COUNCIL JOINT ACTION 2005/557/CFSP
of 18 July 2005

on the European Union civilian-military supporting action to the African Union mission in the Darfur region of Sudan

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 14, Article 25, third paragraph, Article 26 and Article 28(3) thereof,

Whereas:

(1) On 28 May 2004 the African Union (AU) decided to deploy a monitoring mission in Darfur to observe compliance with the N’djamena Humanitarian Ceasefire Agreement of 8 April 2004 (AMIS) and on 20 October 2004 the African Union Peace and Security Council decided to enhance AMIS and to include in its mandate assistance to the process of confidence building and to the protection of civilians and humanitarian operations, and observance of compliance with all agreements signed between the parties since the N’djamena Humanitarian Ceasefire Agreement (AMIS II).

(2) In its Resolution 1547 of 11 June 2004, the United Nations Security Council (UNSC) called on the international community to be prepared for constant engagement including extensive funding in support of peace in Sudan. In its Resolution 1556 of 30 July 2004, UNSC endorsed the deployment of international monitors to the Darfur region of Sudan under the leadership of the AU, urged United Nations (UN) Member States to reinforce the international monitoring team led by the AU and welcomed the contributions already made, notably by the European Union (EU), to support the AU led operation.

(3) In its Resolution 1564 of 18 September 2004 the UNSC welcomed and supported the intention of the AU to enhance and augment its monitoring mission in the Darfur region of Sudan, and encouraged the undertaking of proactive monitoring. The UNSC further urged UN Member States to support the AU in these efforts including by providing all equipment, logistical, financial, material, and other resources necessary to support the rapid expansion of the AU Mission and by supporting its efforts aimed at a peaceful conclusion of the crisis and the protection of the welfare of the people of Darfur.

(4) In its Resolution 1574 of 19 November 2004, the UNSC decided to monitor compliance by the parties with their obligations in order to immediately cease all violence and attacks, expressed its strong support to the decisions of the AU to increase its mission in Darfur, and urged UN Member States to provide the required equipment, logistical, financial, material, and other necessary resources.

(5) In its Resolution 1590 of 24 March 2005, the UNSC decided to establish the UN Mission in Sudan (UNMIS).

(6) In its Resolution 1593 of 31 March 2005, the UNSC decided to refer the situation in Darfur since 1 July 2002 to the Prosecutor of the International Criminal Court.

(7) In its resolution 1325 of 31 October 2000, the UNSC recognised the importance of training concerning the protection, special needs and human rights of women and children in conflict situations.

(8) Common Position 2005/304/CFSP of 12 April 2005 concerning conflict prevention, management and resolution in Africa and repealing Common Position 2004/85/CFSP (†) underlines that the AU constitutes the central actor in the prevention, management and resolution of armed conflicts in Africa. Successive Council conclusions adopted since July 2004 have expressed the EU’s commitment to support the AU in its efforts to monitor the ceasefire and to facilitate a political settlement of the conflict in the Darfur region of Sudan.

(9) Following the approval by the Council on 22 November 2004 of the European Security and Defence Policy (ESDP) action plan aimed at supporting peace and security in Africa, guidelines for implementing ESDP support to Peace and Security in Africa were approved by the Council on 13 December 2004, based on the principle of respect for African ownership and full cooperation with the relevant international actors, notably the UN and the AU.

The EU has provided an ever-growing amount of support to the AU’s efforts to help stabilise the situation in Darfur. The EU is participating in and co-financing via the African Peace Facility the AU mission which is responsible for monitoring the cease-fire. EU military personnel participates in the AU Cease Fire Commission (CFC) inter alia through providing its vice-chairman and through membership of the Joint Commission established for the political supervision of the cease-fire. The EU is also providing a wide range of support including planning experts, technical, financial, material and logistic support to the broader AU peace support mission (AMIS).

In a letter dated 29 April 2005, Mr Alpha Oumar Konaré, President of the AU Commission, indicated to the Secretary General/High Representative (SG/HR) that taking into account the challenge that the situation in Darfur continues to pose to the AU and its partners, on the one hand, and the strategic dimension of the partnership between the AU and the EU on the other hand, he hoped to be able to count on the substantial support of the EU and its Member States to the efforts of the AU and to the reinforcement of AMIS II.

