

## III

(Acts adopted under the EU Treaty)

## ACTS ADOPTED UNDER TITLE V OF THE EU TREATY

## COUNCIL JOINT ACTION 2008/858/CFSP

of 10 November 2008

**in support of the Biological and Toxin Weapons Convention (BTWC), in the framework of the implementation of the EU Strategy against the Proliferation of Weapons of Mass Destruction**

THE COUNCIL OF THE EUROPEAN UNION,

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 (hereinafter referred to as the EU Strategy), Chapter III of which contains a list of measures to combat such proliferation.
- (2) The European Union (EU) is actively implementing the EU Strategy and is giving effect to the measures listed in Chapter III thereof, in particular those relating to the reinforcement, implementation and universalisation of the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (hereinafter referred to as the BTWC).
- (3) In this regard, Council Joint Action 2006/184/CFSP of 27 February 2006 in support of the BTWC, in the framework of the EU Strategy against the Proliferation of Weapons of Mass Destruction<sup>(1)</sup>, has achieved substantial results in terms of universality and national implementation, since seven more States have subsequently become States Parties to the BTWC and two States have benefited from the legal assistance provided by EU experts.
- (4) Equally, the priorities and measures set out in Council Common Position 2006/242/CFSP of 20 March 2006

relating to the 2006 Review Conference of the Biological and Toxin Weapons Convention (BTWC)<sup>(2)</sup>, in particular support for the Inter-Sessional Process, national implementation, Confidence-Building Measures (CBMs) and universality, continue to guide EU actions, including assistance and outreach projects. Those aspects of that Common Position which gained a consensus among the States Parties to the BTWC (hereinafter referred to as the States Parties) and which are reflected in the Final Document of the Sixth Review Conference of the BTWC (hereinafter referred to as the Sixth Review Conference), are of particular relevance for the EU's initiatives in support of the BTWC.

- (5) The EU should also help States Parties to benefit from the expertise that the Member States have acquired with regard to the confidence-building process and transparency in the framework of the BTWC, in particular through the Action Plan on biological and toxin weapons adopted by the Council on 20 March 2006, which provides for regular submission of CBM declarations by the Member States and for an update of the lists of nominated experts and laboratories available to assist in the United Nations Secretary-General's Mechanism for Investigating Alleged Use of Chemical and Biological Weapons,

HAS ADOPTED THIS JOINT ACTION:

*Article 1*

1. For the purpose of the immediate and practical implementation of certain elements of the EU Strategy, and to consolidate the progress achieved in the universalisation and national implementation of the BTWC through Joint Action 2006/184/CFSP, the EU shall further support the BTWC, with the following general objectives:

— promoting the universalisation of the BTWC,

<sup>(1)</sup> OJ L 65, 7.3.2006, p. 51.

<sup>(2)</sup> OJ L 88, 25.3.2006, p. 65.

- providing support for the implementation of the BTWC by the States Parties,
- promoting the submission of CBM declarations by the States Parties,
- providing support for the BTWC Inter-Sessional Process.

2. The projects to be supported by the EU shall have the following specific objectives:

- (a) providing States not yet parties to the BTWC with means to carry out such initiatives at the national or sub-regional level as will raise awareness of the BTWC, by providing legal advice concerning the ratification of and accession to the BTWC, and by offering training or other forms of assistance in order for the national authorities to be able to comply with their obligations under the BTWC;
- (b) assisting the States Parties in the implementation of the BTWC at national level, in order to ensure that the States Parties implement their obligations under the BTWC by means of national legislation and administrative measures and establish functioning relationships between all national stakeholders, including the national legislature and the private sector;
- (c) facilitating the regular submission of CBM declarations by the States Parties, by preparing explanatory materials relating to the CBM process and by improving the technical aspects of the electronic submission of existing CBM declarations as well as by improving the security and maintenance of a restricted website, by facilitating the establishment of national points of contact and the submission of the first CBM declarations and by organising a conference of CBM points of contact in connection with BTWC meetings in 2008 and 2009;
- (d) promoting a focused discussion at the regional level among representatives of the government, universities, research institutes and industry on BTWC inter-sessional topics, in particular the oversight of science and education.

