

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

COUNCIL JOINT ACTION 2005/643/CFSP

of 9 September 2005

on the European Union Monitoring Mission in Aceh (Indonesia) (Aceh Monitoring Mission — AMM)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 14 and third subparagraph of Article 25 thereof,

Whereas:

- (1) The European Union (EU) is committed to promote a lasting peaceful settlement to the conflict in Aceh (Indonesia) and to increase stability throughout South East Asia, including progress in the economic, legal, political and security sector reforms.
- (2) On 11 October 2004, the Council reiterated its attachment to a united, democratic, stable and prosperous Indonesia. It reiterated the EU's respect for the territorial integrity of the Republic of Indonesia and recognition of its importance as a major partner. The Council encouraged the Government of Indonesia (GoI) to seek peaceful solutions in conflict and potential conflict areas and welcomed the statement by President Susilo Bambang Yudhoyono that he intended to implement Special Autonomy for Aceh. The Council reaffirmed the EU's wish to build a closer partnership with Indonesia.
- (3) On 12 July 2005, the Minister for Foreign Affairs of Indonesia, on behalf of the GoI, invited the EU to participate in an Aceh Monitoring Mission to assist Indonesia in implementing the final agreement on Aceh. The GoI sent a similar invitation to the ASEAN countries Brunei, Malaysia, Philippines, Singapore and Thailand. The Free Aceh Movement (GAM) also indicated its support for a participation of the EU.
- (4) On 18 July 2005, the Council noted the report of the Joint EU Council Secretariat/Commission assessment mission to Indonesia/Aceh. It welcomed the successful conclusion of the Helsinki negotiations and agreed that the EU was prepared, in principle, to provide observers to monitor implementation of the Memorandum of Understanding (MoU). It asked the competent bodies to continue planning for a possible monitoring mission at the request of the parties and to establish contact with ASEAN and ASEAN countries with a view to their possible cooperation.
- (5) On 15 August 2005, the GoI and the GAM signed a MoU detailing the agreement and principles guiding the creation of conditions within which the government of the Acehnese people can be manifested through a fair and democratic process within the unitary state and constitution of the Republic of Indonesia. The MoU foresees the establishment of the Aceh Monitoring Mission to be established by the EU and ASEAN contributing countries with the mandate to monitor the implementation of the commitments taken by the GoI and the GAM in the MoU.
- (6) The MoU notably provides that the GoI is responsible for the security of all Aceh Monitoring Mission personnel in Indonesia and that a Status of Mission Agreement will be concluded between GoI and the EU.
- (7) The Aceh Monitoring Mission 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.
- (8) In conformity with the guidelines of the European Council meeting in Nice on 7-9 December 2000, this Joint Action should determine the role of the Secretary General/High Representative (SG/HR) in accordance with Articles 18 and 26 of the Treaty.
- (9) Article 14(1) of the Treaty calls for the indication of a financial reference amount for the whole period of implementation of the Joint Action. The indication of amounts to be financed by the EU budget illustrates the will of the political authority and is subject to the availability of commitment appropriations during the respective budget year,

HAS ADOPTED THIS JOINT ACTION:

Article 1

Mission

1. The EU hereby establishes an European Union Monitoring Mission in Aceh (Indonesia), named the 'Aceh Monitoring Mission (AMM)', with an operational phase beginning on 15 September 2005.

2. The AMM shall operate in accordance with its mandate as set out in Article 2.

Article 2

Mandate

1. The AMM shall monitor the implementation of the commitments undertaken by the GoI and the GAM pursuant to the MoU.

2. In particular, the AMM shall:

- (a) monitor the demobilisation of GAM and monitor and assist with the decommissioning and destruction of its weapons, ammunition and explosives;
- (b) monitor the re-location of non-organic military forces and non-organic police troops;
- (c) monitor the reintegration of active GAM members;
- (d) monitor the human rights situation and provide assistance in this field in the context of the tasks set out in points (a), (b) and (c) above;
- (e) monitor the process of legislation change;
- (f) rule on disputed amnesty cases;
- (g) investigate and rule on complaints and alleged violations of the MoU;
- (h) establish and maintain liaison and good cooperation with the parties.