In response to the request of the AU, the Council agreed on 23 May 2005 to lend all possible support to military, police and civilian efforts by presenting a comprehensive and substantial offer, which was proposed to the AU at the AMIS donor conference in Addis Ababa on 26 May 2005. Coordination among EU actors is essential to ensure that this proposed package is translated into coherent and timely assistance to the AU.

On 23 June 2005 the Council approved the Concept for EU civilian-military supporting action to AMIS II.

On 18 July 2005 the Council adopted Joint Action 2005/556/CFSP appointing a Special Representative of the European Union for Sudan (1). The EU Special Representative (EUSR) for Sudan should ensure coherence between the EU’s activities in support of AMIS II and of the Comprehensive Peace Agreement (CPA), and overall policy objectives of the EU towards Sudan.

Coordination among all donors should be established in Addis Ababa to ensure that the support provided by the international community is complementary and matches with the specific requirements of the AU.

The Political and Security Committee (PSC) should exercise political control of and provide strategic direction to the EU civilian-military supporting action to AMIS II, particularly in view of ensuring timely and coherent EU support to AMIS II, and take the relevant decisions in accordance with Article 25, third paragraph, of the Treaty. The Committee for Civilian Aspects of Crisis Management (CIVCOM) and the EU Military Committee (EUMC), assisted by the European Union Military Staff (EUMS) in accordance with its terms of reference, should continue to provide the PSC with advice in the field of their respective competencies.

In conformity with the guidelines of the European Council meeting at Nice on 7 and 9 December 2000, this Joint Action should determine the role of the SG/HR in accordance with Articles 18 and 26 of the Treaty in the implementation of measures falling within the political control and strategic direction exercised by the PSC.

Article 14(1) of the Treaty calls for indication in joint actions of the means to be made available to the Union.

In accordance with Article 28(3) of the Treaty, operational expenditure, except expenditure arising from operations having military or defence implications, should be charged to the budget of the European Communities. The indication of amounts to be financed by the Community budget illustrates the will of the political authority and is subject to the availability of commitment appropriations during the respective budget year.

(1) See page 43 of this Official Journal.
(22) The operational expenditure arising from those elements of this supporting action having military or defence implications should be charged to the Member States in accordance with Article 28(3) of the Treaty and should be administered by the mechanism established by Decision 2004/197/CFSP of 23 February 2004 establishing a mechanism to administer the financing of the common costs of European Union operations having military or defence implications (1) (hereafter referred to as “ATHENA”) on an exceptional basis. The financial reference amount constitutes the best current estimate of these costs.

(23) Recourse should be made to the extent possible to redeployment of equipment left over from other EU operational activities, taking into account operational needs and the principles of sound financial management.

(24) The EU supporting action to the AMIS II will be conducted in the context of a situation which may deteriorate and could harm the objectives of the CFSP as set out in Article 11 of the Treaty.

(25) In conformity with Article 6 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark does not participate in the elaboration and implementation of decisions and actions of the EU which have defence implications. Denmark does not participate in the implementation of Section III of this Joint Action and therefore does not participate in the financing of military components of this supporting action.

HAS ADOPTED THIS JOINT ACTION:

SECTION I
GENERAL PROVISIONS

Article 1
Objective

The European Union hereby establishes an EU civilian-military supporting action to AMIS II, hereby named “AMIS EU Supporting Action”.

The objective of the EU supporting action is to ensure effective and timely EU assistance to support the AMIS II enhancement. The EU shall respect and support the principle of African ownership and the EU supporting action shall be to support the AU and its political, military and police efforts to address the crisis in the Darfur region of Sudan.

The EU supporting action shall include a civilian and a military component.

Article 2

Relations with the AU

The SG/HR and the EUSR for Sudan, within their mandates, shall act as primary points of contact with the representatives of the AU for matters relating to the implementation of this Joint Action. The Presidency shall be kept regularly and promptly informed on these contacts.

Article 3

Coordination with other actors

1. The EU shall continue the close and effective coordination with all institutional and bilateral donors engaged in supporting AMIS II.

2. The EU shall continue to work in close coordination with the UN, and, regarding the military component of the supporting action, NATO.

3. All EU Member States shall be kept informed on the coordination process in order to ensure their full participation in the EU decision making process.

