



2023/2539

14.11.2023

COUNCIL DECISION (CFSP) 2023/2539
of 13 November 2023
supporting a project on the promotion of effective arms export controls

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) The Global Strategy for the Union's foreign and security policy, titled 'Shared Vision, Common Action: A Stronger Europe', which was presented by the High Representative of the Union for Foreign Affairs and Security Policy (the 'High Representative') on 28 June 2016, confirms the Union's support for the universalisation, full implementation and enforcement of multilateral disarmament, non-proliferation and arms control treaties and regimes.
- (2) On 19 November 2018, the Council adopted the EU Strategy against illicit firearms, small arms and light weapons and their ammunition ('Securing arms, protecting citizens'). The Strategy states, inter alia, that the Union will continue to promote responsible and effective arms export control and to support the universalisation and implementation of the Arms Trade Treaty (the 'ATT').
- (3) On 5 June 1998, the Union adopted the politically binding Code of Conduct on Arms Exports setting common criteria to regulate the legal trade in conventional weapons.
- (4) The Code of Conduct on Arms Exports was replaced on 8 December 2008 by Council Common Position 2008/944/CFSP ⁽¹⁾, which establishes eight criteria against which applications for the export of conventional arms are to be assessed. A number of third countries have aligned themselves with that Common Position. A 2019 review of Common Position 2008/944/CFSP resulted in the adoption of Council Decision (CFSP) 2019/1560 ⁽²⁾.
- (5) Article 11 of Common Position 2008/944/CFSP states that Member States are to use their best endeavours to encourage other States which export military technology or equipment to apply the criteria set out in that Common Position.
- (6) The ATT entered into force on 24 December 2014. The ATT aims to strengthen transparency and responsibility in the arms trade. The Union supports the effective implementation and universalisation of the ATT through its dedicated programmes adopted under Council Decisions 2013/768/CFSP ⁽³⁾, (CFSP) 2017/915 ⁽⁴⁾, and (CFSP) 2021/2309 ⁽⁵⁾. Those programmes assist a number of third countries, upon their request, in strengthening their arms transfer control systems in line with the requirements of the ATT.

⁽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).

⁽²⁾ Council Decision (CFSP) 2019/1560 of 16 September 2019 amending Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment (OJ L 239, 17.9.2019, p. 16).

⁽³⁾ Council Decision 2013/768/CFSP of 16 December 2013 on EU activities in support of the implementation of the Arms Trade Treaty, in the framework of the European Security Strategy (OJ L 341, 18.12.2013, p. 56).

⁽⁴⁾ Council Decision (CFSP) 2017/915 of 29 May 2017 on Union outreach activities in support of the implementation of the Arms Trade Treaty (OJ L 139, 30.5.2017, p. 38).

⁽⁵⁾ Council Decision (CFSP) 2021/2309 of 22 December 2021 on Union outreach activities in support of the implementation of the Arms Trade Treaty (OJ L 461, 27.12.2021, p. 78).

- (7) It is therefore important to ensure complementarity between the outreach and assistance activities provided for in this Decision and those provided for in Decision (CFSP) 2021/2309. To that end, regular exchanges of information should take place among the implementing agencies for Union outreach activities in the field of arms export control, as well as with the European External Action Service. This coordination mechanism will encourage the participation of experts from other Member States whenever relevant.
- (8) Union activities to promote effective and transparent arms export controls have developed since 2008 under Council Joint Action 2008/230/CFSP ⁽⁶⁾ and Council Decisions 2009/1012/CFSP ⁽⁷⁾, 2012/711/CFSP ⁽⁸⁾, (CFSP) 2015/2309 ⁽⁹⁾, (CFSP) 2018/101 ⁽¹⁰⁾, and (CFSP) 2020/1464 ⁽¹¹⁾. The activities carried out have notably supported further regional cooperation and enhanced transparency and greater responsibility, in line with the principles of Common Position 2008/944/CFSP and the risk-assessment criteria set out therein. The activities in question have traditionally addressed third countries of the eastern and southern neighbourhoods of the Union. Decision (CFSP) 2018/101 expanded the group of partner countries receiving assistance to also include Central Asia. Under Decision (CFSP) 2020/1464, Mongolia was also added to the group of partner countries, following a special request from that country.
- (9) In recent years, the Union has also provided assistance to improve export controls on dual-use goods in third countries. Effective coordination with those activities relevant to dual-use export controls should be ensured.
- (10) The German Federal Office for Economic Affairs and Export Control, Bundesamt für Wirtschaft und Ausfuhrkontrolle, ('BAFA') has been entrusted by the Council with the technical implementation of Decisions 2009/1012/CFSP, 2012/711/CFSP, (CFSP) 2015/2309, (CFSP) 2018/101, and (CFSP) 2020/1464. BAFA is also an implementing agency for projects supporting the effective implementation of the ATT under Decisions 2013/768/CFSP, (CFSP) 2017/915 and (CFSP) 2021/2309. Since 2005, BAFA has been engaged in the implementation of a number of Union cooperation projects in the area of dual-use export controls. BAFA is the competent export control authority of Germany, and has developed a large body of knowledge and expertise on outreach activities, in addition to sharing its core competencies with the competent authorities of other states.
- (11) Activities supported through this Decision contribute to Sustainable Development Goal 16 of the UN 2030 Agenda for Sustainable Development,