Article 3

Planning phase

1. During the planning phase, the Planning Team shall comprise a Head of Mission/Head of Planning Team and the necessary staff to deal with functions ensuing from the needs of the AMM.

2. As a priority, a comprehensive risk assessment shall be carried out as part of the planning process. This assessment may be updated as necessary.

3. The Planning Team shall draw up the Operation Plan (OPLAN) and develop technical instruments necessary to execute the mandate of the AMM. The OPLAN shall take into account the comprehensive risk assessment and shall include a security plan. The Council shall approve the OPLAN.

Article 4

Structure of the AMM

In principle, the AMM shall be structured as follows:

- (a) Headquarters (HQ). The HQ shall consist of the Office of the Head of Mission and the HQ Staff, providing all necessary functions of command and control and mission support. The HQ shall be located in Banda Aceh;
- (b) 11 geographically distributed District Offices, conducting monitoring tasks;
- (c) 4 Decommissioning Teams.

These elements shall be further developed in the OPLAN.

Article 5

Head of Mission

1. Mr Pieter Feith is hereby appointed Head of Mission of the AMM.

2. The Head of Mission shall exercise Operational Control over the AMM and assume the day-to-day management and coordination of the AMM activities, including the management of the security of mission staff, resources and information.

3. All staff shall remain under the authority of the appropriate national authority or EU Institution and shall carry out their duties and act solely in the interest of the mission. National authorities shall transfer Operational Control to the Head of Mission. Both during and after the mission, the staff shall exercise the greatest discretion with regard to all facts and information relating to the mission.

4. The Head of Mission shall be responsible for disciplinary control over the staff. For seconded staff, disciplinary action shall be taken by the national or EU authority concerned.

5. The Head of Mission shall rule on disputes regarding the implementation of the MoU as provided therein and in accordance with the OPLAN.

*Article 6***Staff**

1. The numbers and competence of the AMM staff shall be consistent with its mandate as set out in Article 2 and its structure as set out in Article 4.

2. Mission staff shall be seconded by Member States and EU Institutions. Each Member State and EU Institution shall bear the costs related to the mission staff seconded by it, including salaries, medical coverage, allowances (other than per diems) and travel expenses.

3. International staff and local staff shall be recruited on a contractual basis as required.

4. Third States may also, as appropriate, second mission staff. Each seconding Third State shall bear the costs related to any of the staff seconded by it including salaries, medical coverage, allowances and travel expenses.

*Article 7***Status of staff**

1. The status of the AMM and its staff in Aceh, including where appropriate the privileges, immunities and further guarantees necessary for the completion and smooth functioning of the mission shall be agreed in accordance with the procedure laid down in Article 24 of the Treaty. The SG/HR, assisting the Presidency, may negotiate such an agreement on its behalf.

2. The Member State or EU Institution having seconded a staff member shall be responsible for answering any claims linked to the secondment, from or concerning the staff member. The Member State or EU Institution in question shall be responsible for bringing any action against the seconded staff member.

3. The conditions of employment and the rights and obligations of international and local contracted staff shall be laid down in the contracts between the Head of Mission and the staff member.

*Article 8***Chain of command**

1. The structure of the AMM shall have a unified chain of command.

2. The Political and Security Committee (PSC) shall provide the political control and strategic direction of the mission.

3. The Head of Mission shall report to the SG/HR.

4. The SG/HR shall give guidance to the Head of Mission.

*Article 9***Political control and strategic direction**

1. The PSC shall exercise, under the responsibility of the Council, the political control and strategic direction of the mission. The Council hereby authorises the PSC to take the relevant decisions for the purpose and duration of the mission, in accordance with third subparagraph of Article 25 of the Treaty. This authorisation shall include the powers to amend the OPLAN and the chain of command. The powers of decision with respect to the objectives and termination of the mission shall remain vested in the Council.