A detailed description of the projects referred to above 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 (hereinafter referred to as the SG/HR), shall be

responsible for the implementation of this Joint Action. The Commission shall be fully associated.

2. The technical implementation of the activities referred to in Article 1 shall be carried out by the United Nations Office for Disarmament Affairs (hereinafter referred to as the UNODA) in Geneva. It shall perform its 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 UNODA.

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

#### Article 3

1. The financial reference amount for the implementation of the measures referred to in Article 1(2) shall be EUR 1 400 000 to be funded from the general budget of the European Communities.

2. The expenditure financed by the amount set out 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, the Commission shall conclude a financing agreement with the UNODA. The financing agreement shall provide that the UNODA is to ensure the visibility of the EU contribution, appropriate to its size.

4. The Commission shall endeavour to conclude the financing agreement referred to in paragraph 3 within three months 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 UNODA. 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 Joint Action.

*Article 5*

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

It shall expire 24 months after the date of conclusion of the financing agreement referred to in Article 3(3), or six 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, 10 November 2008.

*For the Council*  
*The President*  
B. KOUCHNER

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## ANNEX

**1. General Framework**

Building on the successful implementation of Joint Action 2006/184/CFSP, this Joint Action serves as an operational policy tool for carrying forward the objectives of Common Position 2006/242/CFSP and focuses in particular on those aspects on which a general consensus was reached at the Sixth Review Conference, as reflected in its Final Document.

This Joint Action will be guided by the following principles:

- (a) making best use of the experience gained through Joint Action 2006/184/CFSP;
- (b) reflecting on specific needs expressed by the States Parties as well as States not parties to the BTWC with respect to better implementation and universalisation of the BTWC;
- (c) encouraging local and regional ownership of the projects in order to ensure their long-term sustainability and to build a partnership between the EU and third parties in the framework of the BTWC;
- (d) focusing on those activities that bring concrete results and/or contribute to an early framing of common understanding relevant for the 2011 BTWC review process;
- (e) supporting the Chair of the States Parties' meetings and making best use of the mandate of the Implementing Support Unit (hereinafter referred to as the ISU) as agreed at the Sixth Review Conference.

**2. Objective**

The overall objective of this Joint Action is to support the universalisation of the BTWC, to enhance the implementation of the BTWC, including the submission of CBM declarations, and to support the best use of the Inter-Sessional Process 2007-2010 for the preparation of the next Review Conference.

The EU will, in its assistance to the BTWC, take fully into account the decisions and the recommendations adopted by the States Parties at the Sixth Review Conference held in Geneva on 20 November-8 December 2006.

**3. Projects****3.1. *Project 1: Promotion of the universalisation of the BTWC*****Project purpose**

To increase adherence to the BTWC and awareness of the States Parties' obligations under the BTWC either through country-focused assistance activities or through structured sub-regional initiatives, building on the experience and contacts resulting from Joint Action 2006/184/CFSP.

This project will animate the decisions made by the States Parties at the Sixth Review Conference concerning the types of universalisation activities, the exchange of information and the reporting on universalisation efforts, and the support for the Chair of States Parties' meetings in his role of coordinator for universalisation activities.

**Project results**

- (a) Increased adherence to the BTWC in all geographical regions;
- (b) Enhanced understanding of the BTWC among the relevant national authorities and/or strengthened sub-regional networking concerning the BTWC in order to promote accession to the BTWC;
- (c) Promotion of voluntary implementation of the BTWC by States prior to their accession thereto.

**Project description**

In 2006 and 2007 the EU carried out regional outreach to almost all those States which are not parties to the BTWC with the intention of encouraging the ratification of or accession to the BTWC. Seven States have subsequently adhered to the BTWC. As a next step, this project provides for an outreach to up to seven States not parties to the BTWC, either in the form of targeted country assistance or sub-regional workshops, in order to achieve the objectives and results of this project.

