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COUNCIL JOINT ACTION 2007/406/CFSP

of 12 June 2007

on the European Union mission to provide advice and assistance for security sector reform in the Democratic Republic of the Congo (EUSEC RD Congo)

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COUNCIL JOINT ACTION 2007/406/CFSP

of 12 June 2007

on the European Union mission to provide advice and assistance for security sector reform in the Democratic Republic of the Congo (EUSEC RD Congo)

THE COUNCIL OF THE EUROPEAN UNION,

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

Whereas:

- (1) Further to an official invitation from the Government of the Democratic Republic of the Congo (DRC), on 2 May 2005 the Council adopted 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⁾ (EUSEC RD Congo), in particular in order to support the transition process in the DRC, including the formation of a restructured and integrated national army, as established by the Global and Inclusive Agreement signed by the Congolese parties in Pretoria on 17 December 2002, followed by the Final Act signed in Sun City on 2 April 2003.
- (2) Following the ratification in 2005 of the Constitution of the Third Republic of the Congo, the elections held in the DRC in 2006 marked the end of the transition process and enabled a government to be formed in 2007, which has adopted a programme providing in particular for the comprehensive reform of the security sector, the drawing up of a national plan, and priority reforms in the police, armed forces and judicial sectors.
- (3) The United Nations has reaffirmed its support for the transition process and the reform of the security sector (SSR) by means of several Security Council resolutions, and is conducting the United Nations Mission in the Democratic Republic of the Congo (MONUC), which is contributing to the security and stability of the country. On 15 May 2007, the United Nations Security Council adopted Resolution 1756 (2007) extending MONUC's mandate and allowing it, in close coordination with other international partners, and especially the European Union (EU), to contribute to efforts to support the government in the initial process of planning security sector reform.
- (4) The European Union has consistently shown its support for the transition process in the DRC and for the reform of the security sector, including by the adoption of two other Joint Actions: Joint Action 2004/847/CFSP of 9 December 2004 on the European Union Police Mission in Kinshasa (DRC) regarding the Integrated Police Unit (EUPOL Kinshasa) ⁽²⁾ and Joint Action 2006/913/CFSP of 27 April 2006 on the European Union military operation in support of the United Nations Organisation Mission in the Democratic Republic of the Congo (MONUC) during the election process ⁽³⁾ (Operation EUFOR RD Congo).

⁽¹⁾ OJ L 112, 3.5.2005, p. 20. Joint Action as last amended by Joint Action 2007/192/CFSP (OJ L 87, 28.3.2007, p. 22).

⁽²⁾ OJ L 367, 14.12.2004, p. 30. Joint Action as last amended by Joint Action 2006/913/CFSP (OJ L 346, 9.12.2006, p. 67).

⁽³⁾ OJ L 116, 29.4.2006, p. 98. Joint Action repealed by Joint Action 2007/147/CFSP (OJ L 64, 2.3.2007, p. 44).