HAS ADOPTED THIS DECISION:

Article 1

1. With a view to the implementation of the EU Strategy against illicit firearms, small arms and light weapons and their ammunition ('Securing arms, protecting citizens') and Council Common Position 2008/944/CFSP, the Union shall further support a project on the promotion of effective arms export controls.

⁽⁶⁾ Council Joint Action 2008/230/CFSP of 17 March 2008 on support for EU activities in order to promote the control of arms exports and the principles and criteria of the EU Code of Conduct on Arms Exports among third countries (OJ L 75, 18.3.2008, p. 81).

⁽⁷⁾ Council Decision 2009/1012/CFSP of 22 December 2009 on support for EU activities in order to promote the control of arms exports and the principles and criteria of Common Position 2008/944/CFSP among third countries (OJ L 348, 29.12.2009, p. 16).

⁽⁸⁾ Council Decision 2012/711/CFSP of 19 November 2012 on support for Union activities in order to promote, among third countries, the control of arms exports and the principles and criteria of Common Position 2008/944/CFSP (OJ L 321, 20.11.2012, p. 62).

⁽⁹⁾ Council Decision (CFSP) 2015/2309 of 10 December 2015 on the promotion of effective arms export controls (OJ L 326, 11.12.2015, p. 56).

⁽¹⁰⁾ Council Decision (CFSP) 2018/101 of 22 January 2018 on the promotion of effective arms export controls (OJ L 17, 23.1.2018, p. 40).

⁽¹¹⁾ Council Decision (CFSP) 2020/1464 of 12 October 2020 on the promotion of effective arms export controls (OJ L 335, 13.10.2020, p. 3).

2. The objectives of the project referred to in paragraph 1 shall be to:
 - (a) promote 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;
 - (b) support third countries' efforts at national and regional level to render trade in conventional weapons more responsible and transparent, and to mitigate the risk of the diversion of arms to unauthorised users.
3. Project activities shall be implemented in complementarity and synergy with Union assistance projects in the field of export controls on conventional arms and dual-use goods, and, when appropriate, with other donors' assistance projects in the field of export controls.
4. A detailed description of the project is set out in the Annex to this Decision.

Article 2

1. The High Representative shall be responsible for the implementation of this Decision.
2. The implementation of the project referred to in Article 1 shall be carried out by the German Federal Office for Economic Affairs and Export Control, Bundesamt für Wirtschaft und Ausfuhrkontrolle, ('BAFA').
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 referred to in Article 1 shall be EUR 682 464,03.
2. The expenditure financed by the financial reference 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 this purpose, it shall conclude the necessary agreement with BAFA. The 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 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 agreement.

Article 4

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

Article 5

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

It shall expire 14 months after the date of the conclusion of the agreement referred to in Article 3(3), or 6 months after the date of its adoption if the necessary agreement has not been concluded before the expiry of that period.

Done at Brussels, 13 November 2023.