#### Project implementation

The Chair of the States Parties' meetings, assisted by the ISU, will be asked to inform those States which are not parties to the BTWC of the EU assistance available for the promotion of universalisation, which can take the following forms:

- (a) Country-specific or sub-regional (maximum of five countries) legal assistance related to the ratification of or accession to the BTWC. If, in a country applying for assistance, the accession to or ratification of the BTWC requires the adoption of legislative or administrative measures relating to its implementation, the legal assistance may also cover those measures;
- (b) Country-specific or sub-regional (maximum of five countries) assistance to raise awareness of and support for the BTWC among political and opinion leaders and to encourage those States which are not parties to the BTWC to take the measures necessary for the implementation of the BTWC, such as setting up of points of contact, networking among key national stakeholders, and provision of training;
- (c) Country-specific financial assistance allowing the participation of relevant national stakeholders, in particular the authorities responsible for the ratification of the BTWC, in the BTWC process (e.g. participation as observers at the experts' and/or States Parties' meetings). This type of assistance shall be provided for on a case-by-case basis and only when it can make a realistic difference for the prospects of a State acceding to the BTWC;
- (d) Financial grants for training and awareness-raising visits of relevant national stakeholders to the authorities of EU Member States responsible for the implementation of the BTWC.

This project will enable partnerships between the EU Member States and beneficiary countries to ensure continuity of the EU's universalisation efforts and to offer a permanent point of reference for the beneficiary countries throughout the process of ratification of or accession to the BTWC. The participating EU Member States may volunteer to accompany, either individually or in groups, the selected beneficiaries throughout the ratification or accession process.

#### 3.2. *Project 2: Assistance to States Parties for the national implementation of the BTWC*

##### Project purpose

To ensure that the States Parties implement their obligations under the BTWC by means of national legislation and administrative measures and enforce them effectively, taking into account the final document of the Sixth Review Conference, the common understanding reached at the relevant meetings of the States Parties and the synthesis drawn from the discussions at the experts' and States Parties' meeting.

##### Project results

- (a) Adoption of appropriate legislative or administrative measures, including criminal law provisions, which encompass the full scope of the prohibitions and preventive measures provided for in the BTWC;
- (b) Effective implementation and enforcement to prevent violations of the BTWC and to impose sanctions in cases of breaches;
- (c) Better coordination and networking among all stakeholders involved in the BTWC process, including the private sector, in order to promote effective implementation.

##### Project description

Based on positive experience of cooperation in the area of legislative assistance relating to the implementation of the BTWC in Peru and Nigeria, the EU will continue to provide legal advice to a maximum of seven interested States Parties.

The ISU will be asked to inform the States Parties of the EU assistance available for the implementation of the BTWC, which can take the following forms:

- (a) legal advice and assistance relating to the drafting of legislative and administrative measures relevant for the implementation of any prohibitions and preventive measures provided for in the BTWC or agreed on by virtue of a common understanding;

- (b) awareness-raising workshops relating to the national implementation of the BTWC and the enforcement of national measures, which may target:
- the decision-making authorities and national legislatures in order to facilitate political consensus on this issue,
  - the government stakeholders involved in the implementation of the BTWC in order to create networks and designate points of contact/competent national authorities,
  - the industry, universities and research institutes and non-governmental organisations to create public-private partnerships.

A strong preference will be given to bilateral projects focused on legal drafting.

### 3.3. *Project 3: Promotion of the submission of CBM declarations on a regular basis by States Parties to the BTWC*

#### Project purpose

To promote and increase the submission of CBM declarations by the States Parties on a regular basis, by encouraging and facilitating the preparation, compilation and transmission of the required data on an annual basis, including by contributing to the improvement of the electronic submission of the CBM declarations and enhancing the security of the website relating to the CBMs, and by providing assistance particularly for the points of contact.