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- (5) As it is aware of the benefits to be gained from a comprehensive approach combining the different initiatives underway, the EU indicated in the conclusions adopted by the Council on 15 September 2006 that it was prepared to assume a coordinating role in international efforts in the security sector, in close cooperation with the United Nations, to support the Congolese authorities in this field.
- (6) On 14 May 2007, the Council approved a revised General Concept on continuation of the mission to provide advice and assistance for security sector reform in the Democratic Republic of the Congo.
- (7) On 14 May 2007, the Council approved an operations concept relating to a police mission conducted under the European Security and Defence Policy on security sector reform (SSR) and its interface with justice in the Democratic Republic of the Congo, referred to as EUPOL RD Congo. On 12 June 2007 the Council adopted the Council Joint Action on the police mission undertaken in the framework of reform of the security sector (SSR) and its interface with the system of justice in the Democratic Republic of the Congo (DRC) (EUPOL RD Congo). That mission will replace EUPOL Kinshasa.
- (8) The synergies between the two missions EUPOL RD Congo and EUSEC RD Congo should be promoted, taking into account also the prospect that the two missions may eventually become a single mission.
- (9) In order to increase the consistency of the EU's activities in the DRC, the closest possible coordination between the various EU players should be ensured in Kinshasa as well as in Brussels, through appropriate arrangements. The European Union Special Representative (EUSR) for the African Great Lakes Region will have an important role to play in this respect, taking account of his mandate.
- (10) On 15 February 2007 the Council adopted Joint Action 2007/112/CFSP ⁽¹⁾ appointing Mr Roeland VAN DE GEER as the new EUSR for the African Great Lakes Region.
- (11) The Secretary-General/High Representative for Common Foreign and Security Policy (SG/HR) sent a letter to the DRC government dated 11 May 2007 stating the European Union's renewed commitment.
- (12) Joint Action 2005/355/CFSP has been amended several times in order to boost the mission, most notably by Joint Action 2005/868/CFSP with regard to setting up a technical assistance project on the modernisation of the chain of payments of the Ministry of Defence in the DRC and by Joint Action 2007/192/CFSP on the establishment of a unit responsible for specific projects financed or implemented by the Member States and advisers at provincial military administration level. The mission's mandate runs until 30 June 2007 and should be extended and revised in the light of the revised concept for the mission.
- (13) For the sake of clarity, the said Joint Action and the successive amendments thereto should be replaced by a new Joint Action.
- (14) Third States should participate in the project in accordance with the general guidelines defined by the European Council.
- (15) The current security situation in the DRC may deteriorate, with potentially serious repercussions for the process of strengthening democracy, the rule of law and international and regional

⁽¹⁾ OJ L 46, 16.2.2007, p. 79.

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security. A continued commitment of EU political effort and resources will help to embed stability in the region,

HAS ADOPTED THIS JOINT ACTION:

*Article 1***Mission**

1. The European Union (EU) is conducting a mission to provide advice and assistance for security sector reform (SSR) in the Democratic Republic of the Congo (DRC), named 'EUSEC RD Congo', with the aim of contributing to completing the integration of the various armed factions in the Democratic Republic of the Congo, and of contributing to Congolese efforts to restructure and rebuild the Congolese army. The mission must provide advice and assistance directly to the responsible Congolese authorities or by means of concrete projects, while taking care to promote policies compatible with human rights and international humanitarian law, democratic standards and the principles of good governance, transparency and respect for the rule of law.

2. The mission shall operate in accordance with the mission statement set out in Article 2.

*Article 2***Mission statement**

The mission shall aim, in close cooperation and coordination with the other actors in the international community, in particular the United Nations, and in pursuit of the objectives laid down in Article 1, to provide practical support in the field of reform of the security sector in the DRC, as set out in the revised General Concept, including:

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- (a) providing advice and assistance to the Congolese authorities in their work to integrate, restructure and rebuild the Congolese army, particularly by:
 - contributing to the development of various national plans and policies, including work on horizontal issues which cover all the areas involved in the reform of the security sector in the DRC,
 - providing support for the committees and bodies involved in that work, and contributing to the definition of the priorities and practical needs of the Congolese,
 - contributing, *inter alia* by supplying expertise in the selection, training and education of staff and the assessment of infrastructure and equipment requirements, to the drawing up of the arrangements for the organisation and gradual establishment of the Rapid Reaction Force as part of the overall plan for reforming the army with due respect for the principles of human rights, international humanitarian law, gender issues and children affected by armed conflicts;
- (b) running and bringing to completion the 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', so as to carry out the tasks specified in the General Concept for the project;
- (c) on the basis of the chain of payments project, providing support for the human resources function and for the development of a general human resources policy;

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- (d) identifying and contributing to the development of various projects and options that the European Union or its Member States may decide to support relating to the reform of the security sector;
 - (e) supervising specific projects financed or initiated by the Member States in pursuit of the objectives of the mission and overseeing their implementation, in coordination with the Commission;
 - (f) providing support for the EUSR, as and when necessary, in the context of the work carried out by the committees for the process of pacification of the Kivus;
- and
- (g) contributing to ensuring that all efforts made as regards SSR are consistent.

