

**COUNCIL DECISION 2014/485/CFSP****of 22 July 2014****amending Decision 2012/389/CFSP on the European Union Mission on Regional Maritime Capacity Building in the Horn of Africa (EUCAP NESTOR)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 28, Article 42(4) and Article 43(2) thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 16 July 2012, the Council adopted Decision 2012/389/CFSP <sup>(1)</sup>. That Decision expires on 15 July 2014.
- (2) On 18 March 2014, the Political and Security Committee (PSC) recommended extending the Mission until 12 December 2016 in accordance with the Strategic Review.
- (3) EUCAP NESTOR will be conducted in the context of a situation which may deteriorate and could impede the achievement of the objectives of the Union's external action as set out in Article 21 of the Treaty on European Union (TEU),

HAS ADOPTED THIS DECISION:

*Article 1*

Decision 2012/389/CFSP is amended as follows:

- (1) Article 2 is replaced by the following:

*'Article 2*

**Mission Statement**

EUCAP NESTOR is to assist countries in the Horn of Africa and the Western Indian Ocean in strengthening their maritime security capacity in order to enable them to fight piracy more effectively. EUCAP NESTOR will have primary focus on Somalia, and a secondary focus on Djibouti, the Seychelles and Tanzania.'

- (2) Article 3 is replaced by the following:

*'Article 3*

**Objectives and tasks**

1. In order to achieve the Mission Statement set out in Article 2, EUCAP NESTOR shall:

- (a) enhance the capacity of the States mentioned in Article 2 to exert effective maritime governance over their coastline, internal waters, territorial seas and exclusive economic zones;
- (b) support these States in taking ownership of the fight against piracy in accordance with the rule of law and human rights standards;
- (c) strengthen regional cooperation and coordination of maritime security;
- (d) make a targeted and specific contribution to ongoing international efforts.

2. To achieve the objectives, EUCAP NESTOR shall operate in accordance with the lines of operation and tasks set out in the operational planning documents approved by the Council.

3. EUCAP NESTOR shall not carry out any executive function.'

<sup>(1)</sup> OJ L 187, 17.7.2012, p. 40.

(3) Article 4 is amended as follows:

(a) paragraph 2 is replaced by the following:

‘2. EUCAP NESTOR shall be structured in accordance with its planning documents.’;

(b) paragraph 3 is deleted.

(4) Article 6 is amended as follows:

(a) the following paragraph is inserted:

‘1a. The Head of Mission shall be the representative of EUCAP NESTOR in its action area. The Head of Mission may delegate management tasks in staff and financial matters to staff members of EUCAP NESTOR for whom the Head of Mission has overall responsibility.’;

(b) paragraph 4 is deleted;

(c) paragraph 8 is deleted.

(5) In Article 7, paragraph 4 is replaced by the following:

‘4. The conditions of employment and the rights and obligations of international and local staff shall be laid down in the contracts to be concluded between EUCAP NESTOR and the staff member concerned.’.

(6) In Article 11, paragraph 5 is replaced by the following:

‘5. The Head of Mission shall ensure the protection of EU classified information in accordance with Council Decision 2013/488/EU. (\*)’

(\*) Council Decision of 23 September 2013 on the security rules for protecting EU classified information (OJ L 274, 15.10.2013, p. 1).’.

(7) The following Article is inserted:

*‘Article 12a*

#### **Legal arrangements**

EUCAP NESTOR shall have the capacity to procure services and supplies, enter into contracts and administrative arrangements, employ staff, hold bank accounts, acquire and dispose of assets, discharge its liabilities and to be a party to legal proceedings, as required in order to implement this Decision.’.

(8) Article 13 is replaced by the following:

*‘Article 13*

#### **Financial arrangements**

1. The financial reference amount intended to cover the expenditure related to EUCAP NESTOR from 16 July 2012 to 15 November 2013 shall be EUR 22 880 000.

The financial reference amount intended to cover the expenditure related to EUCAP NESTOR for the period from 16 November 2013 to 15 October 2014 shall be EUR 11 950 000.

2. All expenditure shall be managed in accordance with the rules and procedures applicable to the general budget of the Union. Nationals of third States and host country nationals shall be allowed to tender for contracts. Subject to the Commission’s approval, the EUCAP NESTOR may conclude technical arrangements with Member States, the host State, participating third States and other international actors regarding the provision of equipment, services and premises to EUCAP NESTOR.

3. EUCAP NESTOR shall be responsible for the implementation of its budget. For this purpose, EUCAP NESTOR shall sign an agreement with the Commission.

4. Without prejudice to the existing provisions on the status of EUCAP NESTOR and its personnel, EUCAP NESTOR shall be responsible for any claims and obligations arising from the implementation of the mandate starting from 16 July 2014, with the exception of any claims relating to serious misconduct by the Head of Mission, for which the Head of Mission shall bear responsibility.

5. The implementation of the financial arrangements shall be without prejudice to the chain of command as provided for in Articles 4, 5 and 6 and the operational requirements of EUCAP NESTOR, including compatibility of equipment and interoperability of its teams.

6. Expenditure shall be eligible as of 16 July 2012.’

(9) The following Article is inserted:

‘Article 13a

#### **Project Cell**

1. EUCAP NESTOR shall have a Project Cell for identifying and implementing projects. EUCAP NESTOR shall, as appropriate, facilitate and provide advice on projects implemented by Member States and third States under their responsibility in areas related to EUCAP NESTOR and in support of its objectives.

2. EUCAP NESTOR shall be authorised to seek recourse to financial contributions from the Member States or from third States to implement projects identified as supplementing EUCAP NESTOR’s other actions in a consistent manner, if the project is:

- (a) provided for in the financial statement relating to this Decision; or
- (b) integrated during the mandate by means of an amendment to the financial statement requested by the Head of Mission.

EUCAP NESTOR shall conclude an arrangement with those States, covering in particular the specific procedures for dealing with any complaint from third parties concerning damage caused as a result of acts or omissions by EUCAP NESTOR in the use of the funds provided by those States. Under no circumstances may the contributing States hold the Union or the HR liable for acts or omissions by EUCAP NESTOR in the use of the funds provided by those States.

3. The PSC shall agree on the acceptance of a financial contribution from third States to the Project Cell.’

(10) In Article 15, the reference, ‘Decision 2011/292/EU’ is replaced by ‘Decision 2013/488/EU’.

(11) In Article 16, the second paragraph is replaced by the following:

‘It shall apply until 12 December 2016.’

#### *Article 2*

#### **Entry into force**

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

It shall apply from 16 July 2014.

Done at Brussels, 22 July 2014.

*For the Council*  
*The President*  
C. ASHTON