2. The PSC shall report to the Council at regular intervals.

3. The PSC shall receive reports by the Head of Mission regarding the conduct of the mission at regular intervals. The PSC may invite the Head of Mission to its meetings, as appropriate.

*Article 10***Participation of Third States**

1. Without prejudice to the decision-making autonomy of the EU and its single institutional framework, Accessing States shall be invited and Third States may be invited to contribute to the AMM provided that they bear the cost of the staff seconded by them, including salaries, High Risk insurance, allowances and travel expenses to and from Aceh (Indonesia), and contribute to the running costs of the AMM, as appropriate.

2. Third States making contributions to the AMM shall have the same rights and obligations in terms of day-to-day management of the mission as Member States taking part in the mission.

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

4. Detailed arrangements regarding the participation of Third States shall be subject of an agreement, in conformity with Article 24 of the Treaty. The SG/HR, assisting the Presidency, may negotiate such arrangements on its behalf. Where the EU and a Third State have concluded an agreement establishing a framework for the participation of this Third State in the EU crisis management operations, the provisions of such an agreement shall apply in the context of the AMM.

*Article 11***Security**

1. The Head of Mission shall, in consultation with the Council Security Office, be responsible for ensuring compliance with minimum security standards in conformity with the agreed Council's security regulations.
2. The Head of Mission shall consult with the PSC on security issues affecting the deployment of the mission as directed by the SG/HR.
3. AMM staff members shall undergo mandatory security training before their entry into function.

*Article 12***Financial arrangements**

1. The financial reference amount intended to cover the expenditure related to the AMM shall be EUR 9 000 000.
2. The expenditure financed by the amount stipulated in paragraph 1 shall be managed in accordance with the procedures and rules applicable to the general budget of the EU with the exception that any pre-financing shall not remain the property of the Community. Nationals of Third States shall be allowed to tender for contracts.
3. The Head of Mission shall be accountable to the Commission for all expenditure charged to the general budget of the EU and shall to that effect sign a contract with the Commission.
4. Expenditure shall be eligible as of the date of entry into force of this Joint Action.

*Article 13***Community action**

1. The Council and the Commission shall, each within their respective powers, ensure consistency between the implementation of this Joint Action and external activities of the Community in accordance with second subparagraph of Article 3 of the Treaty. The Council and the Commission shall cooperate to this end.
2. The Council also notes that coordination arrangements are required in Banda Aceh and also in Jakarta, as appropriate, as well as in Brussels.

*Article 14***Release of classified information**

1. The SG/HR is authorised to release to Third States associated with this Joint Action, as appropriate and in accordance with the operational needs of the mission, EU classified information and documents up to the level 'RESTREINT UE' generated for the purposes of the mission, in accordance with the Council's security regulations.
2. In the event of a specific and immediate operational need, the SG/HR is also authorised to release to the host State EU classified information and documents up to the level 'RESTREINT UE' generated for the purposes of the mission, in accordance with the Council's security regulations. In all other cases, such information and documents shall be released to the host State in accordance with the procedures appropriate to the host State's level of cooperation with the EU.
3. The SG/HR is authorised to release to Third States associated with this Joint Action and to the host State EU non-classified documents related to the deliberations of the Council with regard to the mission covered by the obligation of professional secrecy pursuant to Article 6(1) of the Council's Rules of Procedure ⁽¹⁾.

*Article 15***Review**

The Council shall, not later than the 15 March 2006, evaluate whether the AMM should be extended.

*Article 16***Entry into force, duration**

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

It shall expire on 15 March 2006.

*Article 17***Publication**

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

Done at Brussels, 9 September 2005.

For the Council
The President
J. STRAW

⁽¹⁾ Council Decision 2004/338/EC, Euratom of 22 March 2004 adopting the Council's Rules of Procedure (OJ L 106, 15.4.2004, p. 22). Decision as amended by Decision 2004/701/EC, Euratom (OJ L 319, 20.10.2004, p. 15).