▼ B*Article 3***Structure of the mission**

The mission shall be structured as follows:

- (a) an office in Kinshasa, composed of:
 - the mission leadership,

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- a support cell, and

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- experts assigned to a unit responsible in particular for identifying and supporting the specific projects financed or implemented by the Member States;
- (b) advisers assigned to key posts at the Ministry of Defence's central administration in Kinshasa and to the provincial administrations coming under that Ministry;
- (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 ► **M1** a mobile teams ◀ of experts involved in checks on the military personnel of the integrated brigades, and
 - experts assigned to the general staff of the integrated brigades.

*Article 4***Implementation plan**

The Head of Mission, assisted by the General Secretariat of the Council, shall draw up a revised implementation plan (OPLAN) for the mission for approval by the Council.

*Article 5***Head of Mission****▼ M1**

1. The Head of Mission shall assume day to day management of the mission and shall be responsible for staff and disciplinary matters.

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►**M1** 2. In implementing the mission statement as set out in Article 2(e), the Head of Mission shall be authorised to have recourse to financial contributions from the Member States. ◀ To that end, the Head of Mission shall enter into arrangements with the Member States concerned. These arrangements shall in particular cover the specific procedures for dealing with any complaint from third parties concerning damage caused as a result of acts or omissions by the Head of Mission in the use of the funds provided by the contributing Member States.

Under no circumstances may the European Union or the Secretary-General/High Representative (SG/HR) be held liable by contributing Member States as a result of acts or omissions by the Head of Mission in the use of funds from those States.

3. The Head of Mission shall sign a contract with the European Commission to execute the budget for the mission.

4. The Head of Mission shall cooperate closely with the EUSR.

*Article 6***Staff**

1. Mission experts shall be seconded by Member States and by the EU institutions. Except for the Head of Mission, each Member State or institution shall bear the costs relating to the experts seconded, including travel expenses to and from the DRC, salaries, medical coverage and allowances other than daily allowances.

2. International civilian staff and local staff shall be recruited on a contractual basis by the mission as required.

3. All mission experts shall remain under the authority of the appropriate Member State or EU institution, and shall fulfil their duties and act in the interest of the mission. Both during and after the mission, mission experts shall exercise the greatest discretion with regard to all facts and information relating to the mission.

*Article 7***Chain of command**

1. The mission shall have a unified chain of command.

2. The Political and Security Committee (PSC) shall exercise political control and strategic direction.

3. The SG/HR shall give guidance to the Head of Mission through the EUSR.

4. The Head of Mission shall lead the mission and assume its day-to-day management.

5. The Head of Mission shall report to the SG/HR through the EUSR.

6. The EUSR shall report to the Council through the SG/HR.

*Article 8***Political control and strategic direction**

1. Under the responsibility of the Council, the PSC shall exercise the political control and strategic direction of the mission. The Council hereby authorises the PSC to take the relevant decisions in accordance with Article 25 of the Treaty. This authorisation shall include the power to amend the implementation plan and the chain of command. It shall also include powers to take subsequent decisions regarding the

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appointment of the Head of Mission. The power of decision with respect to the objectives and termination of the mission shall remain vested in the Council, assisted by the SG/HR.

2. The EUSR shall provide the Head of Mission with the political guidance required to fulfil his duties at local level.
3. The PSC shall report to the Council at regular intervals.
4. The PSC shall receive, at regular intervals, reports by the Head of Mission. The PSC may invite the Head of Mission to its meetings as appropriate.

*Article 9***Financial arrangements****▼M1**

1. The financial reference amount to cover expenditure relating to the mission for the period from 1 July 2007 to 30 June 2008 shall be EUR 9 700 000.

The financial reference amount to cover expenditure relating to the mission for the period from 1 July 2008 to 30 June 2009 shall be EUR 8 450 000.

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2. As regards expenditure financed out of the amount stipulated in paragraph 1, the following shall apply:
 - (a) expenditure shall be managed in accordance with the Community rules and procedures 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;
 - (b) the Head of Mission shall report fully to, and be supervised by, the Commission regarding the activities undertaken in the framework of his contract.
3. The financial arrangements shall respect the operational requirements of the mission, including compatibility of equipment.
4. The expenditure connected with the mission shall be eligible as from the entry into force of this Joint Action.