For the Council
The President
J. BORRELL FONTELLES

ANNEX**PROJECT FOR THE PROMOTION OF EFFECTIVE ARMS EXPORT CONTROLS****1. Objectives**

The purpose of this Decision is to promote accountability and responsibility with regard to the legal arms trade in line with Common Position 2008/944/CFSP, thereby contributing to peace, security and stability in countries neighbouring the Union. 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. Those objectives should be obtained by promoting the principles and criteria set out in Common Position 2008/944/CFSP and the ATT. The outcomes should aim to increase the effectiveness of national arms export systems in targeted countries: the implementing agency will report on legal, institutional and other relevant changes and their alignment with Common Position 2008/944/CFSP and, where appropriate, the ATT. Those outcomes should be pursued in seeking complementarity and synergies with the Union's ongoing assistance projects in support of the implementation of the ATT, as well as in the field of export controls on dual-use goods. The scope of beneficiaries under this Decision should not overlap with beneficiaries covered under Decision (CFSP) 2021/2309, except as described under 6.2.

In order to achieve the abovementioned objectives, the Union should continue to promote the standards of Common Position 2008/944/CFSP, building on the achievements reached through the implementation of Joint Action 2008/230/CFSP and Decisions 2009/1012/CFSP, 2012/711/CFSP, (CFSP) 2015/2309, (CFSP) 2018/101 and (CFSP) 2020/1464. For that purpose, assistance should be provided to beneficiary third countries for the drafting, updating and implementation, as appropriate, of relevant legislative, administrative and institutional measures that support an effective system of conventional arms transfer controls.

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 (including industry, research institutes and academia) should be promoted in order to ensure compliance with arms transfer control legislation and regulations, focusing in particular on internal compliance programmes (ICPs).

2. Selection of the implementing agency

The implementation of this 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 of the relevant fields of strategic export control, addressing CBRN-related, dual-use goods and military goods. Through those programmes and activities, BAFA has gained in-depth knowledge of the export control systems of most of the countries included in this Decision.

With regard to arms export control assistance and outreach, BAFA successfully completed the implementation of Decisions 2009/1012/CFSP, 2012/711/CFSP, (CFSP) 2015/2309 (CFSP) 2018/101 and (CFSP) 2020/1464. BAFA is also in charge of the technical implementation of the ATT implementation support programme established by Decisions 2013/768/CFSP, (CFSP) 2017/915 and (CFSP) 2021/2309.

BAFA is therefore 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 also most able to facilitate synergies between the various arms export control assistance and outreach programmes and to avoid duplication. This is of particular relevance for beneficiary countries that have received support under previous Union cooperation programmes for strengthening local capacity with regard to applying and updating the national arms trade control system in line with international standards and recent developments.

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 export controls covering both dual-use goods and conventional arms, synergy and complementarity should be sought. To that end, the activities referred to in section 5 should be carried out only in countries that are not already targeted through activities under the ATT outreach assistance project, except in exceptional cases as described in section 6.2. Where appropriate, synergy can be sought in conjunction with other activities financed through the CFSP budget or with other activities relating to dual-use goods export controls financed through Union financial instruments other than the CFSP budget. This should be done in full compliance with the legal and financial limitations set for the use of relevant Union financial instruments.

To that end, regular exchanges of information will take place between the implementing agencies of the Union outreach activities in the field of export control, as well as with the European External Action Service through the established and formalised coordination mechanism. The participation of experts from other Member States should be encouraged whenever relevant.

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 control outreach should be sought. As stated in section 3, coordination with other donors should be carried out, especially for the activities referred to in subsections 5.2.1 to 5.2.2 and 5.2.4.

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:

- their 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;
- their candidatures for membership of the Union and whether the beneficiary countries are official candidates or potential candidates;
- their capacity as a producer, importer or trading hub in relation to trade in conventional military equipment and technologies;
- the level of maturity of the existing national export control system, with particular consideration given to the progress made as a result of support received under previous arms export control cooperation programmes financed by the Union; and
- their 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 the countries addressed have taken no steps towards the ATT (neither signature, ratification nor accession), the activities should promote accession thereto, possibly with the support of other beneficiary countries that have ratified the ATT.