#### Project results

- (a) Appointment of national points of contact for the submission of CBM declarations;
- (b) Creation or enhancement of national mechanisms for the preparation and compilation of information requested in the CBM declarations;
- (c) Regular submission of the CBM declarations to the ISU by national points of contact;
- (d) Improvement of the technical aspects of the electronic submission of CBM declarations and of the security and maintenance of the website for the CBMs.

#### Project description

The Sixth Review Conference recognised an urgent need for increasing the number of States Parties participating in the CBMs. In that regard, it also recognised the technical difficulties experienced by some States Parties in submitting complete and timely declarations. In order to increase participation of States Parties in the CBM process, the EU will offer assistance to States Parties through three types of activities:

- (a) Preparation of comprehensive documentation covering the methodology of national preparation and compilation of CBM data, including a brochure and a schedule for the submission of CBM declarations, to provide examples of good practices while recognising differences in the national procedures. The documentation will also provide descriptions of tools and information made available on this subject by the ISU and will take into account similar initiatives of other institutions and States Parties. The brochure will be reproduced in all the official languages of the UN.

Overall coordination of the preparation of the brochure will be carried out by the UNODA. A meeting of EU experts involved in the drafting of the brochure may be convened to discuss and finalise it. The brochure will be distributed to the States Parties.

- (b) Provision of support for the creation and functioning of national points of contact in charge of preparing the submission of CBM declarations, including in-country assistance to a maximum of seven States Parties in the preparation of the first CBM declarations. Those States with a significant level of bio-research or with high incidents of endemic diseases will be considered a priority.

The ISU will be asked to inform the States Parties of the assistance made available by the EU in the area of CBMs.

- (c) Organisation of two workshops involving existing and newly designated CBM points of contact in connection with the experts' or States Parties' meetings, in order to share experience gained from the CBM process and from the collection of data, and to encourage all States Parties to designate a point of contact.

The invitations to the workshops will specify that the workshops are part of an EU initiative. The ISU will inform the States Parties that for each conference, if necessary, the EU can cover the expenses of a maximum of ten participants from the non-EU States Parties which have recently made the decision to appoint a point of contact. Those States with a significant level of bio-research or with high incidents of endemic diseases will be considered a priority for possible funding on a case-by-case basis.

- (d) Financial contribution to the UNODA to facilitate the further improvement and maintenance of the existing secure CBM website and to improve the technical aspects of the electronic submission of existing CBM declarations, in accordance with the decision of the States Parties at the Sixth Review Conference.

#### 3.4. *Project 4: Support for the BTWC Inter-Sessional Process*

##### Project purpose

To support the BTWC Inter-Sessional Process, and in particular the discussion on the 2008 and 2009 inter-sessional topics, within and outside the EU, with a view to promoting the adoption of concrete measures.

##### Project results

- (a) Launching the discussion between the private and public sectors in the EU on the security challenges associated with the progress in bio-sciences and bio-technology research and on the appropriate measures to be adopted at the national, regional or global level to address those challenges, and in particular concerning the oversight of science, education, awareness-raising and the development of codes of conduct for the bio-sciences and bio-technology industry, as well as encouraging a discussion on the enhancement of international cooperation and assistance in the area of disease surveillance, detection, diagnostics with a view to identifying concrete assistance needs;
- (b) Submitting a report to the inter-sessional meetings on the findings and recommendations generated by the discussions in the EU context;
- (c) Facilitating the discussion on the inter-sessional topics in different regions of the world, especially in those not represented adequately at the inter-sessional meetings.

##### Project description

This project provides for two workshops at the EU level, bringing together representatives of the government, industry, universities and research institutes and non-governmental organisations, to allow an exchange of experience and a reflection on the 2008 and 2009 inter-sessional topics. The workshops will ideally take place before the experts' or States Parties' meetings. A report on the workshops will be submitted to the States Parties.