Article 4

Political control and strategic direction

1. Under the responsibility of the Council, the PSC shall exercise the political control and strategic direction of the EU supporting action, particularly in view of ensuring timely and coherent EU support to AMIS II. The Council hereby authorises the PSC to take the relevant decisions in accordance with Article 25 of the Treaty. This authorisation shall include the powers to appoint the Head of EU Police Team, upon a proposal from the SG/HR based on a recommendation by the EUSR. This authorisation shall also include the powers to appoint the military advisor to the EUSR, upon a proposal from the SG/HR based on a recommendation by the EUSR. The powers of decision with respect to the objectives and termination of the EU supporting action shall remain vested in the Council, assisted by the SG/HR.

CIVCOM and EUMC, assisted by EUMS in accordance with its terms of reference, shall provide the PSC with advice within the field of their respective competencies.

2. The EUSR shall ensure the representation of the Union in all areas relating to the management of the crisis in Darfur, including coordination of the EU contributions to AMIS II, support to the political process, and matters relating to the implementation of and compliance with the relevant UNSC resolutions.

3. The PSC shall receive reports by the EUSR, through the SG/HR, regarding the conduct of the EU supporting action at regular intervals. The PSC may invite the EUSR to its meetings as appropriate.

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

Article 5
EU coordination

1. The SG/HR shall take all necessary measures to ensure coordination of EU activities to support AMIS II enhancement and the coordination between the General Secretariat of the Council (GSC) and the EU Coordination Cell in Addis Ababa (ACC). The GSC shall provide guidance and support to the ACC in its duties of managing the day-to-day coordination to ensure coherent and timely EU support to AMIS II across its political, military, police and other civilian supporting actions. The GSC shall provide situation reports and updates and assessment of both EU support to AMIS II and the AMIS II enhancement to the relevant Council bodies and ensure coordination at the strategic level with other donors, in particular the UN and NATO.

2. The ACC shall act under the authority of the EUSR, in accordance with Article 7 of Joint Action 2005/556/CFSP, to support his activities, and it shall comprise a political advisor, a military advisor and a police advisor. It shall manage the day-to-day coordination with all relevant EU actors and with the Administrative Control and Management Centre (ACMC) within the chain of command of the AU in Addis Ababa in order to ensure coherent and timely EU support to AMIS II.

SECTION II
CIVILIAN COMPONENT

Article 6
Tasks, structure and personnel of police component

1. The EU supporting action to the Civilian Police Component (CIVPOL) of AMIS II shall provide:

   — support to the AMIS II Police Chain of Command by providing the AU with highly experienced Senior Police Advisors at all levels of the chain of command;

   — support for training of CIVPOL personnel through providing a capacity for in-mission training by a group of EU trainers;

   — support to the development of a police unit within the Secretariat of the AU.

2. The EU Police Team shall be composed of police officers seconded by Member States. As a rule, the period of secondment should be 6 months. Each Member State shall bear the costs related to the police officers seconded by it, including salaries, medical coverage, allowances other than per diems, and travel expenses to and from the area of operation.

3. International civilian staff and local staff shall be recruited on a contractual basis by the Head of the EU Police Team as required.

4. The sending EU Member State or institution may also, if required, second international civilian staff, as a rule for a period of 6 months. Each contributing EU Member State or institution shall bear the costs related to any of the staff seconded by it, including salaries, medical coverage, allowances other than per diems, and travel expenses to and from the area of operation.

Article 7
EU Police Team

1. The police advisor to the EUSR, who shall also be Head of the EU Police Team, shall be responsible for managing day-to-day coordination of the EU police supporting actions.

2. The Head of the EU Police Team shall assume the day-to-day management of the police component of the supporting action in the three areas, referred to in Article 6(1), and shall be responsible for staff and disciplinary matters.

3. The Head of the EU Police Team shall sign a contract with the Commission. The Head of the EU Police Team shall be accountable to the Commission for all expenditure.

4. While remaining under the authority of their sending EU Member States or institutions, all experts in the EU Police Team staff shall carry out their duties and act in the sole interest of the EU supporting action. Both during and after the EU supporting action, the experts shall exercise the greatest discretion with regard to all facts and information relating to the EU supporting action.

5. In order to ensure visibility of the EU supporting action, the members of the EU Police Team shall bear EU identification markings.

Article 8
Financial arrangements

1. The financial reference amount intended to cover the expenditure related to the implementation of SECTION II of this Joint Action for a 6-month period shall be EUR 2 120 000.

The Council shall as necessary decide on the reference amount for the continuation of the EU supporting action.