5.2. Project description

5.2.1. Regional workshops

The project will take the form of up to four two-day regional workshops, providing theoretical and practical training as well as an opportunity for dialogue to consolidate regional approaches in relevant areas of conventional arms export controls.

The participants in the workshops will include government officials of the beneficiary countries covered. Representatives from national parliaments, industry and civil society, among others, 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, those that have participated in train the trainer workshops (organized and conducted based on the concept elaborated by BAFA) under this Decision or Decisions (CFSP) 2020/1464, and (CFSP) 2021/2309, and by representatives of the private sector and civil society.

The workshops may take place in a beneficiary country or in another location and will offer the option of hybrid participation, where appropriate.

The regional workshops will be organised to achieve broad coverage of beneficiary states. Each beneficiary country should be offered the opportunity to attend at least one regional workshop. Synergies with other export control outreach activities can be achieved by organizing events back-to-back.

5.2.2. Multilateral Activities and Knowledge Exchange Trainings

The project will take the form of multilateral activities involving at least two beneficiary countries who are interested in an issue of common concern for the purpose of exchanging knowledge and experience on this particular issue. These activities can be organized for up to two days in one of the beneficiary countries of this Decision, in a Member State or online.

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, those that have participated in train the trainer workshops (organized and conducted based on the concept elaborated by BAFA) under this Decision or Decisions (CFSP) 2020/1464 and (CFSP) 2021/2309 and by representatives of the private sector and civil society.

5.2.3. Individual and remote assistance to beneficiary countries

The project will take the form of workshops offering individual beneficiary countries assistance in areas of specific national concern upon their request. State officials from the beneficiary countries, including government, licensing and enforcement officials, as well as, where appropriate, representatives of civil society, will participate in the workshops. The events should have, at minimum, a two-day format. These activities can be organized in one of the beneficiary countries of this Decision, in a Member State or online.

The individual assistance workshops will be held at the request of the beneficiary countries. They are intended to address a specific issue related to arms export control raised by a beneficiary country, for example, in the margins of a regional workshop or during regular contacts with Union experts and with BAFA. These workshops may address, among other issues, targeted national capacity-building measures, outreach to industry and/or academia, and national training strategies in the area of arms export control.

In addition, individual support could be provided, where appropriate and effective, through remote assistance.

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 will provide their expertise. Individuals who have participated in train the trainer workshops (organized and conducted based on the concept elaborated by BAFA) under this Decision or Decisions (CFSP) 2020/1464 and (CFSP) 2021/2309, will also be encouraged to share their expertise through such events, where appropriate.

5.2.4. Institutional capacity building and advanced-level measures

The project will take the form of up to two courses consisting of three modules lasting up to four days each. These will provide support to beneficiary countries with advanced-level arms export control systems for building up their own national capacity based on the continued application of the 'train the trainer' approach. The skills developed in this training will include didactics, knowledge transfer and institutional memory in the beneficiary country. Institutional capacity building measures offered under this Decision can also take the form of supporting the trained trainers in organizing and implementing national trainings in their home countries. Furthermore, the support under this Article can also take the form of organizing peer-to-peer exercises from which, where appropriate, other beneficiary countries could also benefit by participating as a target group.

When implementing the activities described by this Decision, the trained trainers should be further encouraged to participate in activities as multipliers or providers of knowledge and expertise at a regional, cross-regional and international level. The goal is to support countries in moving away from individual assistance and becoming more autonomous and proactive in their national and regional implementation of strategic trade controls.

Countries that have received the capacity-building and advanced-level measures described above will have the opportunity to be sponsored to participate in a dedicated international export control conference, where feasible and appropriate. Such conferences will provide the participating partner countries with access to a forum for advanced-level discussions related to more sophisticated topics and current issues of export control. Where appropriate, a conference or meeting of this nature could also be organized specifically under this Decision, in order to provide an exchange between Union experts and senior-level representatives of the partner countries. The event may be conducted in a hybrid format and back-to-back with other outreach events for advanced beneficiary countries.

This conference will give the participating beneficiary countries the opportunity to:

- (a) receive information on the newest developments related to arms trade controls (e.g. current procurement channels, the impact of new technologies, and security policy-related issues);
- (b) discuss and exchange views on how recent changes and improvements in arms trade controls can be implemented as part of their own national export control system;
- (c) discuss and revisit topics learned during the train-the-trainer workshops.