*Article 10***Participation by third States**

1. Without prejudice to the decision-making autonomy of the EU and its single institutional framework, third States may be invited to contribute to the mission, provided that they bear the cost of the staff seconded by them, including salaries, all risks insurance cover, daily allowances and travel expenses to and from the DRC, and that they contribute to the running costs of the mission, as appropriate.
2. Third States contributing to the mission shall have the same rights and obligations in terms of day-to-day management of the mission as Member States.
3. The Council hereby authorises the PSC 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 States 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

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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 mission.

*Article 11***Consistency and coordination**

1. The Council and the Commission shall each, in accordance with their respective powers, ensure that this Joint Action is consistent with the Community's external activities, in accordance with the second paragraph of Article 3 of the Treaty. The Council and the Commission shall cooperate to this end. Arrangements for the coordination of the EU's activities in the DRC shall be established in Kinshasa as well as in Brussels.
2. Without prejudice to the chain of command, the Head of Mission shall also act in close coordination with the Commission delegation.
3. Without prejudice to the chain of command, the Head of the EUSEC RD Congo mission and the Head of the EUPOL RD Congo mission shall coordinate their activities closely and shall seek synergies between the two missions, particularly as regards the horizontal aspects of security sector reform in the DRC, and as regards the sharing of functions between the two missions.
4. In accordance with his mandate, the EUSR shall ensure consistency between the activities of the EUSEC and EUPOL missions. He shall contribute to coordination with the other international players involved in security sector reform in the DRC.
5. The Head of Mission shall cooperate with the other international players present, in particular MONUC and the third States involved in the DRC.

*Article 12***Release of classified information**

1. The Secretary-General/High Representative shall be authorised to release to third States associated with this Joint Action EU classified information and documents up to the level 'CONFIDENTIEL UE' generated for the purposes of the operation, in accordance with the Council's security regulations ⁽¹⁾.
2. The Secretary-General/High Representative shall be authorised further to release to the United Nations, in accordance with the operational needs of the operation, EU classified information and documents up to the level 'RESTREINT UE' generated for the purposes of the operation, in accordance with the Council's security regulations. Local arrangements shall be drawn up for this purpose.
3. In the event of a specific and immediate operational need, the Secretary-General/High Representative shall also be authorised to release to the host State EU classified information and documents up to the level 'RESTREINT UE' generated for the purposes of the operation, 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 procedures appropriate to the host State's level of cooperation with the European Union.
4. The Secretary-General/High Representative shall be authorised to release to third States associated with this Joint Action EU non-classified documents relating to the deliberations of the Council with regard

⁽¹⁾ Decision 2001/264/EC (OJ L 101, 11.4.2001, p. 1). Decision as last amended by Decision 2005/952/EC (OJ L 346, 29.12.2005, p. 18).

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to the operation and covered by the obligation of professional secrecy pursuant to Article 6(1) of the Council's Rules of Procedure ⁽¹⁾.

*Article 13***Status of the mission and of its staff**

1. The status of mission staff, including where appropriate the privileges, immunities and any 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, who shall assist the Presidency, may negotiate such arrangements on its behalf.

2. The State or Community institution having seconded a staff member shall be responsible for dealing with any complaints linked to the secondment, from or concerning the staff member. The State or Community institution in question shall be responsible for bringing any action against the person seconded.

*Article 14***Security**

1. The Head of Mission shall be responsible for the security of EUSEC RD Congo.

2. The Head of Mission shall exercise this responsibility in accordance with EU directives on the security of staff deployed outside EU territory in an operational mission under Title V of the Treaty and related documents.

3. Appropriate training on security measures shall be provided for all staff, in accordance with the implementation plan (OPLAN). A reminder of security instructions shall be given regularly by the EUSEC RD Congo officer in charge of security.

▼ M1**▼ B***Article 16***Entry into force and duration**

This Joint Action shall enter into force on 1 July 2007.

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It shall apply until 30 June 2009.

▼ B*Article 17***Publication**

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

⁽¹⁾ Decision 2006/683/EC, Euratom (OJ L 285, 16.10.2006, p. 47). Decision as amended by Decision 2007/4/EC, Euratom (OJ L 1, 4.1.2007, p. 9).