2. The expenditure financed by the amount stipulated in paragraph 1 shall be managed in accordance with the European Community procedures and rules applicable to the budget, 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 financial arrangements shall respect the operational requirements of the police assistance to AMIS II, including compatibility of equipment.

4. Expenditure shall be eligible as of the date of entry into force of this Joint Action.

SECTION III
MILITARY COMPONENT

Article 9

Tasks and personnel of the military component

1. The military component of the EU supporting action to AMIS II shall cover different types of assistance:
   - provision of planning and technical assistance to all AMIS II levels of command, including the logistic support co-ordination structure;
   - provision of Military Observers, in the context of AMIS II enhancement plan;
   - training of African troops and observers forming part of AMIS II enhancement, as required;
   - strategic and tactical transportation;
   - aerial observation, if required by the AU.

2. While remaining under the authority of their sending EU Member States or institutions, all military personnel shall carry out their duties and act in the sole interest of the EU supporting action. Both during and after the EU supporting action, the military personnel shall exercise the greatest discretion with regard to all facts and information relating to the EU supporting action.

3. In order to ensure visibility of the EU supporting action, the military personnel shall bear EU identification markings.

4. As a rule, the period of secondment of military personnel should be 6 months.

Article 10

Military advisor to the EUSR

Under the authority of the EUSR, and with the support of the GSC, including the EUOMS in accordance with its terms of reference, the military advisor to the EUSR shall:

(a) help to ensure coherence of the military component of the EU supporting action in Addis Ababa in accordance with the tasks set out in Article 9, and

(b) be responsible for managing the day-to-day coordination of the military component of the EU supporting action with the ACMC in Addis Ababa to ensure coherent and timely support to AMIS II.

Article 11

Financial arrangements

1. With respect to the military component of the EU supporting action, the following costs shall be financed in common:
   - costs for Communication and Information systems (CIS), transport, medical evacuation (MEDEVAC) and lodging of the EU officers operating in the AMIS II chain of command and of the military personnel in the ACC;
   - costs for CIS and MEDEVAC concerning Military Observers; and
   - costs for EU identification markings for both EU officers and Military Observers.

2. The financing of those common costs shall be administered by ATHENA.

3. The reference amount for those common costs for a 6-month period shall be EUR 1 970 000. The percentage of the reference amount referred to in Article 31(3) of Decision 2004/197/CFSP shall be 100 %.

SECTION IV
FINAL PROVISIONS

Article 12

Status of EU supporting action personnel

1. The SG/HR shall secure legally binding assurances from the African States on the territory of which EU supporting action personnel is or will be deployed that their status is governed by the Status of Mission Agreement on the Establishment and Management of the Ceasefire Commission in the Darfur area of Sudan signed between the AU and the Government of Sudan on 4 June 2004, and by the General Convention on the Privileges and Immunities of the OAU. Where required, the status of the EU supporting action personnel, including where appropriate the privileges, immunities and further guarantees necessary for the completion and smooth functioning of the EU supporting action 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 EU Member States or institutions having seconded or deployed personnel for the EU supporting action shall be responsible for answering any claims from or concerning the personnel. The EU Member States or institutions in question shall be responsible for bringing any action against the personnel.

Article 13

Release of classified information

1. The SG/HR is hereby authorised to release, in accordance with the Council Security Regulations as adopted by Decision 2001/264/EC (1) and as required by the operational needs of the EU supporting action, to the AU and the UN, EU information and documents classified no higher than RESTREINT UE generated for the purposes of the EU supporting action.

2. The SG/HR is hereby authorised to release, in accordance with the operational needs of the EU supporting action, to the AU and the UN, EU non-classified documents related to the deliberations of the Council with regard to the EU supporting action, covered by the obligation of professional secrecy pursuant to Article 6(1) of the Council's Rules of Procedure (2).

Article 14

Community action

The Council and the Commission shall ensure each in accordance with its respective powers, consistency between the implementation of this Joint Action and other external activities of the Community in accordance with Article 3(2) of the Treaty. The Council and the Commission shall cooperate to this end.

Article 15

Review

The Council shall, not later than 31 December 2005, evaluate whether the EU supporting action should be continued.

Article 16

Entry into force and termination

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

2. The EU supporting action shall end on a date to be decided by the Council.

Article 17

Publication

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

Done at Brussels, 18 July 2005.

For the Council
The President
J. STRAW