5.2.5. Assessment events

In order to evaluate and review the impact of the activities under this Decision, a final assessment event will be organised online. All beneficiary countries and Member States will be invited to participate in the final assessment event.

6. Beneficiaries

6.1. Beneficiary countries under this Decision

The scope of beneficiaries under this Decision should not overlap with the beneficiaries covered under Decision (CFSP) 2021/2309 unless provided for otherwise as part of the exceptions granted under 6.2.

Beneficiary countries under this Decision are:

- a) South-eastern European Countries (Albania, Bosnia and Herzegovina, the Republic of North Macedonia, Montenegro, Serbia and Kosovo ⁽¹⁾)
- b) Eastern European and Caucasian countries of the European Neighbourhood Policy (Armenia, Azerbaijan, Belarus ⁽²⁾, Georgia, Republic of Moldova)
- c) North African, Mediterranean and Southern Neighbourhood countries of the European Neighbourhood Policy (Algeria, Egypt, Morocco, Tunisia, Jordan and Lebanon)
- d) Central Asian countries (Kazakhstan, Tajikistan, Uzbekistan, Kyrgyzstan, Turkmenistan and Mongolia).
- e) Ukraine

6.2. Amendment of the list of beneficiary countries

COARM may, after consultations with the coordination mechanism referred to in section 3, decide to add countries to the list of beneficiaries, provided that they are not beneficiaries under Decision (CFSP) 2021/2309. In exceptional cases, where deemed meaningful, the coordination mechanism may also agree to engage with beneficiaries covered by Decision (CFSP) 2021/2309. Modifications should be communicated in a formal manner between BAFA and the Union through the Chair of COARM.

⁽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.

⁽²⁾ The Participation of Belarus remains suspended.

Project results and implementation indicators

The assessment of the results of the project will take into account the following:

6.3. Individual assessment of beneficiary countries

On completion of the activities provided for, BAFA will provide the European External Action Service and the Commission with a progress report on each of the beneficiary countries referred to in subsection 6.1. The report will recap the activities that took place in the beneficiary country over the duration of this Decision and assess and describe the beneficiary country's capacity in the area of arms transfer controls based on information available to BAFA. The basis of assessment will be the beneficiary country's application of control instruments as stipulated in Common Position 2008/944/CFSP, insofar as these do not apply to Member States only.

6.4. 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 Union delegations in the beneficiary countries, as well as with other relevant stakeholders.

For that purpose, the following implementation indicators will be used:

- whether relevant national regulations on arms transfer controls are in place and whether/to what extent they comply with Common Position 2008/944/CFSP (including the application of the assessment criteria, the implementation of the EU common military list and 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 and reports to national parliaments); and
- whether the beneficiary country has aligned, or intends to officially align, with Common Position 2008/944/CFSP.

The individual assessment reports referred to in subsection 7.1 should refer to those implementation indicators as appropriate.

7. Promoting the use of the EU P2P web portal ^(?)

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 and arms). The activities listed in section 5.2. are to raise 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, which 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.

8. Union visibility

BAFA will take all appropriate measures to publicise the fact that the action is funded by the 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 this Decision, as well as Union support for this Decision and the results of that support. Material produced by the project will prominently display the Union flag in accordance with relevant Union guidelines, as well as the logo 'EU P2P export control programme'. Union delegations should be involved in events in third countries to enhance political follow-up and visibility.

^(?) https://cbrn-risk-mitigation.network.europa.eu/eu-p2p-export-control-programme_en and <https://circabc.europa.eu/>

Given that planned activities vary greatly in scope and character, a range of promotional tools should be used, including traditional media, websites, social media, information and promotional materials (including infographics, leaflets, newsletters, press releases and others, as appropriate). Publications and public events procured under the project will be branded accordingly.

9. Reporting

The implementing entity will prepare regular quarterly reports detailing in succinct form the progress of the project, as well as mission reports after the completion of each activity. The reports will be submitted to the High Representative no later than 6 weeks after the completion of relevant activities.
