voluntary contributions, of which the EU proposal will partially finance, in addition to resources available through the 2024-2025 Programme and Budget to accelerate the implementation of the below objectives and activities, as well as through the use of the OPCW Centre for Chemistry and Technology.

2. Overall Objectives of the Proposed Action

The overall objective of the EU Council Decision would be to strengthen the Secretariat's capacity to respond effectively and credibly to chemical weapons use and allegations thereof. Such support would contribute to the implementation of OPCW's mandates. It would also enable timely participation in the implementation of OPCW's obligations under the CWC, in relation to international accountability efforts against the use of chemical weapons.

3. Specific Objectives of the Action

- Integration of knowledge and expertise for investigative methodologies, protocols and activities (e.g., deployments etc.);
- Continued compliance with evidentiary information sharing, as mandated in C-SS-4/DEC.3 (para 12), to preserve and provide information to relevant investigatory entities.

4. Expected Outputs of the Action

- Output 1: Integration of OPCW's preparedness and response capacities institutionally for any new chemical weapons use or allegation thereof and to new and/or emergent risks. With the following indicative activities:
 - Transition of secured information from investigations to an integrated platform under a knowledge information plan, aligned with new/revised OPCW institutional functions and organigramme.
 - Development and testing of a learning portfolio (trainings, material such as compendium, best practices, etc.) related to chemical weapons use or allegations thereof for OPCW knowledge transfer and sharing (to include topics of relevant expertise that provides detail reflecting OPCW's specialisation gained from the conduct of investigations in the Syrian Arab Republic such as: conduct of witness/states parties/victim interviews; alleged chemical weapons use scene management; investigative case management and legal preparation; chain of custody management, etc.).
- Output 2: Enabling and strengthening the transfer of evidentiary information to the International, Impartial, and Independent Mechanism (IIIM) in relation to issued reports of the Investigation and Identification Team (IIT) on the use of chemical weapons in the Syrian Arab Republic, in line with C-SS-4/ DEC.3 para 12, and in support of international accountability for the use of chemical weapons. With the following indicative activities:
 - Creation of an enabling environment to manage progress across report 'teams' with shared services covering provision and preservation of information from IIT reports for transfer to the IIIM
 - Provision and preservation of information from the First IIT report covering use of chemical weapons use in Idamenah for transfer based on requests from the IIIM including identification, review, redaction, verification of consent, transfer, and archival processes for the initial submission, follow up responses and archival of all relevant incident files.
 - Provision and preservation of information from the Second IIT report covering use of chemical weapons use in Saraqib for transfer based on requests from the IIIM including identification, review, redaction, verification of consent, transfer, and archival processes for all incident files.

- Provision and preservation of information from the Third IIT report covering use of chemical weapons use in Douma for transfer based on requests from the IIIM including identification, review, redaction, verification of consent, transfer, and archival processes for all incident files.
- Provision and preservation of information from the Fourth IIT report covering use of chemical weapons use in Marea for transfer based on requests from the IIIM including identification, review, redaction, verification of consent, transfer, and archival processes for all incident files.

5. Final Beneficiaries

Beneficiaries include: OPCW Secretariat personnel and teams; and CWC stakeholders including States Parties, National Authorities, Civil Society, International and Intergovernmental Organisations, etc.

6. Duration

Expenditures funded through this project are expected to be incurred and concluded over a 24-month implementation period.
