

(Acts adopted under Title V of the Treaty on European Union)

COUNCIL JOINT ACTION 2005/868/CFSP

of 1 December 2005

amending Joint Action 2005/355/CFSP on the European Union mission to provide advice and assistance for security sector reform in the Democratic Republic of the Congo (DRC) with regard to setting up a technical assistance project on improving the chain of payments of the Ministry of Defence in the DRC

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 14, the third paragraph of Article 25 and the second subparagraph of Article 28(3) thereof,

Whereas:

- (1) Further to an official invitation from the Government of the DRC dated 26 April 2005, the Council adopted on 2 May 2005 Joint Action 2005/355/CFSP on the European Union mission to provide advice and assistance for security sector reform in the Democratic Republic of the Congo (DRC) ⁽¹⁾, codenamed 'EUSEC RD Congo'.
- (2) EUSEC RD Congo aims to provide practical support for the integration of the Congolese army and good governance in the field of security, including in the fields of budgetary and financial control and management, the status of the military profession, training, public procurement, accountancy and financial monitoring. Pursuant to Article 2 of the said Joint Action EUSEC RD Congo is to identify and contribute to the development of various projects and options that the European Union and/or its Member States may decide to support in this area.
- (3) Further to a request from the Congolese Government dated 19 July 2005 for technical and logistical support for the modernisation of the system for managing the staff and finances of the armed forces of the DRC, EUSEC RD Congo drew up a draft technical assistance programme aimed, in particular, at modernising the chain of payments of the Ministry of Defence in the DRC.
- (4) By letter dated 11 November 2005, the Secretary-General/High Representative informed the Congolese Government that the European Union intended to set up a technical assistance project for the modernisation of the said chain of payments.
- (5) On 21 November 2005, the Council approved the General Concept for setting up a technical assistance project on the modernisation of the said chain of payments. The project should be established as a separate entity within EUSEC RD Congo.
- (6) The chain of payments project is covered by the mission statement and objectives of EUSEC RD Congo, a civilian mission, but the project's structure and implementing rules and the staff numbers and budget required make it necessary to amend Joint Action 2005/355/CFSP.
- (7) Third countries should take part in the project in accordance with the general guidelines defined by the European Council.
- (8) The staff to be deployed in the DRC on the project for modernising the chain of payments will be covered by the provisions on the status of personnel applying to personnel already deployed for EUSEC RD Congo.
- (9) The project will be conducted in a situation which may deteriorate and could harm the objectives of the Common Foreign and Security Policy as set out in Article 11 of the Treaty,

⁽¹⁾ OJ L 112, 3.5.2005, p. 20.

Article 1

Joint Action 2005/355/CFSP is hereby amended as follows:

1. in Article 2, the following paragraph shall be added:

‘Under the mission statement set out in the first paragraph, a technical assistance project on the modernisation of the chain of payments of the Ministry of Defence of the DRC, hereinafter referred to as “the chain of payments project”, shall be set up within the mission in order to carry out the tasks specified in the General Concept for the project.’;

2. in Article 3, the following point shall be added:

‘(c) a team responsible for the chain of payments project comprising:

- a project leader, based in Kinshasa, appointed by, and acting under the authority of, the Head of Mission,
- an “advice, expertise and implementation” division, based in Kinshasa, composed of staff not attached to the general staff of the integrated brigades and including a mobile team of experts involved in checks on the military personnel of the integrated brigades, and
- experts assigned to the general staff of the integrated brigades.’;

3. the following Article shall be inserted:

‘Article 8a

Participation of third countries in the chain of payments project

1. Without prejudice to the decision-making autonomy of the EU and its single institutional framework, third countries may be invited to contribute to the chain of payments project, provided that they bear the cost of the staff seconded by them, including salaries, high risk insurance cover, allowances and travel expenses to and from the DRC, and that they contribute to the running costs of the chain of payments project, as appropriate.

2. Third countries contributing to the chain of payments project shall have the same rights and obligations in terms of day-to-day management of the project as EU Member States.

3. The Council hereby authorises the Political and Security Committee to take the relevant decisions on acceptance of the contributions proposed and to establish a Committee of Contributors.

4. Detailed arrangements regarding the participation of third countries shall be covered by agreements concluded in accordance with the procedure laid down in Article 24 of the Treaty. The Secretary-General/High Representative, who shall assist the Presidency, may negotiate such arrangements on the latter’s behalf. Where the EU and a third State have concluded an agreement establishing a framework for the third State’s participation in EU crisis-management operations, the provisions of that agreement shall apply in the context of the chain of payments project.’;

4. the following Article shall be inserted:

‘Article 9a

Special provisions regarding the financing of the chain of payments project

1. For the period until 15 February 2006, the following provisions shall apply:

- (a) Operating expenditure relating to the chain of payments project shall be financed exclusively by Member States’ contributions, as listed in the Annex, each State contributing the sum mentioned. The financial reference amount is EUR 900 000.

The following expenditure shall, *inter alia*, be funded by those contributions:

- staffing costs (per diems and special allowances, salaries and social security cover of locally recruited staff, costs for health care, flights and travel allowances in the DRC and the region, official flights),
- establishment and operating costs (rental/purchase and use of vehicles, acquisition and maintenance of computer and telecommunications equipment, office rental and associated services, office equipment, miscellaneous equipment, security services, representation expenses, air transport fees),
- administrative costs, including audit costs and bank charges.

(b) Without prejudice to the civilian nature of the mission, the contributing Member States listed in the Annex may, for the purposes of this Joint Action, with a view to the call for contributions and the collection, management, use and monitoring of the corresponding funds and the requisite administrative arrangements, make use in particular of the staff of the mechanism set up by Decision 2004/197/CFSP (*), by way of exception, until 15 February 2006 and from 16 February 2006 having regard to the fact that the project will be financed in accordance with paragraph 2. The budget of that mechanism will not be affected.

(c) Estimates of income and expenditure shall be drawn up in a chain of payments project budget to finance the period up to 15 February 2006.

(d) In no case may the European Communities or the Secretary-General of the Council, or the mechanism mentioned in point (b), be held liable by a contributing Member State listed in the Annex as a result of recourse to that mechanism.

2. For the period from 16 February to 2 May 2006, operating expenditure relating to the chain of payments project shall be charged to the general budget of the European Union as follows:

(a) the financial reference amount shall be EUR 940 000;

(b) expenditure shall be managed in accordance with European Community rules and procedures applicable to the budget, with the exception that any prefinancing shall not remain the property of the Community. Nationals of third countries shall be allowed to tender for contracts;

(c) the Head of the Mission shall report fully to, and be supervised by, the Commission regarding the activities undertaken in the framework of the contract referred to in Article 5;

(d) the financial arrangements shall respect the operational requirements of the mission, including the compatibility of equipment.

(*) OJ L 63, 28.2.2004, p. 68. Decision as last amended by Decision 2005/68/CFSP (OJ L 27, 29.1.2005, p. 59).;

5. the following Annex shall be added:

'ANNEX

List of Member States' contributions referred to in Article 9a(1)(a)

Belgium	EUR 175 000
France	EUR 175 000
Luxembourg	EUR 50 000
Netherlands	EUR 150 000
United Kingdom	EUR 175 000
Sweden	EUR 175 000.

Article 2

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

Article 3

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

Done at Brussels, 1 December 2005.

For the Council
The President
J. STRAW