In order to promote reflection on these issues globally, funds will be made available for two types of activities:

- (a) Participation of a maximum of seven non-EU representatives in each EU regional workshop, in particular from the Non-Aligned Movement (NAM);
- (b) Organisation of a maximum of four national workshops to discuss the 2008 and 2009 inter-sessional topics in different regions of the world. It is expected that non-EU States Parties which participated in the EU regional workshops may wish to organise similar national workshops in their respective countries and ask for EU assistance for that purpose.

#### 4. **Procedural aspects, coordination and the Steering Committee**

In principle, applications by third states for any assistance and cooperation under this Joint Action must be addressed to the SG/HR, assisting the Presidency, and to the UNODA. The UNODA will review and assess those applications, as appropriate, and submit recommendations to the Steering Committee. The Steering Committee will examine the applications for assistance as well as the action plans and their implementation. The Steering Committee will present a final list of beneficiary countries, which will thereafter be endorsed by the Presidency, assisted by the SG/HR, in consultation with the competent working party of the Council.

The Steering Committee will be composed of a representative of the Presidency, assisted by the SG/HR, as well as of the incoming Presidency, and of the UNODA. The Commission will be fully associated. The Steering Committee will review the implementation of the Joint Action regularly, at least once every 6 months, including by the use of electronic means of communication.

To ensure strong ownership and sustainability of EU-initiated activities by the beneficiary countries, it is envisaged that whenever possible and appropriate, the selected beneficiaries will be asked to prepare action plans which will specify, among others, a schedule for carrying out funded activities (including through national resources), details on the scope and duration of the project, main stakeholders. The UNODA or the Member States, as appropriate, shall be associated with the preparation of the action plans. The implementation of the projects shall be carried out in accordance with the action plans.

#### 5. **Reporting and assessment**

The UNODA will submit to the Presidency, assisted by the SG/HR, regular bi-monthly progress reports on the implementation of the projects. The report will be transmitted to the relevant working party of the Council for an assessment of progress and for an overall evaluation of the projects as well as for a possible follow-up.

Whenever possible, the States Parties will be informed of the implementation of this Joint Action.

#### 6. **Information and Collaboration Management System (ICMS)**

The ICMS, which was developed under Joint Action 2006/184/CFSP, will be maintained and used for the purpose of exchange of information, drafting and other communication among EU experts, the UNODA and third countries, as appropriate, as well as for the preparation of relevant assistance visits.

#### 7. **Participation of EU experts**

Active involvement of EU experts is necessary for the successful implementation of this Joint Action. Their costs relating to the implementation of the projects will be covered by this Joint Action. The UNODA will be encouraged to make use of the existing list of EU legal experts and to develop similar tools for the CBMs and other aspects of implementation as appropriate.

It is expected that in connection with envisaged assistance visits (e.g. legal assistance, CBM assistance), the involvement of a group of a maximum of three experts for a maximum duration of five days will be considered a standard practice.

#### 8. **Duration**

The total estimated duration of the implementation of this Joint Action is 24 months.

#### 9. **Beneficiaries**

The beneficiaries of universalisation activities are States which are not parties to the BTWC (both signatory States and non-signatory States).

The beneficiaries of implementation and CBM-related activities are the States Parties.

The beneficiaries of the activities relating to the Inter-Sessional Process are the government representatives of Member States and other States Parties as well as representatives of the private sector, universities and research institutes and non-governmental organisations.

#### 10. **Third-party representatives**

In order to promote regional ownership and sustainability of the projects, the participation of non-EU experts, including those from regional and other relevant international organisations, may be funded by this Joint Action. The participation of the Chairperson of States Parties' meetings as well as of the ISU staff may be funded on a case-by-case basis.

#### 11. **Implementing entity**

Technical implementation of this Joint Action will be entrusted to the UNODA in Geneva which will perform its task under the control of the SG/HR assisting the Presidency.

In carrying out its activities, the UNODA will cooperate with the Presidency, assisted by the SG/HR, and the Member States and other States Parties and international organisations as appropriate.

#### 12. **Implementing entity — Staff issues**

Given the extra-budgetary character of the activities envisaged to be assigned to the UNODA in this Joint Action, additional staff will be needed to implement the planned projects.

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